

Federal Parks & Recreation

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Recreation working group hopes to report in 11 months

The recreation establishment met with two senators July 14 to launch a third national outdoor recreation commission, of a sort.

Following the lead of national recreation commissions in 1962 and 1987 the commission, calling itself the Outdoor Resources Review Group (ORRG), is made up of a broad range of interests. But ORRG does not hold a Congressional mandate, at least not yet.

ORRG intends to submit policy recommendations to the next Congress and the next President in 11 months. If Congress decides to formally establish an outdoor recreation commission, the ORRG work will undoubtedly serve as a base. Sens. Jeff Bingaman (D-N.M.) and Lamar Alexander (R-Tenn.) met with the group and are honorary cochairmen of ORRG.

An aide to Bingaman, chairman of the Senate Energy Committee, told *FPR*, "(Bingaman) has always been interested in additional conservation funding. He thought this was an important idea to make recommendations, including perhaps a new Congressional commission."

It is early in the game but we asked one of the founders, Henry Diamond, an influential attorney with ties to the Rockefellers, what the ORRG hoped to accomplish. He said in an E-mail, "(T)o call the attention of the next Administration to the importance of parks, outdoor recreation and open space, and to assess the need for a new national commission."

A five-page document lays out a précis for the group. It will begin with a background assessment by the Resources For the Future think-tank of demand for outdoor recreation, of the

value of outdoor recreation, and of the supply of outdoor recreation and funding.

Of funding the summary says, "It will be important to track the trends in federal funding since the last review, including trends in funding for our most important resources such as national parks, as well as the Land and Water Conservation Fund (LWCF), and other agencies such as the Forest Service."

The summary identifies six new "concerns" that affect outdoor recreation: health, access for children to nature, tensions between conservation and recreation, tensions between public lands users, urban area problems and climate change.

Of urban areas the summary says, "Approximately 80% of the U.S. population lives in urban areas. Although open space, parks, and recreation areas in close proximity to people's homes may be highly valuable, city parks in the U.S. are uneven in quality both within and across cities."

Climate control legislation could provide the money to re-energize outdoor recreation programs. The Senate took up a climate change bill (S 3036) in early June that would provide billions of dollars per year to conservation programs, including a guaranteed \$900 million per year for LWCF.

Asked if ORRG would have its eye on that legislation, Diamond told us, "You bet."

The 17 members of the commission include two governors, other state officials, local officials, National Geographic Society Chairman Gilbert Grosvenor, Diamond, and representatives of the recreation industry and conservation. A full list follows at the end of this article.

Money for the ORRG would come from foundations associated with the Rockefellers, Mellons and Packards. In response to our question Diamond said Resources for the Future, the Conservation Foundation and National Geographic,

would be major players in the new group, would not finance it.

Alexander served as the chairman of the last national panel - the President's Commission on Americans Outdoors (PCAO) - in the 1980s. He has expressed interest in sponsoring legislation this year to establish a formal commission.

However, time is working against a legislative commission. By the time it could be formed and conduct its work, the next administration would likely be in its second or third year and the next Congress would be largely bypassed.

Said Derrick Crandall, both a member of PCAO and the new group, "Most critical is timing. Good ideas must surface early in the new administration. And when those ideas surface, the recreation and conservation groups must be unified and vocal in their support."

In a separate action earlier this year an alliance of recreation industry officials, state officials and federal land managers on February 8 submitted to Congress a smorgasbord of recommendations for a new commission.

The recommendations from Partners Outdoors 2008 included the possibility of beginning the data collection for a commission this year followed by the formal designation of commission members next year by the next administration. Beginning the work now with an informal ORRG may overcome the scheduling hurdle.

While the recommendations of PCAO made only modest gains in Congress, such as a federal recreation fee law, the 1962 Outdoor Recreation Resources Review Commission fared better. Based on the 1962 report Congress established the Land and Water Conservation Fund, the Wilderness Act, National Trails System, and the National Wild and Scenic Rivers System.

Resources for the Future Senior Fellow Margaret Walls, a group member, will lead staffing for the exercise.

Here are the ORRG members:

* Carol Ash, Commissioner, New York Parks, Recreation and Historic Preservation,
 * John Berry, Director, National Zoological Park,
 * Phil Bredesen, Governor, State of Tennessee,
 * Crandall, President and CEO, American Recreation Coalition, PCAO member,
 * Diamond, Partner, Beveridge & Diamond,
 * Yvonne Ferrell, Executive Director, National Association of State Outdoor Recreation Liaison Officials,
 * Gilbert Grosvenor, Chairman, National Geographic Society, PCAO member,
 * Michael Mantell, Founder, Resources Law Institute,
 * Patrick Noonan, Chairman Emeritus, The Conservation Fund, PCAO member,
 * William Reilly, Co-Chair, National Commission on Energy Policy,
 * Kent Salazar, President, New Mexico Wildlife Federation,
 * Mark Sanford, Governor, State of South Carolina,
 * Cathy Douglas Stone, Special Assistant to the Mayor of Boston for Environment,
 * Kathy Sullivan, Director, Battelle Center for Mathematics and Science Education Policy,
 * Douglas Wheeler, Partner, Hogan & Hartson LLP,
 * Steven Williams, President, Wildlife Management Institute,
 * Joseph Wynns, Director, Department of Parks and Recreation, Indianapolis, Indiana, and
 * Walls, Senior Fellow, Resources for the Future.

House Dems defer DoI money bill; energy riders reason

The House Appropriations Committee last week deferred work indefinitely on a fiscal year 2009 Interior and related agencies appropriations bill, hardening the probability Congress will not write a bill this year. In that event Congress would simply extend a fiscal 2008 bill deep into next year.

On the other side of the Hill the Senate subcommittee on Interior appropriations is tentatively scheduled to mark up a counterpart bill next week. However, the bill was "tentatively"

scheduled for consideration a fortnight ago and was postponed.

Meanwhile, fiscal 2009 appropriations bills for Transportation and for Energy and Water are making some progress. The Senate Appropriations Committee approved a Transportation bill (S 3261) July 9 that would patch a shortfall in surface transportation spending for fiscal 2009.

The bill calls for an \$8 billion transfer from general funds to ensure federal highway programs receive full funding of \$41.2 billion. The House Appropriations subcommittee on Transportation marked up a counterpart bill June 20 but did not authorize the \$8 billion transfer, leaving the bill short of full funding. (See related article page 7.)

The Senate Appropriations Committee approved an Energy and Water bill (S 3258) July 10 that would provide \$559 million more than the Bush administration requested for the Corps of Engineers in fiscal 2009 and \$333 million more than the administration requested for the Bureau of Reclamation.

The House Appropriations Committee approved a similar bill June 25 that would increase Corps spending by \$590 million and Bureau of Reclamation spending by \$163 million over administration requests.

While completion of all domestic appropriations bills has been considered a long shot all year, the jump in energy prices has recently posed a particular threat to the Interior bill. That's because House Republicans intend to offer amendments to the bill to open up public lands for energy development, and, the Republicans say, the Democrats are afraid the amendments will succeed.

"We think they have the potential to lose numbers on their side of the aisle, which would not look good in an election year," said an aide to ranking House Appropriations Committee Republican Jerry Lewis (Calif.)

Lewis repeated his demands for energy development amendments July 14

after President Bush lifted an administrative ban on most new Outer Continental Shelf oil and gas development (although a Congressional ban on drilling is still intact.)

"It is now up to Congress to lift restrictions on offshore drilling and provide real solutions to lower our record-high gas prices," said Lewis. "The best vehicle to pass these much-needed policies is the FY 2009 Interior Appropriations bill, which has been prevented from being considered by the majority party. It is time to put politics aside and consider this critically important legislation, let off-shore drilling have an up-or-down vote, and prove to the American people that Congress is willing to make tough decisions in order to lower the price at the pump."

For the record the Republicans insist they are not trying to torpedo the House bill, which the subcommittee on Interior appropriations approved June 11, minus any amendments to encourage additional energy production from the public lands. "We would hope Congress would complete all appropriations bills and will continue to work as if it was our intent," said the Lewis aide. "Unfortunately, the majority Democrats control the agenda."

In the Senate the political divide is even sharper than in the House. Senate Democrats need 60 votes just to get a bill to the floor. And with controversial energy amendments sure to cloud things, the Senate is gridlocked.

The House Appropriations Committee Republicans will, given the chance, offer at least three major energy production amendments, said the Lewis aide: one to greatly increase offshore areas open to oil and gas leasing, one to open the coastal plain of the Arctic National Wildlife Refuge to oil and gas leasing, and one to direct the Interior Department to issue commercial development oil shale regulations forthwith.

In total the House subcommittee-approved Interior bill would provide \$1.3 billion more than a comparable

fiscal 2008 bill, increasing from \$26.555 billion to \$27.867 billion in fiscal 2009. Moreover, the subcommittee approved \$2.1 billion more than a Bush administration request of \$25.714 billion.

Almost all park and recreation programs would receive more money from the House Interior subcommittee bill than from President Bush's recommendations.

Big new omnibus bill attracts critics; no schedule yet

The Senate Energy Committee has received no indication from Senate leadership when a giant omnibus bill (S 3213) will reach the Senate floor.

The committee hopes it's before Congress leaves on a summer vacation August 8. But, "We really don't have a good indication when it can come to the floor," said a committee staff member.

Committee chairman Jeff Bingaman (D-N.M.), working with his Republican colleagues, has assembled a bill (S 3213) that includes more than 90 individual bills the committee has approved, whether the House has acted or not.

The Senate Energy Committee said that the bill runs 759 pages long and includes measures sponsored by Democrats, Republicans and both parties.

If S 3213 is delayed, the committee may add to it. "Our experience with the last package was if it's going to sit there we're going to process bills," said a committee staff member. "We added on to the last package."

The committee assembles the omnibus bills because Sen. Tom Coburn (R-Okla.) routinely places holds on individual bills, preventing them from being considered on the Senate floor.

When assembled in one omnibus bill, the individual measures create a critical mass and sponsors can obtain the 60 votes needed to break Coburn's holds. Coburn has objected to any leg-

islation that would come with a price tag and require additional federal spending.

"If we file a motion to proceed, we would expect (Coburn) to place a hold on the bill," said a committee staff member. When a previous omnibus bill came up this spring, Bingaman and company assembled the 60 votes to defeat Coburn's hold(s.) That bill included 60 individual measures and was signed into law May 8 as PL 110-229.

Coburn has an ally in the American Land Rights Association (ALRA.) It sent an alert to its members July 7 to oppose S 3213, particularly because it includes a bill (S 1139) to designate a National Landscape Conservation System (NLCS) in the Bureau of Land Management (BLM.)

"The NLCS will lay a preservationist National Park type regulatory overlay over 26,000,000 acres of BLM land including many National Monuments, Wild and Scenic Rivers, Wilderness Study Areas and much more," said ALRA in the bulletin. "It threatens access and use by ranchers, miners, forestry advocates, recreationists and many other Federal land users."

The NLCS bill would give Congressional certification to the 26 million-acre system managed by BLM. The committee approved S 1139 May 23, 2007. The House approved a counterpart NLCS bill (HR 2016) April 9 by a 278-to-140 vote.

However, western Republicans in the House opposed the NLCS bill. Rep. Rob Bishop (R-Utah) said the measure not only failed to address existing problems in multiple use management of BLM lands in the system, but also could impose Park Service-like restrictions on BLM.

Sen. Dianne Feinstein (D-Calif.) has said she will attempt to expand the NLCS on the Senate floor to 32 million acres by adding the entire California Desert Conservation Area (CDCA.) Some four million acres of the CDCA are already in the system but Feinstein would add another six million acres.

Meanwhile, in recent actions the

House approved two more of the bills in S 3213, giving the measures a leg up if the Senate approves S 3213. On July 10 the House approved a bill (HR 1286) that would designate a Washington-Rochambeau Revolutionary Route National Historic Trail through Mid-Atlantic States. Although the final vote was a resounding 345-to-69, the bill barely survived a procedural vote to remove it from the floor, 202-to-211.

Rep. Rob Bishop (R-Utah) complained about an alleged lack of local control in the trail bill. "The sponsor does not live in the area of this trail," he said. "It encompasses nine States. Not all of the Members of Congress who are impacted either in the trail area or abutting the trail area are cosponsors." Former Rep. Martin Meehan (D-Mass.) was the lead sponsor. HR 1286 has 143 cosponsors.

Rep. Maurice Hinchey (D-N.Y.) provided background on the bill on the House floor: "The National Park Service study recommended that we designate as a National Historic Trail this 600-mile route used by the allied armies under General George Washington and French Count Rochambeau in their epic march that led to the victory at Yorktown, Va., in 1781, and the independence of the United States of America.

"The trail travels mostly along existing roads, throughways, and publicly navigable waters from Rhode Island down to Yorktown, Va. Designating the Washington-Rochambeau Revolutionary Route as a National Historic Trail will help spur a greater understanding of our shared history and will help illuminate the important battle of a young country and its French allies against the rule of King George."

Separately, on July 8 the House approved legislation (HR 3981) endorsed by the last two First Ladies that would formally authorize a Preserve America program and a related Save America's Treasures program. (See related article page 9)

Beyond the NLCS, the Washington-Rochambeau trail and the Save America

and Preserve America bills, S 3213 includes individual bills that would:

- * Designate two new National Park System units: Paterson National Historical Park in New Jersey and Thomas Edison National Historical Park in New Jersey,

- * Authorize additions to nine existing National Park System units,

- * 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,

- * Designate four national trails: Arizona National Scenic Trail; New England National Scenic Trail; Ice Age Floods National Geologic Trail; and Washington-Rochambeau Revolutionary Route National Historic Trail,

- * Authorize studies of additions to four National Historic Trails: Oregon National Historic Trail; Pony Express National Historic Trail; California National Historic Trail; and The Mormon Pioneer National Historic Trail,

- * Add three wild and scenic rivers: Fossil Creek, Arizona; Snake River Headwaters, Wyoming; and Taunton River, Massachusetts, and

- * Designate a Snowy River Cave National Conservation Area of about 3.5 miles of cave passages in Lincoln County, New Mexico.

GOP: DoI may ignore Hill Grand Canyon withdrawal order

The Interior Department appears to agree with House Republicans that a House committee order to withdraw 1 million acres from mining near Grand Canyon is not binding on the Interior

Department. Committee Democrats vigorously disagree.

House Natural Resources Committee Republicans rely in part on a Congressional Research Service (CRS) memo that suggests the department can ignore the order from the committee because the order is unconstitutional.

CRS held in the June 20 memorandum that for a withdrawal order to be constitutional both houses of Congress must pass legislation (bicameral approval it's called.)

The Department of Interior apparently has its doubts about the order's legality also. "We're reviewing the resolution particularly in light of a 1983 (Reagan administration) Justice Department opinion suggesting these types of resolutions are unconstitutional," said a department spokesman. "Then we'll decide how to proceed."

That Sept. 12, 1983, Justice Department decision by Ralph W. Tarr, deputy assistant attorney general at the time, cited Supreme Court precedence for doubting the provision's legality. Tarr said, "There remains no doubt that the power to direct withdrawal of lands granted to a single Congressional Committee by §204(e) is, by its terms, a legislative veto and is unconstitutional under *Chadha*." The *Chadha* decision is cited as *INS v. Chadha*, 51 U.S.L.W. 4907 (June 23, 1983.)

House Natural Resources Committee Democrats disagree. They cite two previous committee withdrawals that were upheld explicitly by the courts.

In one instance in 1983 the committee withdrew land in the Fort Union Coal Region in Montana and North Dakota. A committee analysis says court precedence from that case indicates that the courts would uphold the withdrawal authority if Congress acted as a landowner. But the analysis did warn that a withdrawal as an "exercise of power" by Congress would probably violate *Chadha*. That decision is identified as *National Wildlife Federation v. Watt*, 571 F. Supp. 1145.

The other precedent stemmed from a 1981 committee withdrawal from mineral leasing of portions of wilderness areas in Montana. A court upheld the resolution in *Pacific Legal Foundation v. Watt*, 529 F. Supp. 982.

The counterpart Senate Energy Committee has no plans to address the issue, said a committee spokesman. The House committee action requires no action by the Senate panel, he noted.

In recent years the demand for uranium has caused an explosion in uranium mining claims on public lands, many of them near Grand Canyon. The Environmental Working Group said 2,215 new mining claims have been filed within 10 miles of Grand Canyon National Park since 2003 and that 805 of those claims are within 5 miles of the park.

At issue is a June 25 order of the House Natural Resources Committee that directs the Interior Department to withdraw from hard rock mining 1 million acres of public lands near Grand Canyon National Park.

The Democrats say the provision is binding on Interior under a withdrawal provision of the Federal Land Policy and Management Act of 1976 (FLPMA), Section 204 (e). The provision authorizes either the House committee or the Senate Energy Committee to order Interior to make emergency withdrawals that last up to three years. No further Congressional action is necessary.

But committee Republicans argued the Interior Department does not have to comply because the order is unconstitutional. They objected so strongly to the use of a resolution to invoke the withdrawal that they walked out of the June 25 meeting. The remaining Democrats approved the resolution 20-to-2.

Rep. Raúl M. Grijalva (D-Ariz.), sponsor of the resolution, said he was concerned about the impact of uranium mining proposals on the park. He said his resolution would have little effect on existing claims but could head off future claims. Grijalva said the withdrawal resolution would protect the land

until Congress could consider his formal legislation to mandate the withdrawal of 1,068,908 acres, HR 5583.

Interest groups are choosing predictable sides of the argument. The National Mining Association (NMA) opposes the withdrawal. NMA President Kraig R. Naasz wrote all House committee members before the vote and said, "Closures of federal land based on vague and subjective criteria will threaten both mineral and economic development in the United States and is bad public policy."

The environmental group Earthworks praised the House committee for defending Grand Canyon National Park. "Over the past five years, the threat of uranium development outside (the park's) borders has increased more than a hundredfold," said Lauren Pagel, Earthworks' legislative director.

Senate panel provides SAFETEA rescue help; GAO weighs in

The Senate Appropriations Committee July 9 approved an unexpected \$8 billion transfer from the general fund to ensure federal highway programs receive full funding of \$41.2 billion in fiscal year 2009. The committee attached the money to a fiscal 2009 Transportation appropriations bill (S 3261.)

By definition that would also ensure full funding for park and recreation programs financed by the big surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.)

The House Appropriations subcommittee on Transportation marked up a counterpart bill June 20 but did not authorize the \$8 billion transfer, leaving the bill short of full funding.

Even if Congress is unable to move a fiscal 2009 Transportation bill and extends fiscal 2008 appropriations into fiscal 2009 Congress must make up the \$8 billion shortfall, said an American Association of State Highway and Transportation Officials spokesman.

"If they don't make up a 34 percent shortfall, they will have to cut programs," said the official, even if Congress extends the fiscal 2008 law. A 34 percent cut could prove devastating to park and rec programs financed by the Highway Trust Fund, including enhancements, recreational trails, scenic byways, federal land roads and so on.

The Senate committee bill would allocate about \$800 million to transportation enhancements programs, which are funded at 10 percent of a Surface Transportation Program (STP) allocation of \$8 billion. The fiscal 2008 STP allocation was \$7.7 billion. The bill would provide \$1.019 billion for federal lands highways, or \$40 million less than a fiscal 2008 allocation of \$1.059 billion.

Meanwhile, the Government Accountability Office (GAO) advised Congress July 10 that it should review all surface transportation programs to determine their worthiness before writing a new surface transportation law next year.

"(B)efore additional federal funds are committed to the nation's surface transportation programs, we believe a fundamental reexamination of the program is warranted," GAO told the Senate Finance Committee. "Such a reexamination would require reviewing the results of surface transportation programs and testing their continued relevance and relative priority."

GAO added, "Appropriate funding sources and financing mechanisms can then be tailored for programs that continue to be relevant in today's environment and address a national interest, such as freight movement."

In its testimony GAO discussed the pluses and minuses of the half-dozen proposals now floating in Congress to beef up the Highway Trust Fund. GAO said that no matter how well-conceived the proposals are, they all must still be paid for by American citizens.

"There is no silver bullet that can solve the nation's transportation

challenges, and many of the options, such as allowing greater private-sector investment in the nation's infrastructure, could be politically difficult to implement both nationally and locally," said GAO.

The idea to transfer \$8 billion from general funds to the Highway Trust Fund was attributed to Senate subcommittee on Transportation Appropriations Chairman Patty Murray (D-Wash.) and ranking subcommittee Republican Kit Bond (Mo.) They reasoned that when the fund enjoyed a sizable surplus in 1998 Congress shifted \$8 million from it to general appropriations. Now it's pay-back time.

Said a Senate committee report that accompanied S 3261, "Because the Committee is unwilling to put the Federal highway program at risk, the bill includes a provision that would transfer \$8,017,355,427 in balances to the Highway Trust Fund. This transfer corresponds to the amount of balances that were taken out of the Highway Trust Fund after fiscal year 1998, a time when the pervading wisdom was that the Highway Trust Fund had 'too many' balances and would not be able to spend them all."

It is not clear when the full Senate will take up the Transportation appropriations bill. An impasse between President Bush and the Democratic Congress over domestic spending almost guarantees that the Senate will not be able to pass a bill, thus triggering an extension of the fiscal 2008 law. But either way Congress will try to come up with the money to keep SAFETEA-LU fully funded.

Because Americans are driving fewer miles they are buying less gasoline and putting less money into the Highway Trust Fund. Most immediately, the highway and transit programs face an \$8 billion (and climbing) shortfall for fiscal year 2009.

House appropriators thus far are leaving the problem up to authorizing and tax committees. At a June 20 markup of a fiscal 2009 Transportation spending bill, Rep. John Olver (D-

Mass.), chairman of subcommittee on Transportation appropriations said it was not up to appropriators "to make up the difference."

Rep. Floyd Flake (R-Ariz.) offered a new proposal July 10 for closing the \$8 billion shortfall: He introduced legislation (HR 6472) that would rescind earmarks from SAFETEA-LU.

"Congress larded up the transportation bill with more earmarks than there was money to pay for them," he said. "Instead of taking money from the general fund for these earmarks, Congress needed to go on a pork diet." He probably meant a pork-free diet.

While he was it, Flake inserted in his bill a provision to forbid the transfer of general funds to the Highway Trust Fund, as the Senate Appropriations Committee would do.

Congress is facing a second major surface transportation dilemma: It must write a new law to replace SAFETEA-LU next year. SAFETEA-LU is scheduled to expire on Sept. 30, 2009. House and Senate committees have entertained a half-dozen major proposals to pay for the new law, in addition to gas taxes.

GAO described these proposals for supplementing gas tax revenues for the Highway Trust Fund: charging fees for vehicle miles traveled (with a GPS in each car), fees on freight, congestion pricing, bonds, loan guarantees, revolving funds, and public-private partnerships. Those partnerships usually refer to privately-operated toll roads.

The GAO report is identified as: *SURFACE TRANSPORTATION: Principles Can Guide Efforts to Restructure and Fund Federal Programs*, GAO-08-744T and is available at www.gao.gov.

House approves Save America, Preserve America bill

The House last week approved legislation (HR 3981) endorsed by the last two First Ladies that would formally authorize a Preserve America program and

a Save America's Treasures program.

Still, 23 House members had the temerity to buck First Lady Laura Bush and her predecessor Sen. Hillary Clinton (D-N.Y.) and oppose the bill. On the other hand 360 House members did vote for the bill.

The measure stands an excellent chance of enactment this year because it is already included in an omnibus Senate Energy Committee bill (S 3213) that is waiting Senate floor action (*see related article page 4.*)

Even if HR 3981 and S 3213 become ensnared in last-second politics this fall in Congress and fail, the programs will almost certainly continue with money and direction from annual appropriations bills. As they have for years. However, Congress has had to tap the Historic Preservation Fund to pay the ante. HR 3981 and S 3213 Congress would authorize regular appropriations for the programs.

The Save America's Treasures program was established a decade ago under the lead of then First Lady Clinton. It pays for bricks and mortar projects that preserve threatened cultural treasures. Congress appropriated \$24.6 million for the program in fiscal 2008.

The Preserve America program that pays for heritage tourism and preservation planning was established on Ms. Bush's watch. Congress appropriated \$7.4 million for the program in fiscal 2008.

Reps. Brad Miller (D-N.C.) and Michael Turner (R-Ohio) are the lead sponsors of HR 3981, which would codify the programs. Said Miller on the House floor, "Whether it is preserving main streets of downtowns, or reusing historic properties as affordable housing, preservation makes history come alive in communities throughout the country."

But Rep. Paul C. Broun (R-Ga.), who voted against the bill, said Congress should not be diverted by such extraneous programs and should be concentrating on energy legislation.

"So, as we talk about preserving things, let's preserve our families," he said. "Let's preserve our pocketbooks. Let's have money to spend to create a stronger economy. Not focus on these other things, as important as some feel that they may be. But the most important thing to America today is energy and the high cost of energy."

National Trust for Historic Preservation President Richard Moe put in a big plug for the program in a letter to House Natural Resources Committee leaders. "SAT and PA reflect the bipartisan and bicameral commitment that has characterized historic preservation policy in Congress and the White House over the years," he said. "SAT was created during a Democratic administration and embraced by the Bush Administration and Congressional Republicans. Likewise, PA was created during a Republican administration and is now supported by Members on both sides of the aisle."

Both the House and Senate bills would authorize up to \$50 million per year for the brick-and-mortar Save America's Treasures program. The House subcommittee on Interior Appropriations June 11 approved \$25 million for the program in fiscal 2009, or \$10 million more than an administration request of \$15 million.

Both the House and Senate bills would authorize up to \$25 million per year for the planning-oriented Preserve America program. The House subcommittee approved \$5 million for the program for fiscal 2009, or \$5 million less than the administration's request of \$10 million.

DoI extends comment time for guns in parks; Dems requested

The Park Service and the Fish and Wildlife Service July 9 extended a comment period until August 8 on a controversial proposal to allow concealed weapons in national parks and refuges.

The proposal would allow concealed weapons in national parks and wildlife refuges where state laws permit weapons in state parks and refuges.

The chairman of the Senate and House subcommittees on the National Parks asked for the extension. Sen. Daniel K. Akaka (D-Hawaii) chairs the Senate panel and Rep. Raúl M. Grijalva (D-Ariz.) chairs the House subcommittee.

The National Rifle Association (NRA) immediately charged that Akaka and Grijalva are simply trying to defer the Bush administration proposal into the next administration.

"Like a quarterback taking a knee in the fourth quarter, two of Congress's most ardent opponents of our Right to Keep and Bear Arms are trying to run out the clock on efforts to enhance your right to self-defense in our national parks and wildlife refuges," said the association July 9.

Akaka and Grijalva said the additional time for public comment is necessary because a June 26 Supreme Court decision, *District of Columbia v. Heller*, confuses the legal landscape.

They echoed a statement from the environmental group Public Employees for Environmental Responsibility (PEER) that said the court decision muddies the national parks and refuges situation. The decision threw out a ban on handguns in the District of Columbia.

"Under the proposed regulation, national parks within the District of Columbia, such as the National Mall and even the White House, may have no enforceable firearms restrictions if the D.C. government is unable to fashion a new, legally defensible set of firearm restrictions," said PEER.

But the NRA said that *District of Columbia v. Heller* mandates that NPS and FWS move quickly to authorize concealed weapons. "In truth, however, now that the Supreme Court has affirmed that the Second Amendment guarantees an individual right, it is more important than ever that we move toward final resolution on this matter and extend the most basic right of self-defense to law-abiding citizens visiting national parks and refuges," said NRA.

Akaka and Grijalva in their letter to Secretary of Interior Dirk Kempthorne said that NPS professionals oppose the proposal. They said "the Department's proposal is ardently opposed by current and former park ranger professionals who have countless years of experience in park management and resource protection."

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.

They wrote Kempthorne, "In all our years with the National Park Service, we experienced very few instances in which this limited regulation created confusion or resistance. There is no evidence that any potential problems that one can imagine arising from the existing regulations might overwhelm the good they are known to do."

However, a majority of senators (51 of them) wrote Kempthorne late last year asking that concealed weapons be allowed in national parks and refuges.

Comment to: *Public Comments Processing, Attn: 1024-AD70; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.*

House approves emergency fire fighting money for feds

With the 2008 forest fire season off to a nearly catastrophic start, politicians in Washington, D.C., are scrambling to pay the bill.

The House took one big step July 9 when it approved legislation (HR 5541) that would guarantee about \$500 million per year for emergency fire fighting by federal agencies.

The bill, sponsored chiefly by committee chairman Nick Joe Rahall (D-W.Va.), would guarantee emergency appro-

priations money to cover the average cost for fighting major fires over the previous five years. That's about \$500 million. The bill is called FLAME, as in Federal Land Assistance Management and Enhancement Act.

The money would not count against appropriations bill spending caps. Congress would still need to appropriate money for the fighting of non-catastrophic fires each year and other fire-fighting programs.

Separately, Sen. Dianne Feinstein (D-Calif.) July 9 asked the Senate Appropriations Committee to approve \$910 million in emergency fire fighting money for fiscal year 2008. Feinstein requested the committee provide the money - again, it would not count against regular appropriations bills - in a new supplemental emergency bill, if and when one comes down the pike.

Feinstein wrote appropriations committee chairman Robert Byrd (D-W.Va.), "With the bulk of the fire season still to come, the U.S. Forest Service has already expended \$704 million, more than half of the \$1.2 billion in available funds and, if agencies have to continue spending suppression funds at this rate, they may experience budget deficits to run in the hundreds of millions of dollars."

And in a Senate floor speech July 10 Feinstein said the Park Service was struggling too. "Key supervisors and firefighters are missing from our national parks, hampering firefighting and brush clearing efforts," she said.

Of her \$910 million Feinstein would allocate \$610 for fire suppression, \$125 million for state and private fuel reduction, \$100 million for rehabilitation, \$50 million for federal fuel reduction and \$25 million for personnel recruitment.

In a third development Senate Majority Leader Harry Reid (D-Nev.) and Sen. Barbara Boxer (D-Calif.) July 11 introduced a counterpart to Rahall's House-passed FLAME legislation (S 3256.)

Said Rahall of the House-passed bill, "There is little reason to hope that the next fire seasons will be less catastrophic than those of the last decade. The trend has certainly been in that direction. Knowing that we must be better prepared. The FLAME Act is an effort to get out in front."

Rep. William Sali (R-Idaho) called the Rahall bill a half-step and urged the House to address broader land management policies. He asked the House to take up his bill (HR 4245) to provide categorical exclusions from additional environmental analysis of fire treatment bills.

The Rahall bill "fails to address the more critical issue of forest management," Sali said. "The greatest obstacle our public land managers' face isn't dollars but the ability to overcome red tape and lawsuits by extremists." The House approved the bill without a formal vote.

Rahall and company introduced HR 5541 to take the pressure off federal land management agency budgets, which have been devastated by emergency fire-fighting expenses. The Forest Service in particular has struggled with fire-fighting costs that now exceed national forest management costs.

Feinstein charged that Under Secretary of Agriculture Mark Rey had failed to provide the Forest Service with the personnel she had requested. "Last month the agency reported 380 vacancies in California - roughly 8.5 percent out of a total force of 4,432," she said. "These positions must be filled. Agriculture Under Secretary Rey promised me these vacancies would be filled by July 8. But as of (July 11) only 289 positions have been filled. We need to do more."

Although Feinstein's personnel complaint wasn't aimed at the Department of Interior, Secretary Dirk Kempthorne July 11 took two major steps to help out in California. He directed all department leaders to deploy "qualified" personnel to help with fire fighting and he waived a dual compensation limit that

will allow qualified, retired Interior personnel to fight fires.

As of July 16 the National Inter-agency Fire Center said 19,493 people had been assigned to fight fires in California, with 5,988 federal, 6,313 state and 7,192 other.

The center said that thus far this year 3.2 million acres had burned nationally compared to 3 million acres last year, 4.2 million acres in 2006 and 3.2 million acres in 2005.

Notes

Feds alter haze guidelines. Three federal land management agencies proposed July 8 a new interagency guide to deal with air quality that appears to ease haze protection standards. The proposed guide would exempt from review of haze impacts small sources far from Class I areas. The guide would also revise modeling of pollution impacts. 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 Class I areas, including 48 national parks, 21 national wildlife refuges and 88 wilderness areas managed by the Forest Service. The proposed FLAG report, as in the Federal Land Managers' Air Quality Related Values Work Group, was prepared by the National Park Service (lead agency,) the Forest Service, and the Fish and Wildlife Service. It would replace a FLAG 2000 report prepared by the Clinton administration. The draft report is at <http://www2.nature.nps.gov/air/permits/flag/index.cfm>. Comment by September 8 to: John Bunyak, Air Resources Division, National Park Service, P.O. Box 25287, Denver, CO 80225. E-mail comments to: john_bunyak@nps.gov.

Hatteras Seashore plans meetings. The Cape Hatteras National Seashore has scheduled four meetings from September to December of an advisory committee that is attempting to write regulations

that balance off-highway vehicle (OHV) use with protection of imperiled species. The regulations would replace an agreement between NPS and environmentalist litigants that established an interim policy restricting OHV use. The agreement was signed off on by U.S. District Court Judge Terrence Boyle in North Carolina April 30. However, five North Carolina House members and the state's two senators introduced legislation (S 3113, HR 6223) June 11 to restore full OHV use in the seashore. The four meetings, announced in the July 8 *Federal Register*, are all scheduled for North Carolina.

Bison Range pact made official.

The Fish and Wildlife Service (FWS) gave formal notice July 10 in the *Federal Register* of an agreement it reached last month for the Confederated Salish and Kootenai Tribes (CSKT) to cooperatively manage the National Bison Range in Montana. The agreement will give the tribes a continued role in the management of the refuge that is located in the Flathead Indian Reservation. FWS employees have objected to past agreements that gave the tribes significant management authority in the refuge. Underlying their fear was the possibility that all management of the refuge would be privatized. But House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) and ranking Republican Don Young (Alaska) attempted to ease those concerns. They wrote Secretary of Interior Dirk Kempthorne saying they would not support privatization. While management of the Bison Range involves a modest \$1.3 million budget and 13 full-time equivalent employees, the new contract could set a precedent for dozens of similar arrangements for nonfederal management of other national wildlife refuges and national parks. A previous contract between CSKT and FWS ended in acrimony in December 2006.

USDA CRP decision halted. A federal judge July 10 blocked Department of Agriculture plans to open up as many as 24 million acres of conservation reserves to farming. The USDA Critical Feed Use program announced by the department May 27 is designed to help cattlemen who have high feed prices. It

allows haying and grazing on Conservation Reserve Program (CRP) land. U.S. District Judge John C. Coughenour in Western Washington issued the injunction after the National Wildlife Federation filed suit saying the department must first write an environmental assessment. The CRP protects land used for myriad conservation purposes, such as habitat for breeding ducks and habitat for sage-grouse.

Duck count down thus far. The Fish and Wildlife Service (FWS) released a preliminary report July 11 that says a preliminary breeding count of ducks is nine percent lower than last year. That is still 11 percent above the 1955-2007 average. FWS also reported that its survey of 2 million square miles in the United States and Canada indicated a 37 percent decrease in the number of ponds, which are essential to breeding success. FWS counted 4.4 million ponds compared to seven million last year and a long-term average of 4.9 million. Ducks Unlimited noted the survey comes against the backdrop of an initiative of the Department of Agriculture to remove as many as 24 million acres from a Conservation Reserve Program land (*see previous item*). "As painful as the current drought is, waterfowl and prairie habitats are facing even greater long-term threats," said Ducks Unlimited. "Grassland habitat is under siege on many fronts and is being lost at alarming rates."

Geotourism agreement struck. Federal land management agencies teamed with the National Geographic Society July 8 to commit to a policy of sustainable geotourism. That means inviting tourism into an area while maintaining the environment, culture, heritage and well-being of the area's residents. Participating in the signing of a memorandum of understanding were representatives of the Bureau of Indian Affairs, Bureau of Land Management, the Fish and Wildlife Service, the Forest Service and the Park Service. The National Geographic says it has ongoing prototype projects such as a partnership initiative on the border of Arizona and Sonora, Mexico.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
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 and rec programs, as called for by SAFETEA-LU.
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 S 3213 (Bingaman)	Bingman introduced June 26.	Included 90 individual bills, including NLCS, two 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.
Trail expansion authority S 580 (Hatch)	Senate committee approved June 26, 2007.	Would authorize route variations for four national historic trails.