

# Federal Parks & Recreation

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## House attempt at stimulus contains big outdoor money

The House Appropriations Committee January 21 approved an economic stimulus bill that includes more than \$2 billion for the national parks. The vote was 35-to-22.

For all federal agencies (including the national parks) the bill would provide well over \$4 billion. That does not count hundreds of millions of dollars of park and rec transportation projects.

As expected the House bill includes \$100 million for a one-year installment of a proposed Park Service Centennial Challenge program. However, the bill does not authorize the full 10-year, \$2 billion program designed to upgrade the national parks for the 2016 Centennial of the National Park System.

House and Senate committees, led by appropriators, began marking up stimulus legislation this week, with final passage anticipated by mid-February. House leaders hope to bring their stimulus bill to the floor January 28.

There are concerns. The House committee bill, under the lead of chairman David Obey (D-Wis.), sets aside no money for state and local park and rec programs, such as the Land and Water Conservation Fund and State Wildlife Conservation grants. However, bill language is so minimal - the salient, \$1.8 billion Park Service maintenance section is just 31 words long - that federal agencies may have some leeway to pass money along.

Separately, Senate Energy Committee Chairman Jeff Bingaman (D-Colo.) suggested that President Obama and the Senate may be working on a quite different package than the House. Bingaman complained January 15 that the Obama/

Senate package includes only \$600 million for National Park Service projects.

As Bingaman said at a hearing on Sen. Ken Salazar's (D-Colo.) nomination as Secretary of Interior, "We're all familiar with the statistics. We have \$9.5 billion in a deferred maintenance backlog in the national parks. We have \$5 billion in deferred road and trails maintenance in the national forests. My concern is the latest information I have the stimulus proposal we are going to be presented with only contains \$600 million of proposed spending for our national parks."

Salazar, who was confirmed as secretary of Interior January 20, said he is already lobbying for the money. "The package is still in its formative stages but I have let those people who are crafting the package know of the importance of those areas you spoke about. At the end of the day it seems to me if you take the national parks programs - for example, we know there are over \$2.5 billion of initiatives ready to go - we hope to be able to address those in an economic recovery package."

Finally, and most importantly, leading House Republicans immediately began digging in their heels. Said House Minority Leader John Boehner (R-Ohio) of the House Appropriations Committee bill, "I just can't tell you how shocked I am at what we're seeing. You know it's clear that they're moving on this path along the flawed notion that we can borrow and spend our way back to prosperity."

**2009 APPROPS DELAYED:** Temporarily lost in the shuffle are nine fiscal year 2009 appropriations bills, including an Interior and related agencies bill, an Energy and Water bill, and a Transportation bill. Until Congress completes the economic stimulus measure it won't address the fiscal 2009 appropriations bills, according to Congressional staff members.

But once the stimulus is out of the way, Congress is expected to turn its attention to the fiscal 2009 bills.

There is no precise schedule for action on the fiscal 2009 appropriations. The only likely thing is the House and Senate will wrap the nine remaining bills into one omnibus bill.

In the House Appropriations Committee draft stimulus bill descriptions of the federal lands allocations are brief. They run only a half-dozen pages. While the House bill avoids controversial earmarks, it poses a risk of authorizing many billions of dollars for projects that Congressional committees have not considered, or have considered only briefly.

One exception may be \$30 billion in transportation projects. The House Transportation Committee says it has identified 5,148 projects that states can spend money on. Many of those projects were recommended by the American Association of State Highway Transportation Officials after consultation with state transportation officials.

The bill report says the highway money will be allocated by formula but it also says money will be set aside for national parks roads (\$250 million) and an unspecified amount for "environmentally friendly transportation enhancements."

Here's the gross number breakdown for park and rec agencies in the House Appropriations Committee bill:

- \* Park Service construction, \$1.8 billion
- \* Park Service Washington, D.C. mall: \$200 million
- \* Park Service Centennial Challenge, \$100 million
- \* Park Service roads (from Transportation Section), \$250 million
- PARK SERVICE TOTAL, \$2.350 billion
- \* FS capital spending, \$650 million
- \* FWS construction, \$300 million
- \* BLM construction, \$325 million
- \* Wildfire prevention, \$850 million (\$350 million FS, \$550 million state and local)
- \* USGS modernization, \$200 million
- \* Highway construction, \$30 billion.

As for the Centennial Challenge

program, the bill says ever so briefly: "To carry out provisions of section 814(g) of Public Law 104-333 relating to challenge cost share agreements, \$100,000,000, for National Park Service Centennial Challenge signature projects and programs: Provided, That not less than 50 percent of the total cost of each project or program is derived from non-Federal sources in the form of donated cash, assets, in-kind services, or a pledge of donation guaranteed by an irrevocable letter of credit."

Said National Parks Conservation Association President Tom Kiernan, "The House has proposed a bold, significant step toward revitalizing our national parks for our children and grandchildren by creating jobs today. This investment in our national parks is an investment in our quality of life, our heritage, and our future."

The total House Appropriations Committee bill would at once authorize thousands of projects as well as appropriate \$550 billion. It would also provide \$275 billion in tax reductions, for a total of \$825 billion, the largest bill ever developed in Congress.

Until last week Obama had been calling on Congress to complete stimulus legislation by January 20 so he could sign it as soon as he took office. But the combination of Republican concerns and the difficulty of putting together such complex legislation may delay things until next month. Speaker of the House Nancy Pelosi (D-Calif.) said she is now shooting for completion of a bill by mid-February. House Majority Leader Steny Hoyer (D-Md.) predicted a House floor vote before the end of January.

At first Senate Majority Leader Harry Reid (D-Nev.) and Pelosi said they intended to assemble a brief stimulus bill of some 15 pages. But the House Appropriations Committee bill already runs 259 pages long. And the work has just begun.

Reid and Pelosi are using recommendations from Obama to shape the legislation that will focus on six areas: health care, energy saving projects,

public works, school construction, assistance for the jobless and tax reductions.

On January 6 Reid and other leading Senate Democrats introduced two bare-boned bills (S 1 and S 2) that they intend to use as a vehicle to implement the stimulus legislation. S 1 has only six lines such as "modernize the nation's infrastructure" and "provide tax relief."

Sen. Reid has promised Secretary of Interior Dirk Kempthorne that the Centennial Challenge program will be part of a Senate stimulus bill. Whether that will include a multi-year authorization or a one-shot allocation as in the House Appropriations Committee bill remains to be seen.

## **Omnibus lands bill clears biggest hurdle - the Senate**

The Senate approved by an overwhelming margin of 72-to-21 January 15 an omnibus lands bill (S 22), after a yearlong battle with bill critic Sen. James Coburn (D-Okla.) The House is expected to address the bill shortly.

In a crucial vote on January 11 the Senate headed off a threatened Coburn veto by a 66-to-12 margin.

Coburn's goose was cooked when three western Republican senators, nominally allies of the Oklahoman, took to the Senate floor to endorse the bill. Sens. Sen. Lisa Murkowski (Alaska), Mike Crapo (Idaho) and Bob Bennett (Utah) all praised S 22 and, of course, all three have provisions to benefit their states in the bill.

The most controversial single item in S 22 would give Congressional certification to the 26 million-acre National Landscape Conservation System (NLCS) managed by the Bureau of Land Management (BLM.)

Bennett said on the Senate floor January 11 he supports S 22 but if the NLCS provision came up for a vote separately he would oppose it. "I would prefer to have it separated out so we

could have a separate vote," he said.

Richard Moe, president of the National Trust for Historic Preservation, praised the Senate for approving the provision. "The national monuments, wilderness areas, scenic rivers, trails, and historic sites that make up the National Landscape Conservation System have correctly been called BLM's 'crown jewels,'" he said. "These are some of the last places where people can experience the history and wild beauty of the American West. We greatly appreciate the efforts of the Senate, particularly the bipartisan nature of the vote by those Senators who recognize the importance of permanently protecting these treasures for all Americans."

The omnibus bill, sponsored by Senate Energy Committee Chairman Jeff Bingaman (D-N.M.), contains 161 individual measures. It now goes to the House where there is considerable support. It may go directly to the House floor. The Senate has historically been the big hurdle for omnibus bills because of the need to line up 60 votes to defeat a threatened filibuster.

S 22 would designate three new national parks, designate several national trails, designate more than 1,000 miles of wild and scenic rivers, designate, 2.2 million acres of wilderness, and designate 10 national heritage areas, to name a few items.

Said Bingaman after the Senate vote, "I can't think of a single bill that has ever done more to ensure the enjoyment of, and access to, wilderness areas, historical sites, national parks, forests, trails and scenic rivers."

Among many other things the bill would authorize permanently both a Preserve America program founded by former First Lady Laura Bush and a Save America's Treasures program established by former First Lady Hillary Clinton.

Said former Secretary of Interior Dirk Kempthorne in praising the Senate, "Bipartisan approval of this legislation by an overwhelming margin reflects the importance of these complementary his-

toric preservation grant programs."

S 22 would also protect 270,000 acres of land along 82 new wild and scenic rivers, to the delight of the American Rivers conservation group. Said David Moryc, senior director of river protection at American Rivers, "These rivers are the best of the best and Wild and Scenic designations will help many communities by safeguarding clean drinking water and boosting recreation and local economies."

Coburn drew support in his opposition to S 22 from the U.S. Chamber of Commerce, powered recreationists, conservative think tanks and private property rights advocates. For instance, the American Land Rights Association advised its members to not only oppose S 22 but all future omnibus lands bills as well. "A lot of bad stuff passes this way because bills (senators) might ordinarily oppose, they ignore because they are part of this larger package," said the association. "This is a really bad way of doing business."

Coburn blasted the measure: "The decision by Senate leaders to kick off the new Congress with an earmark-laden omnibus lands bill makes a mockery of voters' hopes for change. This package represents some of the worst aspects of Congressional incompetence and parochialism."

He complained that S 22 would cost \$10 billion at a time when the nation was headed toward a \$1.8 trillion annual deficit, would tie up energy resources and would trample on private property rights.

As to the private property charge Coburn said, "The eminent domain impacts whether it would be from wilderness areas, national wild and scenic rivers, or national trails will have a major impact on anybody living close or somewhat in proximity to any of these new designations because, in fact, they are impacted, even outside of it."

The Senate Energy Committee developed the omnibus lands package based on committee-passed bills. Not all commit-

tee-passed bills made the cut because both Democratic and Republican committee leaders enjoyed a veto. The idea was to produce a bill that provides something for everyone on both sides of the aisle. Bingaman said Republicans and Democrats sponsored almost equal numbers of bills in the package.

In addition to the NLCS measure, S 22 would:

\* NEW NATIONAL PARKS: Establish a Paterson Great Falls National Historical Park in New Jersey, a William Jefferson Clinton Birthplace Home National Historic Site in Arkansas, and a River Raisin National Battlefield Park in Michigan.

\* ADDITIONS TO NATIONAL PARKS: Authorize additions to 17 existing national parks.

\* STUDIES OF NATIONAL PARKS: Authorize studies of 12 sites, most as possible additions to the National Park System.

\* NATIONAL HERITAGE AREAS: Designate ten new national heritage areas (NHAs) and authorize studies of two NHAs. The new NHAs would be: Sangre de Cristo National Heritage Area, Colorado; Cache La Poudre River National Heritage Area, Colorado; South Park National Heritage Area, Colorado; Northern Plains National Heritage Area, North Dakota; Baltimore National Heritage Area, Maryland; Freedom's Way National Heritage Area, Massachusetts and New Hampshire; Mississippi Hills National Heritage Area; Mississippi Delta National Heritage Area; Muscle Shoals National Heritage Area, Alabama; and Santa Cruz Valley National Heritage Area, Arizona. The study areas are Chattahoochee Trace in Alabama and Georgia and Northern Neck in Virginia.

\* PALEONTOLOGICAL: Establish stiff new penalties for disturbance of paleontological resources on federal lands.

\* NATIONAL TRAILS: Designate an Arizona National Scenic Trail; a New England National Scenic Trail; an Ice Age Floods National Geologic Trail in Montana, Idaho, Washington and Oregon; a Washington-Rochambeau Revolutionary Route National Historic Trail between Newport, Rhode Island, and Yorktown, Virginia; a Pacific Northwest National

Scenic Trail from Glacier National Park, Mont., to the Pacific Ocean Coast in Olympic National Park, Wash.; and a Trail of Tears National Historic Trail in Alabama, Arkansas, Oklahoma, and Tennessee.

\* TRAILS - WILLING SELLER: Extend willing seller authority to the Oregon National Historic Trail; The Mormon Pioneer National Historic Trail; the Continental Divide National Scenic Trail; the Lewis And Clark National Historic Trail; the Iditarod National Historic Trail; the North Country National Scenic Trail; And the Ice Age National Scenic Trail.

\* WILD AND SCENIC RIVERS: Designate the following three, plus dozens in wilderness bills: Fossil Creek, Ariz.; Snake River Headwaters, Wyo.; and Taunton River, Mass.

\* WILDERNESS: Designate wilderness proposed in 14 different wilderness bills, including wilderness in Sequoia and Kings Canyon National Park and in Rocky Mountain National Park.

\* OWYHEE: Not only designate more than 500,000 acres of BLM-managed wilderness in central Idaho, but also establish a travel management plan for off-highway vehicles.

\* CONSERVATION AREAS: Designate in BLM a Snowy River Cave National Conservation Area in New Mexico and a Prehistoric Trackways National Monument in New Mexico.

\* BATTLEFIELD PROTECTION: Extend an existing American Battlefield Protection program through 2013.

\* PRESERVE AMERICA: Formally establish a Preserve America program to provide grants to communities and historic preservation for "soft" preservation activities.

\* SAVE AMERICA: Formally establish a Save America's Treasures program to provide grants to federal, state and local governments as well as nonprofits to physically preserve historic facilities and items.

## Salazar and Landrieu ponder resurrection of LWCF

Secretary of Interior Ken Salazar suggested January 15 that he is amenable to using new offshore oil and gas leas-

ing revenues to insure full, guaranteed funding for the Land and Water Conservation Fund (LWCF.)

Salazar, whose nomination as secretary of Interior was approved by the Senate January 20, was responding to Sen. Mary Landrieu's (D-La.) pleas for full funding for LWCF from oil and gas royalties. Speaking at his confirmation hearing before the Senate Energy Committee, Salazar said, "If we do it right the money won't disappear into the dark hole of the Treasury but might come back to help us with the vision we share with respect to the Land and Water Conservation Fund."

Salazar also told Landrieu he had long been an advocate of full funding for LWCF. "We need to do everything we can to make sure we achieve the vision of John Kennedy and (former Secretary of Interior) Stewart Udall," he said. "There's a lot we could do if we had the Land and Water Conservation Fund fully funded."

Salazar sounded a note of caution. "As you know and as everyone on this committee knows we are dealing with some difficult economic issues in this country that are going to affect our budget in numerous ways. We have to deal with those economic realities. Having recognized that, part of my excitement in taking on this job is the kinds of opportunities we can create hopefully to LWCF and other programs to do what we did in Colorado." Salazar was a lead author of a Colorado Great Outdoors program.

Landrieu made her pitch for full funding for LWCF at Salazar's confirmation hearing to be Secretary of Interior before the Senate Energy Committee.

Landrieu based her request for LWCF assistance not just on the original LWCF law that authorizes up to \$450 million per year in federal land acquisition and \$450 million in state conservation grants, but also on a 2006 offshore oil and gas leasing law.

The Gulf of Mexico Energy Security Act of 2006 directs MMS to allocate to

the state side of LWCF 12.5 percent of royalties from oil and gas lease sales from the 181 Area and the 181 South Area of the Gulf. In fiscal 2008 state LWCF revenues from the sales amounted to \$8 million, but that is expected to grow.

The Gulf royalty money is guaranteed and does not rely on an appropriation. In addition it is supplemental to any regular appropriation that Congress might make to the state side of LWCF.

Said Landrieu, "We created a program that authorized \$450 million for the federal side and \$450 million for the state side. Not just big parks in the West but in crowded cities from New York to New Jersey to the South and to the West. Unfortunately, Stewart Udall's vision, which I hope you can add to, was never funded. Not once in 65 years was the (LWCF) ever fully funded, either on the state or federal side." Now, she said, she wants Salazar to help her allocate to LWCF money from future offshore oil and gas lease sales.

\* LAND PROTECTION: In his introductory remarks to the Senate Energy Committee Salazar said he would make land protection a top priority. "As Executive Director of the Colorado Department of Natural Resources, I authored the Colorado constitutional amendment creating the Great Outdoors Colorado program and served as its first chairman," he said. "It has proven to be one of the most successful land conservation efforts in the United States. If confirmed, I look forward to building on these good ideas and to working tirelessly to protect and restore our national parks, wildlife refuges, and public lands across America for future generations to experience and enjoy."

## **Waxman, Boxer intend to move climate change bills, fast**

Rep. Henry Waxman (D-Calif.) said last week he will attempt to move climate change legislation through the House Energy Committee he chairs by the end of May.

If the legislation follows proto-



type bills from last year, it will authorize the sale of pollution allowances, with some of the revenue allocated to conservation programs. A lead Senate bill last year would have provided billions of dollars to conservation programs, including full funding for the Land and Water Conservation Fund.

Although Waxman didn't say what kind of legislation he will promote, at his initial hearing January 15 he hosted the United States Climate Action Partnership (USCAP), an alliance of major corporations and environmental groups. And USCAP endorses climate change legislation that would produce many billions of dollars by selling pollution allowances.

At the hearing Waxman said, "My goal is to pass comprehensive climate and energy legislation in the Committee before the Memorial Day recess. That is an ambitious schedule, but it is an achievable one. We cannot afford another year of delay."

Sen. Barbara Boxer (D-Calif.), the chairman of the counterpart Senate Environment and Public Works Committee, promised to move quickly too. "I will complete a set of principles for my new legislation in the coming weeks," she said. "With the addition of Chairman Waxman's announcement and a new proposal from America's business and environmental leaders in the U.S. Climate Action Partnership, the writing is on the wall that legislation to combat global warming is coming soon."

There is one huge obstacle facing conservation spending from climate change legislation - the economy. Obama and Congress may worry that a new fee on pollutants would have a depressive effect on the economy.

But Waxman painted climate change legislation as a partial solution for the nation's economic woes by reducing gasoline imports and providing certainty to corporations. "Our environment and our economy depend on Congressional action to confront the threat of climate change and secure our energy indepen-

dence," he said at the hearing. "U.S. industries want to invest in a clean energy future. But uncertainty about whether, when, and how greenhouse gas emissions will be reduced is deterring these vital investments."

Climate change legislation didn't move in the House in the last Congress but a Senate bill (S 3036) reached the floor in June, only to die in a filibuster. Sens. Joe Lieberman (I-Conn.) and John Warner (R-Va.) sponsored the bill.

S 3036 would have allocated to conservation programs a share of trillions of dollars garnered from the sale of emission allowances. According to a coalition of 170 environmental groups, S 3036 would have allocated an average of \$7.2 billion per year for 20 years to federal, state and local conservation programs.

For the Land and Water Conservation Fund S 3036 would have guaranteed enough money to meet LWCF's current authorization of \$900 million per year.

More than 30 businesses and environmental groups are represented in USCAP, including ConocoPhillips, Duke Energy, the Environmental Defense Fund, General Electric, and the Natural Resources Defense Council.

At the January 15 hearing USCAP submitted detailed recommendations to the House Energy and Commerce Committee. In re emission allowances it said, "Emission allowances in an economy-wide cap-and-trade system will represent trillions of dollars in value over the life of the program. USCAP believes the distribution of allowance value should facilitate the transition to a low-carbon economy for consumers and businesses; provide capital to support new low- and zero-GHG-emitting technologies; and address the need for humans and the environment to adapt to climate change."

## **Interior announces major projects as Bomar departs**

The Bush administration and NPS Director Mary Bomar departed this last

week, if not in a blaze of glory at least in a flurry of activity. They announced:

- \* \$27 million in new National Park Centennial Challenge projects,
- \* \$3 million in competitive Preserve America grants,
- \* an agreement on a process to acquire a Flight 93 crash site,
- \* the nomination of two World Heritage sites - Mount Vernon and the Papahānaumokuākea Marine Monument,
- \* the designation of nine new National Historic Landmarks.

The announcements came in the last week of the Bush administration, as it made way for the Obama administration to begin January 20. That date also marked the end of NPS Director Mary Bomar's term.

There had been speculation that Bomar might continue as director of NPS, at least temporarily, or take another senior position within the Park Service. Instead, she retired after 25 years of federal service. She was succeeded on an acting basis by Dan Wenk, who had been her deputy.

The centerpiece of Bomar's term, which began on Oct. 17, 2006, was the proposal for the Centennial Challenge program. It would allocate \$2 billion (\$1 billion federal, \$1 billion matching grants) to help upgrade the National Park System for its 100<sup>th</sup> Anniversary in 2016. Congress has begun to partially fund the program.

Bomar told NPS employees in a memo, "Directors will come and go, but the places are timeless - and the hearts of those who care for them are bigger than the 84 million acres in the system."

The nomination of a new director will be one of the first tasks facing new Secretary of Interior Ken Salazar. One environmental group, Public Employees for Environmental Responsibility, has recommended John Donahue, superintendent of Big Cypress National Preserve. The director's position requires Senate confirmation.

Here's what Bomar and the Bush Interior Department accomplished over the last week in parks-related actions:

**\* NPS Centennial Challenge grants.** Although Bomar and the Bush administration proposed a \$200 million per year program, Congress has not yet fully authorized it. But Congress did include \$10.5 million in a temporary fiscal 2009 appropriations bill (until March 6) that allowed NPS to match the \$10.5 million with \$16.5 million in philanthropic matches, for a total of \$27 million.

The House Appropriations Committee January 21 approved a first full round of \$100 million in federal contributions as part of an enormous economic stimulus bill. The Senate is expected to match that.

The big winner in the January 14 Park Service announcement was Independence National Historical Park. It received \$12 million to rehabilitate the Ben Franklin Museum with \$6 million of that coming in matches from the Pew Charitable Trusts.

**\* World Heritage sites.** Secretary of Interior Dirk Kempthorne announced January 12 the United States will nominate George Washington's Mount Vernon estate and the new Papahānaumokuākea Marine Monument as World Heritage sites. The places are the world's most significant natural and cultural sites. This will be the first nominations from the United States in 15 years. The Park Service did much of the groundwork on the recommendations.

A World Heritage Committee will make the ultimate decision on whether the sites will be added to a World Heritage List. Twenty-one nations have representation on the committee. The World Heritage List has been a pet peeve of American conservatives because of possible restraints the designations could place on the sites, whether explicit or implied.

**\* Preserve America grants.** Former First Lady Laura Bush announced a first round of fiscal year 2009 competitive Preserve America grants of \$3 million.



The money, to be used to help preserve the nation's heritage, will go to projects in 17 states. Since the program began in fiscal 2006 Congress has appropriated \$20 million in competitive grants. Congress has not formally authorized the program, but is expected to do so in an omnibus lands bill (S 22) that is now before the House.

**\* National Historic Landmarks.**

Kempthorne announced January 16 the designation of nine new National Historic Landmarks in Connecticut, Minnesota, Pennsylvania, California, Florida, Illinois, Colorado, Wisconsin and Arizona. The sites include a farm once owned by Aldo Leopold in Fairfield and Lewiston Townships, Wis. Leopold was one of the founding fathers of conservation and environmentalist movements in the United States.

**\* Flight 93 Memorial.** It's not a done deal yet but the Park Service on January 16 said it had reached an agreement with a principal landowner at the site of 911 crash in Shanksville, Pa., on a procedure to acquire the landowner's property. In the interim the agreement gives NPS access to the site to plan and construct a memorial. The agreement will place the final valuation of the 274-acres field in the hands of a federal court. The entire site will occupy 2,231 acres.

The owner of the disputed 274 acres, the family of Michael Svonavec, has been quarreling with the Park Service about a fair price almost since the crash. Svonavec has reportedly rejected offers of \$250,000 and \$750,000.

**Sportsmen ask for farm bill help as new sheriff arrives**

An alliance of hunting and fishing groups is urging the Obama administration and the new Congress to beef up a conservation reserve program (CRP) that protects millions of acres of crucial game habitat.

The alliance of groups also called on the administration and Congressional leaders to provide full funding to an

Open Fields programs that pays private landowners to open their lands to hunters and fishermen.

At bottom, the Agriculture and Wildlife Working Group of the Theodore Roosevelt Conservation Partnership is asking for a vigorous implementation of a 2008 Farm Bill. It effectively doubled the size of farm programs.

The conservationists worry that CRP is losing enrollments because farmers are converting their reserve land to growing corn for methane and to growing other crops because of the high cost of food. To fight back, they asked Senate Agriculture Committee leaders January 13 to increase CRP payments.

"The payment structure for CRP should be modernized to compete with the many land use challenges that face landowners," said the partnership which includes such groups as Ducks Unlimited, the Ruffed Grouse Society, the American Sportfishing Association and the National Wildlife Federation.

Before leaving office the Bush administration's Secretary of Agriculture Ed Schafer published a list of farm bill accomplishments that sets the table for the Obama administration. "USDA employees continue to work hard to implement all the provisions of the farm bill in an efficient and expeditious manner," said Schafer. "Producers and consumers should be confident that USDA has laid the foundation for the next Administration to continue this success."

In other words the farm bill baby is now in the lap of President Obama's new Secretary of Agriculture, former Iowa Gov. Thomas J. Vilsack (D). The Senate confirmed his nomination January 20. At his confirmation hearing before the Senate Agriculture Committee January 14 Vilsack simply listed conservation as one of his priorities. He said he intends "to preserve and protect our national resources - our land, water and forests."

The 2008 Farm bill, enacted May 23 as PL 110-234 over President Bush's veto,

reauthorized a dozen major conservation programs for five years and established a new Open Fields program.

The law will provide an extra \$4 billion for conservation programs over the next five years. But conservationists are concerned that the law decreases a CRP cap from 39.2 million acres to 32 million acres.

As the sportsmen wrote the Senate Agriculture Committee January 13, "Enrollment in CRP has continued to decline in recent years, however, as millions of acres have come out of the program due to contract expirations, limited opportunities to enroll new lands, and heavy competition from other land uses."

So the sportsmen called on the committee to take a number of steps, including higher payments and more opportunities to sign up for the program.

The Open Fields program is designed to provide incentives to private landowners to open their lands to sportsmen. It authorizes the expenditure of \$50 million over four years to help states establish programs to pay farmers to open their lands to hunting, fishing and other outdoor recreation activities.

The Bush administration Department of Agriculture touted its conservation accomplishments thusly: "Made available additional Farm Bill funding for conservations programs in FY 2008, including an additional \$200 million for the Environmental Quality Incentives Program (EQIP), to help farmers and ranchers nationwide to solve natural resource problems; \$150 million for the Wetlands Reserve Program (WRP); and \$7.5 million for Agricultural Management Assistance."

The department said it also: "Made available more than \$4 billion for conservation program funding in FY 2009, including \$1.8 billion for the CRP, \$1 billion for the EQIP, \$570 million for the WRP, \$100 million for the Farm and Ranchland Protection Program, and \$74 for the Wildlife Habitat Incentives Program."

## Judge blocks issuance of Utah oil and gas leases near parks

A federal judge January 16 blocked the issuance of 100,000 acres of oil and gas leases in Utah, some near national parks and famous recreation areas.

U.S. District Court Judge Ricardo M. Urbina barred the final issuance of the leases because of concerns about the impact of oil and gas development on the parks and recreation areas. The Bureau of Land Management (BLM) in Utah held the sale December 19. Urbina's decision does allow BLM to issue an additional 50,000 acres of leases that environmentalists did not protest in their lawsuit.

The order from Urbina, out of the U.S. District Court for the District of Columbia, halted the 100,000 acres of lease sales just before they were to go into effect January 19. Urbina's action also gives the Obama administration an opportunity to reverse the sale, albeit at some legal risk.

Environmentalists argue that if the Obama team under Secretary of Interior Ken Salazar deems the leases are "improperly issued" it can unilaterally block them.

Said Megan Mueller, a staff biologist with the Center for Native Ecosystems, "Submitting a leasing application vests no rights to the applicant or potential bidders. The BLM retains the authority not to lease."

For now judge Urbina says that the balance of damages argues for the postponement of the final issuance of the leases. "Because of the threat of irreparable harm to public land in the leases are issued, the balancing of equities also tips in favor" of protecting the land, if only temporarily, he said.

In his order Urbina said the plaintiff environmental groups are likely to succeed in their lawsuit because BLM failed to evaluate the impact of leasing on air outside the leased

tracts and on historic properties. "Due to these deficiencies the plaintiffs have shown a likelihood of success on the merits," Urbina concluded.

Steve Bloch, an attorney with the lead plaintiff, the Southern Utah Wilderness Alliance (SUWA), said that if Urbina follows the drift of his order in an injunction downstream, it should bar BLM from issuing the leases. "As the case moves on into the merits we will challenge the resource management plans (RMPs) and the environmental documentation in them," Bloch said. "The RMPs were hurried and ignored important parts of the equation. The ruling from judge Urbina is the first step toward revisiting those plans."

Assuming Urbina follows the precedent set by his January 16 order in an injunction or decision, BLM very likely will not be able to execute those leases or even resell them, at least in the immediate future,

The authority not to issue leases under the Minerals Leasing Act may also prove a crucial issue downstream as President Obama and his team takes over. The Obama side is expected to be less eager to develop oil and gas reserves on public lands than the Bush administration.

The lawsuit was brought by seven conservation groups led by SUWA and including the Grand Canyon Trust, the National Parks Conservation Association, and the National Trust for Historic Preservation.

The plaintiffs charged specifically that BLM failed to take a hard look at the impacts of oil and gas development on ozone, as requested by the National Park Service; failed to assess the impact of leasing on climate change, as required by an order of the Secretary of Interior; and failed to assess impacts of leasing on archaeological sites in Nine Mile Canyon, thus ignoring the concerns of the Hopi tribe.

The December 19 sale became a national controversy after BLM said it would offer 241 parcels for lease total-

ing 359,000 acres, many of them near Arches National Park, Dinosaur National Monument, Canyonlands National Park, Nine Mile Canyon and Desolate Canyon. BLM manages the latter two areas.

In the face of protests from an array of interests BLM pulled more than 110 tracts from the sale. It did offer 131 parcels extending over 163,714 acres. BLM sold 89 percent of the 131 parcels covering 148,598 acres and received \$7,473,768.50.

The take includes \$1.8 million that a nuisance bidder, Tim DeChristopher, bid on 10 tracts. The Salt Lake Tribune said Christopher was a student at the University of Utah and an ardent environmentalist. BLM and the U.S. Attorney in Utah are attempting to determine options for resolving DeChristopher's nuisance bids. BLM can attempt to make him pay the \$1.8 million he bid, but DeChristopher told the press he has no intention of doing so.

If the leases near Arches National Park and Canyonlands National Park are forfeited, BLM may put the tracts up for sale again in February, the Obama administration willing.

## **Lawsuit faults precedent of refuge transfer to Indians**

A Bush administration decision to transfer management of the National Bison Range Wildlife Refuge in Montana to an Indian tribe will be fought out in the courts this year.

But the lawsuit is actually aimed at a far larger target. The plaintiffs in the case - former Interior Department officials - fear the Bison Range will serve as a precedent for similar transfers in 18 other refuges and 57 national parks.

The plaintiffs charge a June 19, 2008, agreement between FWS and the Confederated Salish and Kootenai Tribes (CSKT) violates the National Wildlife Refuge System Administration Act of 1966. The plaintiffs say the act requires refuges to be managed by the

Interior Department through the Fish and Wildlife Service (FWS), and that responsibility may not be delegated to an outside entity.

"The National Bison Range agreement improperly contracts out operation of a major federal facility without adequate oversight to protect taxpayers," said Paula Dinerstein, an attorney with the Public Employees for Environmental Responsibility (PEER.) She filed the action in U.S. District Court for the District of Columbia.

PEER brought the lawsuit on behalf of the former Interior Department employees, including former Assistant Secretary of Interior Nathaniel Reed from the Nixon and Ford administrations.

FWS veterans and conservationists have been fighting the management transfer of the Bison Range to the Salish and Kootenai Tribes for the last four years. The agreement was the logical outcome of a Congressional policy backed by the administration to give Native Americans a greater say in managing public lands. Reed served in the Nixon and Ford administrations.

The plaintiffs say the arrangement oversteps a law that authorized annual funding agreements (AFAs), the Indian Self-Determination and Education Assistance Act, as modified in 1994. That law does authorize the secretary of Interior to delegate functions to Indian tribes if the functions are of "special geographic, historical, or cultural significance to the participating Indian tribe. . ."

But the plaintiffs say the Bison Range AFA violates the law because it grants powers beyond those listed in the Indian Self-Determination Act "that are inherently federal." The plaintiffs in the suit, filed in the U.S. District Court for the District of Columbia, are former Bison Range Refuge managers, other former FWS officials and Reed.

The most recent Bison Range agreement was signed on June 19, 2008, by the Interior Department and CSKT members. It authorized the CSKT to largely manage

and operate the Bison Range complex for three years. The only FWS employees to be retained are the refuge manager and deputy manager. The AFA authorizes CSKT to work in five areas: management, biological program, fire program, maintenance program and visitor services.

The lawsuit is available at: [http://www.peer.org/docs/nwr/08\\_8\\_12\\_bison\\_range\\_complaint.pdf](http://www.peer.org/docs/nwr/08_8_12_bison_range_complaint.pdf).

## Notes

### House eyes next highway bill.

House Transportation Committee Chairman James L. Oberstar (D-Minn.) said January 15 his committee will go to work in the next few months on a huge new surface transportation bill. The existing law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), expires at the end of September. However, Congress usually fails to complete surface transportation laws on time and extends the old laws for as much as a year. Oberstar said at a committee meeting, "Later this spring or early in the summer, the committee will consider a bill that will transform the surface transportation system of the United States and relieve congestion, ensure U.S. competitiveness, improve the daily lives of our citizens, and provide the building blocks for the long-term economic recovery of the nation." The conventional wisdom has been that, given the enormous federal deficit, Congress will have only enough money in the next law for basic highway needs, such as repair of interstates and bridges. SAFETEA-LU put up \$286.4 billion over six years. But the American Association of State Highway Officials has called for a total expenditure on the next six-year surface transportation law (including mass transit) of \$545 billion. Secretary of Transportation Mary Peters and the Bush administration proposed last summer a complete restructuring of SAFETEA-LU to emphasize highway construction. Peters would reduce the federal dependence on gasoline taxes that fuel the Highway Trust Fund. As part of the restructuring she drew a bead on transportation enhancements in particular and single purpose recreation programs in general,

calling for their elimination as federal set-asides.

**Nonfed rec backlog = \$27B.** While Congress is making much of Park Service and Forest Service maintenance backlogs, a little-remarked new report said state and local park and recreation needs are almost twice as great. An annual report on the state side of the Land and Water Conservation Fund (LWCF) puts the state and local backlog at \$27 billion, although the report counts all rec needs, not just LWCF. A Park Service maintenance backlog is about \$9.5 billion and the Forest Service backlog is about \$5 billion. Among the states Georgia alone reports a recreation backlog of \$9 billion, followed by Florida with \$8.2 billion. Despite the needs - based on estimates by the states themselves - state and local park and rec projects would receive no money from a jumbo economic stimulus bill the House Appropriations Committee approved January 21. The Park Service is down for more than \$2.4 billion in the bill and the Forest Service more than \$1 billion. The Park Service said this year's estimate of state rec needs goes beyond past estimates of \$15.6 billion in 2007. "This year's substantial increase in estimated unmet need from the 2007 report reflects our continuing efforts in working with states to formulate comprehensive estimates beyond their unfunded LWCF applications, to reflect a total estimated unmet need for outdoor recreation facilities, regardless of potential funding source," said the report. The fiscal year 2008 appropriation for the state side of LWCF was \$24.6 million, but the program also received about \$8 million from offshore Gulf of Mexico oil and gas royalties. The LWCF law authorizes up to \$450 million per year.

**Salazar noncommittal on guns.**

Secretary of Interior Ken Salazar was noncommittal about guns in national parks January 15 at a Senate Energy Committee confirmation hearing just before the Senate approved his nomination. Sen. Richard Burr (R-N.C.) pressed Salazar to carry out regulations that went into effect January 9 that authorize concealed weapons in the national parks and national wildlife refuges. Burr said two lawsuits have been

filed against the rule and asked Salazar if he would "aggressively defend against those lawsuits?" Salazar responded, "The President-elect has a good respect for the Second Amendment. I grew up often with a gun next to me in the prairie or next to my bed so I have my own sense of the importance of gun ownership. The rule is subject to litigation. We will take a look at it and see what makes sense in the context of the national parks and also the context of the Second Amendment." Burr serves as the ranking Republican on the Senate subcommittee on National Parks. (See separate article on LWCF on page 5.)

**House appropriations chairs named.**

The House Appropriations Committee last week formally chose Rep. Norman Dicks (D-Wash.) to continue as chairman of the House subcommittee on Interior and related agencies appropriations. Rep. Mike Simpson (R-Idaho) will serve as ranking Republican, replacing Rep. Todd Tiahrt (R-Kan.) Rep. Peter J. Visclosky (D-Ind.) will again chair the subcommittee on Energy and Water and Rep. John W. Olver (D-Mass.) will chair the subcommittee on Transportation.

**House transportation chairs named.**

Rep. Peter DeFazio (D-Ore.) will return as chairman of the House subcommittee on Highways and Transit this year where he will be in charge of writing a massive surface transportation bill (see first Note above.) Rep. John Duncan (R-Tenn.) will serve as ranking minority member. Rep. Eddie Bernice Johnson (D-Texas) will return as chairman of the subcommittee on Water Resources. Rep. John Boozman (R-Ark.) will serve as ranking minority member of Johnson's subcommittee.

**Idaho roadless rule in court.**

Five environmental groups filed a lawsuit January 16 against a Forest Service roadless rule for the State of Idaho that went into effect October 16. The groups object most particularly to the allocation of 406,000 acres to general use. They would prefer that all of the 9.3 million acres of roadless forest in Idaho be protected by a 2001 Clinton administration roadless area rule. The groups said the Idaho rule failed to consider adequately possible adverse

impacts on the land. Sen. Jim Risch (R-Idaho), who as then-governor of Idaho submitted the final petition for the rule, sharply criticized the plaintiffs for not accepting a rule prepared through extensive collaboration with all interests. "This litigation is a slap in the face of all Idahoans who participated in the resolution of this long and on-going dispute," he said. "It also discourages future attempts to resolve environmental conflicts by the collaborative and compromise method that has proven successful and in the best interest of all parties." Environmentalists were divided on the rule. The Idaho Conservation League supported it but a number of other groups objected. The suit was filed by The Wilderness Society, Greater Yellowstone Coalition, Natural Resources Defense Council, Sierra Club and The Lands Council. The groups are represented by the EarthJustice law firm.

**EPA cracking down on haze.** EPA January 14 issued a "finding of failure"

that may prod 37 states to 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. The EPA finding starts a two-year clock: If states don't develop a plan in that time, EPA will step in and write a Federal Implementation Plan. In October environmental groups including the National Parks Conservation Association filed a lawsuit in the U.S. District Court for the District of Columbia that charged 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. EPA then went ahead on its own to issue the finding of failure against 37 states, the District of Columbia and the U.S. Virgin Islands. 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.

## Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
<b>Appropriations Interim 2009</b> HR 2638 (Price)	President Bush signed into law September 30 as PL 110-329.	Interim spending law extends fiscal 2008 appropriations levels until March 6.
<b>Appropriations Stimulus</b> No bill number yet. S 1, S 2 (Reid)	House Appropriations Committee approved January 21. No Senate action yet.	Would allocate some \$4 billion to federal land management agencies to help revive the economy.
<b>Omnibus Bill</b> S 22 (Bingaman)	Senate approved January 15.	Includes 160+ individual bills, including NLCS, new national parks.
<b>National Landscape Conservation System</b> HR 404 (Grijalva) S 22 (previous item)	Grijalva introduced Jan. 9. Included in omnibus (above.)	Would give NLCS official designation by Congress.
<b>Appropriations 2009 (DOI and FS)</b> No bill number yet.	House subcommittee approved June 11.	Would provide modest increases for most park and rec programs.
<b>Appropriations 2009 (Energy &amp; Water)</b> 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.
<b>Appropriations 2009 (Transportation)</b> 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 SAFETEA-LU.
<b>Congressional Budget 2009</b> 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.