

Federal Parks & Recreation

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Billions in stimulus money asked for outdoor programs

Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) made clear last week that his committee will recommend Congress invest in park and recreation projects in a giant economic stimulus bill early next year.

At a committee hearing on possible green projects - a major recommendation of President-elect Barack Obama - Bingaman said, "I believe that we should provide substantial investment of funds for the land and water resource management agencies in the Department of the Interior and the Forest Service to restore the physical and natural infrastructure that they manage for the American people."

At the December 10 hearing advocates of the national parks, national forests, Bureau of Land Management and Bureau of Reclamation described billions of dollars in "shovel-ready" projects.

The Park Service appeared to have a leg up in the money competition in part because it has already laid the groundwork for more than \$1 billion in projects as part of a Centennial Challenge, matching grant program. Friends groups would match the federal money with an additional \$1 billion. Former NPS Deputy Director Denis Galvin made the pitch for NPS at the Senate hearing.

Although state and local park and rec groups did not have a seat at the table they submitted written testimony to the committee that requested \$125 million for the state side of the Land and Water Conservation Fund (LWCF) and \$100 million for the Urban Park and Recreation Recovery (UPAR) program.

The Senate Energy Committee is just one of many players in the economic stimulus competition that oversees park

and rec related programs. House and Senate committees responsible for transportation are also submitting wish lists, as are interest groups.

For instance, the American Association of State Highway and Transportation Officials (AASHTO) earlier this month submitted a list of more than 5,000 highway projects worth more than \$64 billion that are "ready-to-go." The AASHTO list was put together by state departments of transportation.

While state departments of transportation are not big fans of park and rec projects, groups such as the Rails-to-Trails Conservancy, the Thunderhead Alliance and America Bikes are. And they have assembled a list of projects to aid trails, biking and walking programs. Besides, such key players as House Transportation Committee Chairman James Oberstar (D-Minn.) are big supporters of park and rec projects.

Obama and Congressional Democratic leaders this month are laying the foundation for an economic stimulus bill estimated to approximate \$500 billion. The plan calls for committees to submit recommendations to Senate Majority Leader Harry Reid (D-Nev.) and Speaker of the House Nancy Pelosi (D-Calif.) by early January. That would give Congress time to pass a bill and ship it to Obama when he takes office January 20.

The Senate Energy Committee will apply a three "T's" test to its list - timely, targeted and temporary, a committee staff member said. The committee is posting recommendations it has received (but not necessarily projects it will recommend) at its website <http://energy.senate.gov>.

The stimulus bill will be considered an emergency appropriation and thus will not require additional Congressional action to spend the money. The stimulus spending will be separate from appropriations bills, although Congressional Democrats hope to complete fiscal 2009 spending measures at about the same time they finish the stimulus bill. (See related article page 7.)

There are concerns on the Senate

Energy Committee. Ranking Republican Sen. Pete Domenici (R-N.M.), while granting that natural resource projects make sense, said at the December 10 hearing, "However, as we all know, such major projects undertaken by our federal land management agencies are more often than not subject to legal challenges over environmental issues. This begs the question of whether any natural resource-related jobs will be available within the desired two-year timeframe unless waivers or an expedited NEPA process are addressed in the stimulus package."

But a Democratic spokesman and witnesses at the hearing said most natural resource projects have already cleared the NEPA (National Environmental Policy Act) hurdle. "It won't be a big deal at all," said the committee spokesman. "A lot of these projects are already in the pipeline and already have their NEPA compliance done. Some have categorical exclusions (from NEPA.) Chairman Bingaman is a big fan of NEPA and says it is very useful. Sen. Domenici expressed concerns but we don't see NEPA as a show-stopper."

Here are some recommendations presented to the Senate Energy Committee December 10:

*** NATIONAL PARK SERVICE.** Former NPS deputy director Galvin outlined a number of Park Service initiatives that would help the economy, including \$1 billion in infrastructure projects, expansion of science programs, upgrade of cultural resource programs, and creation of a new Park Service job corps called a National Parks Service Corps.

In response to questions from Sen. Ken Salazar (D-Colo.), Obama's choice for secretary of Interior, about the value of projects that are ready to go, Galvin said, "Up front you could spend about \$1 billion that could produce 23,000 jobs. Expansion of science programs and cultural resources programs are probably another \$500 million. That's about \$1.5 billion over a 24-month period." Galvin, who testified on behalf of the National Parks Conservation Association, said the \$1 billion includes Centennial Challenge money.

As *FPR* reported last month Sen. Reid has promised Secretary of Interior Dirk Kempthorne that the Centennial Challenge program will be part of a Senate stimulus bill. Whether the House will accept it or not is another question. A more modest Senate stimulus bill that failed earlier this year (S 3688) included the Centennial Challenge.

Galvin said the National Parks Service Corps would build on existing youth corps programs. He recommended Congress spend \$200 million to hire 10,000 paid volunteers, with \$110 million on an Americorps model, \$50 million for educational awards and \$40 million for full-time volunteer coordinators.

*** FOREST SERVICE AND BLM:**

Cassandra Moseley, a professor in the Ecosystem Workforce Program at the University of Oregon, said the Forest Service and BLM could create 127,000 direct jobs over the next three years with \$8.5 billion.

"Several billion dollars per agency is a major commitment, and yet it would only begin to address the ecological and infrastructure needs of the public land management agencies," said Moseley.

Under land stewardship projects Moseley listed "fire hazard reduction, restoration of watersheds and wetlands, road decommissioning and maintenance, wood bridge repair and construction, wildlife habit improvements, control of noxious weeds and invasive species, range restoration, remediation of orphaned wells, abandoned mine reclamation, trail and recreation site maintenance, wildlife surveys, and the planting and maintaining of riparian and urban trees."

*** LWCF AND UPAR:** The National Recreation and Park Association (NRPA) didn't present testimony at the hearing but submitted recommendations for the record, beginning with \$100 million for the state side of LWCF and \$125 million for UPAR.

"LWCF and UPARR develop and restore local infrastructure in communities facing growing populations and

demands," said the NRPA recommendation. "Investing in local communities and giving them the necessary resources to preserve, maintain and rehabilitate local infrastructure is especially important in times of an economic downturn, such as the one we are currently experiencing."

NRPA, in alliance with the Outdoor Industry Association and the Sporting Good Manufacturers Association and other groups, made the same pitch December 12 in letters to House and Senate leaders from both parties.

*** RECREATIONAL TRAILS:** A broad range of 25 interest groups December 12 asked House and Senate leaders and Obama to provide \$300 million for recreational trails projects financed by the surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.)

"Quality, eligible projects exist now, and the backlog of these projects exceeds available, traditional funding under SAFETEA-LU by a ratio of at least 3:1," said the groups. Signees ranged from the BlueRibbon Coalition to NRPA to the sporting goods manufacturers.

Obama chooses parks friend Sen. Salazar as DOI head

President-elect Barack Obama announced December 17 he will nominate one of the most aggressive advocates of federal park and rec programs in Con-

Holiday Publishing Schedule for Federal Parks & Recreation

Federal Parks & Recreation will not be published over the holidays so that we may take a brief vacation. Our offices will remain open. The next issue of *Federal Parks & Recreation*, Volume 27 Number 1, will be published January 9, 2008. If news breaks over the holidays, we will send an E-mail bulletin. We will also post the bulletin at our website, <http://www.plnfpr.com>, under Breaking News.

gress - Sen. Ken Salazar (D-Colo.) - as Secretary of Interior.

In his seat on the Senate Energy Committee Salazar has consistently been THE lead advocate for park and recreation programs. He has been the main sponsor or a cosponsor of legislation to:

- * establish a \$2 billion Park Service Centennial Challenge program (lead sponsor),
- * provide full funding for the state side of the Land and Water Conservation Fund (one of two sponsors),
- * repeal the federal entrance fee law called the Federal Lands Recreation Enhancement Act (FLREA),
- * designate most of Rocky Mountain National Park as wilderness (lead sponsor), and
- * designate two national heritage areas in Colorado (lead sponsor.)

"Our national parks will be in great hands with Ken Salazar," said National Parks Conservation Association President Tom Kiernan.

Said Obama on announcing the nomination, "I want a more proactive Interior Department. I also want an Interior Department that very frankly cleans up its act. There have been too many problems and too much emphasis on big time lobbyists in Washington. That's going to change under Ken Salazar."

Salazar, a former director of the Colorado Department of Natural Resources, said, "I look forward to protecting our national parks, public lands and open spaces, and American farm and ranch lands. I look forward to restoring our nation's rivers and working to confront water supply challenges."

Obama chose Salazar over a half-dozen other candidates, including Rep. Raúl M Grijalva (Ariz.), chairman of the House subcommittee on National Parks, Forests and Public Lands. Grijalva enjoyed substantial support from environmentalists, Indian tribes and the recreation community.

In an almost unheard of development Grijalva said November 16 he has

turned down a sort of consolation prize - a seat on the powerful House Ways and Means Committee. Instead he will retain his chairmanship of the parks and public lands subcommittee.

In a statement Grijalva said "(M)y Subcommittee Chairmanship is more important at this time. There are several issues that will still need to be addressed, such as uranium mining in the Grand Canyon and the continued preservation of our public lands."

Obama was at press time expected to name Rep. Ray LaHood (R-Ill.) as secretary of Transportation. That department also has major responsibility for park and rec programs such as transportation enhancements, recreational trails, scenic byways, federal lands roads and more.

Obama reportedly chose Salazar over Grijalva for the Interior post because the senator is somewhat more moderate than the Congressman. While the two are pretty much twins on park and rec issues, Salazar has generally been more amenable to commodity development on federal lands than Grijalva.

That willingness to accept commodity development drew from three environmental groups an unsuccessful last-second request to Obama to forego Salazar. The Center for Biological Diversity, Western Watershed Project and WildEarth Guardians complained of Salazar's Endangered Species Act (ESA) work in a letter to Obama that referred to Bush administration secretaries of Interior Gale Norton and Dirk Kempthorne.

"Norton's and Kempthorne's abysmal legacies on ESA enforcement require an effective and enthusiastic incoming Interior Secretary who places science above politics and prioritizes federal environmental protections above accommodations for ecologically harmful industries," the groups wrote December 16. "Sen. Salazar does not meet either test."

Salazar described his philosophy on the national parks April 15 in a speech to the National Parks Conserva-

tion Association (NPCA.) He sharply criticized a 2006 Bush administration proposal to revise the Park Service's management policies.

"The proposal systematically deemphasized the importance of preservation throughout the management policies - loosening standards that protect air quality, natural soundscapes, scenic vistas, clean water, and so many other values that make the parks what they are," he said.

"We defeated the effort to undermine the Park Service's mandate and, in the process, reaffirmed and reinforced the National Park Service's preservation mission for the next century," Salazar added.

Meanwhile, on Capitol Hill the Democratic establishment next year will be pretty much the same. Sen. Jeff Bingaman (D-N.M.) will chair the Senate Energy Committee and Rep. Nick Joe Rahall (D-W.Va.) will chair the counterpart House Natural Resources Committee.

Sen. Barbara Boxer (D-Calif.) will oversee transportation programs as chairman of the Senate Environment and Public Works Committee and Rep. James Oberstar (D-Minn.) will chair the counterpart House Transportation Committee.

On the Republican side major changes are afoot. Sen. Lisa Murkowski (R-Colo.) will serve as the ranking minority member on the Senate Energy Committee, replacing retiring Sen. Pete Domenici (R-N.M.) Rep. Richard "Doc" Hastings (R-Wash.) will serve as the ranking minority member on the House Natural Resources Committee, replacing Rep. Don Young (R-Alaska.)

The promotion of Doc Hastings, a former businessman, comes as a surprise because long-time committee power Don Young (R-Alaska) reportedly was forced out of the position by the Republican Steering Committee.

Young has been a force on the committee for three decades where he has taken the lead in advocating energy development from public lands. He chaired the panel from 1995 to 2003.

Young has reportedly spent \$1 million in legal fees in the last year contesting allegations he took a contribution in return for an earmark.

On his selection as ranking member Hastings said, "I will work to strike a responsible balance between protecting our nation's many natural treasures and spurring economic recovery through the wise use of our energy, water, mineral and timber resources." Hastings's district includes national forests, wilderness areas and is near Mount Rainier National Park.

But the big news is Salazar as secretary of Interior. If he is confirmed, Colorado Gov. Bill Ritter (D) will choose a replacement. A leading candidate is Rep. John Salazar (D-Colo.), Ken Salazar's brother.

Here are some of Sen. Salazar's actions in the park and rec field:

* NPS CENTENNIAL CHALLENGE: On April 3 Salazar introduced legislation (S 2817) to establish a Park Service Centennial Challenge program. His bill would set aside \$100 million per year in federal funds to match \$100 million in partnership contributions for 10 years. Senate Majority Leader Harry Reid (D-Nev.) has promised to include a variation on the Salazar bill in the giant stimulus bill in early January.

Salazar said, "The coming of the 2016 centennial of the National Park System is an opportunity to restore the luster of our national parks and inspire future generations to protect these national treasures." Salazar credited Secretary of Interior Dirk Kempthorne with the idea.

* STATE SIDE OF LWCF: In the last Congress Salazar on June 23, 2006, co-sponsored a bill (S 3562) that would have allocated \$450 million per year from offshore oil and gas royalties to the state side of the Land and Water Conservation Fund (LWCF.) The money would have been guaranteed

Later in the 109th Congress Salazar teamed up with Sen. Lamar Alexander (R-Tenn.) to successfully persuade Congress

to set aside a lesser amount of offshore royalties to state LWCF grants. That initiative allocates 12.5 percent of royalties from new offshore oil and gas development near Florida in the Gulf of Mexico for state grants into fiscal 2016. The program received about \$8 million in fiscal 2008.

In addition Salazar has annually spearheaded Dear Colleague letters that seek substantial spending for state LWCF grants in annual appropriations bills.

* **FLREA REPEAL:** On January 31 Salazar added his name as sponsor to legislation (S 2438) to eliminate the heart of a controversial 2004 federal recreation fee law called FLREA. He joined other sponsors of the bill - Max Baucus (D-Mont.), Mike Crapo (R-Idaho) and Jon Tester (D-Mont.) as sponsors.

The legislation would leave in place only Park Service entrance fees (as established in a previous law), with 80 percent of revenues still retained by collecting NPS units. Among other things it would eliminate collection of entrance fees at developed sites that the 2004 law authorized for the Forest Service, the Bureau of Land Management and the Bureau of Reclamation.

* **ROCKY MOUNTAIN NATIONAL PARK:** Salazar introduced a bill (S 1380) that would designate 249,339 acres of the 265,769 acres in Rocky Mountain National Park as wilderness. The bill is currently included in a giant omnibus lands bill (HR 5151) that the Senate is expected to address as soon as it returns to work in January.

* **NATIONAL HERITAGE AREAS (NHAs):** Salazar introduced two NHA bills in this Congress, one to designate a South Park National Heritage Area (S 444) and one to designate a Sangre de Cristo National Heritage Area (S 443.) Both are attached to the giant omnibus lands bill (HR 5151) waiting Senate floor action.

Salazar said of NHAs in his speech to NPCA, "When done right, these modest federal investments are able to leverage large local, state, and private investment in preservation projects. They give structure and organization to local

historic preservation, recreation, and land conservation efforts, they capitalize on the expertise of National Park Service professionals, and they allow Americans to experience and access their heritage."

NPS guns in parks rule draws mixed responses, lawsuit?

Western senators and Park Service advocates are reacting oppositely to a final new rule that authorizes visitors to carry concealed weapons in national parks and wildlife refuges. The December 10 rule limits the privilege to parks and refuges where state laws allows guns in state parks and refuges.

According to the Coalition of National Park Service Retirees the rule will allow concealed guns in 388 of 391 park sites. The retirees all but promised a lawsuit.

"This regulation will put visitors, employees and precious resources of the National Park System at risk. We will do everything possible to overturn it and return to a common-sense approach to guns in national parks that has been working for decades," said Bill Wade, executive council chair of the retirees coalition.

But Sen. Mike Crapo (R-Idaho), who led a Senate letter-writing campaign in favor of the rule, said it was spot on. "If this rule stands, law abiding gun owners will be subject to a more sensible and simplified framework for governing the possession of concealed firearms on federal public lands," he said.

Crapo served in the last Congress as cochairman of the Congressional Sportsmen's Caucus. He led a bipartisan group of 50 Senators who in December 2007 wrote Secretary of Interior Dirk Kempthorne to recommend the new rule.

Ranking House Natural Resources Committee Republican Don Young (R-Alaska) said the action simply makes federal rules consistent because the Forest Service and the Bureau of Land Management (BLM) already allow concealed weapons. "This has long been the policy on BLM and Forest Service land and it is

past due for the other federal land managing agencies to adopt consistent federal policies," he said. (Of note, House Republicans have ousted Young as ranking Republican on the committee, effective in January.)

Raúl M. Grijalva, chairman of the subcommittee on National Parks, Forests and Public Lands, opposed the new rule. He said in a subcommittee report on the Bush administration that firearms are already permitted on Park Service lands, but they must be unloaded and inaccessible.

Further, Grijalva disagreed with Young's assertion that the rule will simplify federal law. "Though the regulation is supposed to prevent confusion over weapons possession rules, many parks are located in two or more states and many individual states (even states that share borders) lack reciprocity agreements," he said. "Such widespread inconsistency is not only contrary to the stated intent of the new regulation but will ultimately lead to confusion and entrapment of gun owners."

If Park Service retirees in concert with the National Parks Conservation Association do file suit, they will probably repeat the arguments they made in an October 14 letter to Kempthorne asking him to withdraw the rule. That is, the rule would have a major environmental impact and Interior should prepare an environmental analysis, if not an EIS.

And they argued that the rule does not comply with a provision of the Endangered Species Act that requires consultation with FWS on the rule's impact on imperiled species, does not comply with the National Historic Preservation Act which requires consultation with states and localities on the rule's impact on historic properties, and does not comply with the Administrative Procedures Act which requires an explanation of the basis for the rule.

In April seven former NPS directors opposed the administration proposal, including George B. Hartzog Jr. (now deceased), Ronald H. Walker, Gary Everhardt, Russell E. Dickenson, James

Ridenour, Roger G. Kennedy, Robert Stanton and Fran Mainella.

Appropriators near a deal; interest groups gearing up

House and Senate appropriators at press time were attempting to wrap up fiscal year 2009 appropriations bills so that President-elect Barack Obama can sign them in early January. That would clear the deck for the new administration to concentrate on fiscal 2010 appropriations.

"We've made lots of progress (on an Interior bill)," said one House staff member this week, "but we still have some open items." The appropriators anticipate putting all nine unfinished money bills into one omnibus bill.

Interest groups are aware of the Hill negotiations and are making their pitches. For instance the Southern Appalachian Forest Coalition December 15 asked its members to contact their House and Senate members to urge support for the Land and Water Conservation Fund and the Forest Legacy program.

The coalition wrote its members, "The programs are especially important to the eastern forests of the United States because of increased pressure and threats of conversion to non-forest uses. Please make sure these programs receive sufficient funding in the FY 2009 Omnibus Appropriations bill, and receive meaningful increases from FY 2008 levels."

However, the process of writing thousands of pages of appropriations bills among so many hostile parties will not be easy and some staffers are betting that Congress may end up simply extending a fiscal 2008 money bill through fiscal 2009.

This last Congress (the 110th) put off consideration of fiscal 2009 money bills in late September by approving an extension of fiscal 2008 bills until March 6 (PL 110-329 of September 30.) Now appropriators hope to wrap up the fiscal 2009 bills first thing in the 111th Congress.

With a straight extension of fiscal 2008 spending, here's how some individual programs would make out in fiscal 2009, compared to Bush administration recommendations and House Appropriations Committee recommendations:

* STATE LWCF: \$25 million; the same as the House subcommittee on Interior; \$25 million more than the administration request of no money,

* FEDERAL LWCF: \$129.7 million; House subcommittee, \$132.2 million; administration, \$42.5 million,

* URBAN PARKS AND RECREATION RECOVERY: No money; House subcommittee approved no money; administration asked no money,

* FOREST LEGACY: \$52.3 million; House subcommittee, \$43.5 million; administration, \$12.5 million,

* FOREST SERVICE RECREATION: \$262.6 million; subcommittee, \$278.5 million; administration, \$237 million,

* FOREST TRAILS: \$76.4 million; House subcommittee, \$78.9 million; administration, \$50.4 million,

* HISTORIC PRESERVATION: \$70.4 million; House subcommittee, \$82 million; administration, \$66.7 million,

* SAVE AMERICA'S TREASURES (within Historic Pres line item above): \$24.6 million; House subcommittee, \$25 million; administration \$15 million,

* PRESERVE AMERICA (within Historic Pres line item above): \$7.4 million; House subcommittee, \$5 million; administration, \$10 million,

* NPS OPERATIONS: \$1.971 billion; House subcommittee, \$2.125 billion; administration, \$2.132 billion,

* NPS CENTENNIAL INITIATIVE: \$25 million. The House subcommittee met the administration request for core operations in the above line item, but provided no money for the Centennial Challenge. However, the fiscal 2008 appropriations law did allocate \$25 million to launch the program and would presumably be carried forward into fiscal 2009,

* NPS WASHINGTON, D.C. MALL: The House subcommittee approved \$100 million to upgrade the National Mall even though it wasn't requested. New program,

* NATIONAL FOREST SYSTEM: \$1.506 billion; House subcommittee, \$1.508 billion; administration, \$1.349 billion,

* BLM MANAGEMENT: \$1.008 billion; House subcommittee, \$1.013 billion; administration, \$987 million,

* FWS REFUGE MANAGEMENT: \$434 million; House subcommittee, \$469 million; administration, \$434 million, and

* TOTAL FOR INTERIOR SUBCOMMITTEE BILL: \$26,555 billion; House subcommittee, \$27.867 billion; administration, \$25.764 billion.

BLM pulls land from Utah O&G sale near national parks

Under pressure from the Park Service and a broad array of interest groups the Bureau of Land Management (BLM) has removed nearly 100,000 acres of land from a controversial oil and gas lease sale in Utah. The sale was scheduled for today (December 19.)

Some of the removed tracts are located near Arches National Park, Dinosaur National Monument, Canyonlands National Park, Nine Mile Canyon (BLM managed) and Desolate Canyon (BLM managed.)

BLM still plans to offer for sale 132 oil and gas tracts totaling 164,000 acres, down from 241 parcels totaling 359,000 acres BLM originally planned to offer for sale. Not all the tracts are near the parks. BLM also intends to offer 44 geothermal tracts in the sale, totaling 142,000 acres.

BLM deferred 23 tracts totaling 38,000 acre near the national parks after consulting with the Park Service, the bureau said last week. The sale became a national issue last month when NPS said it had not been consulted on the sale of individual tracts near national parks, although it had been consulted on land management plans.

Several Democratic House members are already preparing to ask President-elect Barack Obama to reverse the results of the sale as soon as he takes office. That is not a cut-and-dried proposition.

The timing of the sale, resultant protests to BLM and resolution of those

protests is crucial. Environmentalists and other interest groups have protested many of the remaining tracts. BLM will have just 30 days to resolve the protests and issue leases before the Obama administration takes over January 20. And once leases are issued they can't be simply canceled without compensation.

However, environmentalists led by the Southern Utah Wilderness Association (SUWA) believe they have a couple of tricks up their sleeves. For one thing they may well ask a federal court to issue an injunction to bar completion of lease sales. And they believe if leases are "improperly issued" under the law the Obama team can block the sales.

Reps. Rush Holt (N.J.) and Brian Baird (Wash.) are leading the House letter-writing effort in opposition to issuance of the leases.

Meantime, environmentalists, sportsmen's groups, outfitters and guides, historic preservationists and the outdoor industry have filed legal protests against the sale. The complainants argued that development of leases would produce all manner of pollutants - including visual - to essentially wild areas.

In a fairly typical comment river outfitters that work the Desolation Canyon argued, "If oil and gas leasing and development is permitted in Desolation Canyon's side canyons and mesas, boaters will experience noise, dust, lights, air pollution, water pollution and unsightly views of industrial oil and gas development, instead of the wild and quiet character that currently exists." Members of the coalition include the Utah Rivers Council, the Colorado Plateau River Guides and individual companies.

The brouhaha between the Park Service and BLM began when NPS Intermountain Region Director Mike Snyder asked BLM to consult with his agency on the impact of the sale of 93 of the parcels on air, water and noise in and around the parks.

Snyder complained to BLM in a November 24 memo that he was unsure how

much protection lease stipulations would provide. "We found that stipulations commonly contain exemption and waiver clauses whereby the BLM may make exceptions, modification, or waivers to stipulations," he said.

BLM Utah State Director Selma Sierra responded to Snyder November 25, "Your concern for exceptions, waivers and modifications to stipulations attached to a lease would be addressed by each of the park unit managers and BLM managers. A process for collaboration on this concern would be developed at the field level."

After the negotiations with BLM, Snyder said, "Working with Selma Sierra, the BLM Utah State Director, has resulted in the kind of resource protection that Americans want and deserve for their national parks."

Here are some of the protestors of the December 19 Utah sale and their comments:

Environmentalists: Five national environmental groups led by SUWA protested the inclusion of 100,000 acres in the sale. In a 155-page document the environmentalists threw the book at BLM, alleging violations of the Federal Land Policy and Management Act, the National Environmental Policy Act, the National Historic Preservation Act, and more.

Hunters and Fishermen: The Theodore Roosevelt Conservation Partnership (TRCP) protested the inclusion of 188,000 acres in the sale because of possible adverse impacts to "vast areas of big-game habitat, crucial mule deer winter range, vital sage grouse habitat and native trout streams." TRCP said it was "pleased" that BLM deferred leasing tracts around the Deep Creek Mountains, but said it was still concerned about leasing in the East and West Tavaputs areas.

Outfitters and Guides: A coalition of 13 outfitter and guide organizations and companies concentrated their objections to the inclusion in the sale of land in Desolate Canyon. "Our members and clients recreate and enjoy the peace and quiet afforded in the Desolation

Canyon area and are gravely concerned that the special qualities of this place will be jeopardized by oil and gas developments," said the coalition.

Historic Preservationists: The National Trust for Historic Preservation and other preservation groups protested the inclusion in the sale of any tracts in the Nine Mile Canyon. The groups said BLM would violate the consultation process required by the National Historic Preservation Act by selling the tracts.

Outdoor industry: The Outdoor Industry of America, which represents companies that sell to human-powered recreationists, objected to the sale of tracts from numerous areas around the State of Utah. "These BLM lands are a major driver behind our nation's recreation economy and the outdoor industry is very concerned that the federal policies and priorities regarding consumptive and non-consumptive use of our public lands are out of balance," said the outdoor industry.

Y'stone opens winter season with old snowmobile ceiling

After three months of legal wrangling the Park Service opened the winter season in Yellowstone National Park December 15 with a cap of 720 snowmobiles per day. That's significantly more than the agency had originally intended.

But a federal court in Wyoming ordered NPS to allow the same number of snowmobiles per day this winter as it did in the winters of 2004-2005, 2005-2006, and 2006-2007.

Environmentalists and other critics don't like the Park Service decision and have filed at least two lawsuits to forbid, or at least reduce, the ceiling in future winters. For this winter they have largely conceded defeat.

The Park Service said it had little choice but to allow significant snowmobile use this winter because U.S. District Court Judge Clarence Brimmer in Wyoming ordered it. Indeed, said

Brimmer in a November 7 decision, "Based on the case law, and this Court's equitable power, the Court finds that equity requires reinstatement of the 2004 temporary rule to provide some semblance of order in this disordered and confusing state of affairs."

On announcing the new rule December 9 NPS suggested that actual snowmobile use would be far below the 720-machine cap and would cause little damage. "During the last two winters, an average of about 296 snowmobiles a day entered Yellowstone," said NPS. "Monitoring data from the past four winters shows excellent air quality, few wildlife disturbances, and reduced sound impacts. All were at fully acceptable levels, and below levels recorded during historical, unregulated use in the parks."

In a joint statement the Greater Yellowstone Coalition and four other environmental groups said that the Bush administration had some leeway and could have issued a lesser rule. "The Administration has chosen to allow levels of air pollution, noise and harassment of wildlife which its own scientists and park managers have clearly stated are readily avoidable in our country's first national park," the groups said.

While NPS said it would continue to work on a long-term rule, "this (December 9) rule will be in effect for this winter season, and will remain in effect until NPS promulgates 'an acceptable rule to take its place,'" the Park Service said. Here is a brief chronology:

OLD TEMPORARY RULE: For the 2004-2005, 2005-2006, and 2006-2007 winter seasons NPS had authorized up to 720 snowmobiles per day in Yellowstone and up to 78 snowcoaches per day.

OLD PERMANENT RULE: On Dec. 13, 2007, NPS replaced the temporary rule with a permanent regulation that authorized 540 snowmobiles per day this winter in Yellowstone.

COURT REJECTS PERMANENT RULE: On September 15 Judge Emmett Sullivan in the U.S. District Court for the District of Columbia threw out the permanent regulation that called for 540 snowmo-

biles per day this winter.

NPS PROPOSES NEW RULE: On November 3, in reaction to the Sullivan order, NPS proposed still another new rule for this winter that would have allowed 318 snowmobiles per day in Yellowstone.

SECOND COURT ORDERS OLD TEMPORARY RULE REVIVAL: On November 7 judge Brimmer ordered NPS to reinstate the old temporary rule to eliminate confusion. At the same time he did not directly overrule judge Sullivan's order that threw out the permanent rule; he simply ordered NPS to implement the old temporary rule.

ENVIRONMENTALISTS' APPEAL: On December 3 environmental groups appealed in both Brimmer's and Sullivan's courts, while acknowledging the courts won't change anything this winter. The environmentalists did argue that Brimmer had no right to act because the lawsuit before him contesting the original Dec. 13, 2007, NPS rule had been settled by Sullivan, and was therefore moot.

The December 9 rule for this winter also applies to Grand Teton National Park and John D. Rockefeller Jr. Memorial Parkway. The November 3 proposal would have allowed up to 25 snowmobiles a day on the Grassy Lake Road and up to 40 snowmobiles a day on Jackson Lake for ice fishing. NPS would have eliminated oversnow travel on the Continental Divide Snowmobile Trail between Moran Junction and Flagg Ranch. The interim rule NPS calls for up to 140 snowmobiles per day in Grand Teton and the parkway.

Administration won't follow through with park air rule

The Bush administration December 11 killed proposed regulations that could have opened the way for construction of power plants near national parks and wilderness areas.

EPA had been rushing to get the rule implemented before the Bush administration left office January 20 but apparently gave up because of the controversy surrounding the rule.

The proposed rule would have changed the formula for measuring pollution over Class I federal areas. Under

existing rules EPA and NPS measure spikes in pollution to assess peak period damage. The EPA proposal would have averaged the amount of pollution produced by power plants over a year, thus eliminating spikes.

Power plant pollutants impact the nation's 150 Class I areas. In the Clean Air Act Amendments of 1977 Congress directed EPA to eliminate haze over national parks larger than 6,000 acres, wilderness areas larger than 5,000 acres, national memorial parks larger than 5,000 acres and international parks. There are more than 158 such areas, including 48 national parks, 21 national wildlife refuges and 88 wilderness areas managed by the Forest Service.

EPA made no official statement in canceling the regs EPA proposed in June 2007. But the word reached key senators. Sen. Lamar Alexander (R-Tenn.) praised the administration for not going through with the new rule.

"The overturning of these rules is a huge victory for Tennesseans and all Americans who enjoy our Great American outdoors," said Alexander. "We've been fighting this for six months urging the administration not to move ahead with this proposed rule that would weaken federal air quality standards - I'm glad to see that they were paying attention."

Alexander was one of eight senators - four Democrats and four Republicans - who wrote EPA Administrator Stephen L. Johnson in June of this year and asked him to pull the regs. They argued that the new measuring system would reduce visibility over parks.

The senators said that "(A)nalyses by the National park Service and EPA's regional air quality experts demonstrate that the proposed changes would result in a significant undercounting of actual pollution sources, such as coal-powered plants, permitting them to emit more pollution into national parks and wilderness areas."

The power plant rule is not the only one involving park and wilderness visibility that is causing controversy.

As *FPR* has reported the National Parks Conservation Association and the Environmental Defense Fund filed a lawsuit in October that demands that EPA make states develop plans to reduce haze over national parks.

Under the Clean Air Act the states were required to submit their haze plans to EPA by Dec. 17, 2007. According to the lawsuit filed in the U.S. District Court for the District of Columbia only 14 states have submitted their plans. The lawsuit asks the court to order EPA to comply with the Clean Air Act haze provisions within 60 days.

Judge limits roadless rule impact; Colorado reg delayed

The judge who in 2006 reinstated a Clinton era regulation limiting road construction in the national forests amended the decision December 2 to exempt many states from her original rule.

Magistrate's Judge Elizabeth D. Laporte's initial decision of Sept. 19, 2006, reinstated the 2001 Clinton rule nationally. On December 2 she limited the sweep of the decision to states in the jurisdiction of the Ninth Circuit Court of Appeals and the State of New Mexico. Laporte works out of the Northern California District.

Her latest order subjects roadless areas NOT in the following states to a Bush administration rule: Arizona, Alaska, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon and Washington. Laporte effectively excluded 13.6 million acres from the Clinton rule. The Bush rule allows individual states to petition for their own rule for national forests within their borders.

The Forest Service said it had not yet issued new policy directives to the field as a result of the Laporte amended decision. "We're waiting to hear from the Office of General Counsel," said a spokeswoman.

In a separate development the Bush administration will not have the oppor-

tunity to complete a roadless area rule for national forests in Colorado.

On December 5 at the request of the State of Colorado, the Department of Agriculture agreed to an additional 60-to-90 day review of a proposed rule. The state has expressed concerns about possible exceptions in the rule that could lead to oil and gas lease development.

"The bottom line is we want to do it right, so we are going to take our time and make sure we get a good product," said Terry McCann, a spokesman for the Forest Service Region 2 (Rockies.)

Harris Sherman, executive director of the Colorado Department of Natural Resources, wrote Under Secretary of Agriculture Mark Rey December 5, "Colorado intends to ask the Obama Administration for expedited review of the Colorado Rule with the expectation that it will be issued within the first three-six months of the new administration." Colorado is among the states that Laporte exempted from the Clinton roadless rule December 2.

The Bush administration had asked Laporte to limit the sweep of her 2006 decision to accommodate a competing August 12 decision from Judge Clarence Brimmer in Wyoming that held the Clinton rule invalid. That left the Forest Service without a valid roadless area rule.

Said Laporte in the December 2 order, "Specifically, the balance of equities weighs in favor of keeping the injunction in force in the Ninth Circuit as well as in the state of New Mexico, which is a Plaintiff in this case, while staying it elsewhere, at least pending further action by the Wyoming court or the Tenth Circuit."

In the Colorado situation the Forest Service and the state are using a Bush administration roadless area policy to sculpt a special regulation for 4.4 million roadless acres there. However, Gov. Bill Ritter (D-Colo.), sportsmen and environmentalists worry the rule would damage 400,000 roadless acres.

They say the proposed rule might open the way for power line corridors, water projects and road building on 70,000 acres of backcountry oil and gas leases.

Separately, the Forest Service put into effect October 16 a rule for Idaho that applies to 9.3 million acres of 10 national forests in the state.

Notes

Critics hit Rapanos guidance.

Sportsmen say new Bush administration guidance on wetland permits provides a solid argument for Congress to intervene. The new guidance from EPA and the Corps of Engineers attempts to define what projects need federal permits for activities that may affect traditional navigable waters. The December 3 guidance interprets a U.S. Supreme Court decision, *Rapanos v. U.S.* Nos. 04-1034 and 04-1384, of June 19, 2006, that in turn interprets the Clean Water Act. The Supreme Court decision appeared to say EPA and the Corps need only obtain permits for activities in navigable waters, to the displeasure of sportsmen and environmentalists who want all waters regulated. Such groups as Ducks Unlimited (DU) say the EPA and Corps guidance make the case for Congressional action. "The confusion that stemmed from the original guidance and that will continue to hamper landowners and local officials reinforces the need to accomplish protection for the nation's waters through Congressional action," said Scott Yaich, director of conservation operations for DU. This last Congress did not act on legislation (HR 2421, S 1870) to expand federal permitting to all projects that would affect water bodies, navigable or not. In the December 3 EPA and Corps guidance the agencies said permits will be required for wetlands adjacent to navigable waters, non-navigable tributaries that are relatively permanent and wetlands adjacent to non-navigable tributaries.

National parks produce spending.

The Park Service says in a new analysis that national parks produce \$4 dollars in visitor spending for every tax dollar spent on the parks. NPS Director Mary Bomar said that in 2007 the parks re-

ceived \$2.65 billion in appropriations, fees and donations and visitors spent \$11.79 billion. The money was spent in the parks and in nearby communities. Bomar said she was optimistic that visitor spending would continue apace in 2008 because visitation in the parks was down only one-half of a percent, despite the summer spike in gas prices. Bomar said 275.6 million people visited national parks in 2007. The analysis was conducted by the Park Service's Social Science Division.

FS "clarifies" travel rule. The Forest Service December 9 amended a travel management rule that requires the establishment of routes for off-highway vehicles (OHVs) for two limited purposes. The amendment, which goes into effect January, allows use of forest lands for camping or big game retrieval near county roads or trails. Environmentalists blasted the rule and said it constituted an evasion of existing protections. "The Forest Service directives are supposed to instruct employees how to implement the regulations, not how to avoid them," said Matt Dietz, an ecologist in The Wilderness Society's California/Nevada regional office.

Grand Canyon area plan faulted.

The Center for Biological Diversity notified the Interior Department December 9 that it will file a lawsuit against management plans for areas near Grand Canyon National Park if the department doesn't withdraw the plans within 60 days. The center said the three May 9 plans failed to protect the desert tortoise and the California condor under the Endangered Species Act. The plans, prepared jointly by the Bureau of Land Management and the Park Service, govern 3.3 million acres of BLM and NPS administered land in northwestern Arizona, north of the Grand Canyon. Among other things the environmentalists complain the plans open the way to road construction, off-highway vehicle use, livestock grazing, power line construction, oil and gas development and uranium mining. The three management plans include one for BLM's Arizona Strip Field Office, one for the Vermilion Cliffs National Monument and one for the Grand Canyon-Parashant National Monument.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations Interim 2009 HR 2638 (Price.)	President Bush signed into law September 30 as PL 110-329.	Interim spending law extends fiscal 2008 spending levels until March 6.
Appropriations 2009 (DOI and FS) No bill number yet.	House subcommittee approved June 11.	Would provide modest increases for most park and rec programs.
Appropriations 2009 (Energy & Water) No House bill number yet S 3258 (Dorgan)	House subcommittee approved June 25, Senate committee July 10.	Would increase Corp of Engineers and Bureau of Reclamation spending.
Appropriations 2009 (Transportation) No House bill number yet S 3261 (Murray)	House subcommittee approved June 20, Senate committee July 9.	Would provide funding for park are rec programs, as called for by SAFGETEA-LLU
Congressional Budget 2009 H Con Res 312 (Spratt) S Con Res 70 (Conrad)	House gave final okay June 5. Senate gave final approval June 4.	Would increase natural resources spending but mostly for Hurricane Katrina.
NPS Centennial Challenge S 1253 (Bingaman) HR 2959 (Rod Bishop) HR 3094 (Rahall) S 2817 (Salazar)	House committee approved HR 3094 May 7. Senate hearing Aug. 2, 2007.	S 1253 and HR 2959 would establish \$2 billion program to help the parks.
Omnibus Bill One S 2739 (Bingaman)	President Bush signed into law May as as PL 110-229.	Included 60 individual bills, including three new NHAs.
Omnibus Bill Two HR 5151 (Bingaman, Rahall)	Sen. Reid says top priority in January.	Includes 150+ individual bills, including NLCS, new national parks.
NPS tax assistance HR 1731 (Baird)	Baird introduced March 28, 2007.	Would authorize NPS improvement fund financed by income tax check-off.
FLREA repeal S 2438 (Baucus)	Baucus introduced Dec. 10, 2007. House hearing June 18.	Would repeal most of 2004 federal agency recreation fee law.
Heritage areas national S 278 (Thomas) HR 1483 (Regula)	Senate committee approved July 25, 2007. House approved Oct. 25, 2007.	Would establish national standards for new NHA designations. HR 1483 Would designate six new NHAs.
Farm bill HR 2419 (Peterson)	Enacted May 23 as PL 110-2334 over President's veto.	Authorizes major conservation programs for five years, including new Open Fields program.
Conservation tax credits S 469 (Baucus) HR 1576 (Thompson)	Senate committee approved Sept. 20, 2007. Thompson introduced March 19, 2007.	Would make semi-permanent conservation tax credits Congress approved last year.
Wildlife conservation grants HR 3221 (Pelosi) HR 2338 (Dicks)	House approved August 4, 2007. Dicks introduced May 16, 2007.	Both would make grant program permanent, open way for new source(s) of money.
American Discovery Trail/National Discovery Trails HR 74 (Bartlett)	Bartlett introduced Jan. 4, 2007.	Would designate an American Discovery Trail and discovery trail system.
Trail acquisition authority S 169 (Allard) HR 1847 (M Udall)	Allard introduced Jan. 4, 2007. Udall introduced March 29, 2007.	Would authorize land acquisition authority for nine national trails.