

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

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## Obama will be hard put to change park and rec policies

Although President-elect Barack Obama promised the nation change, circumstances may limit how much change he can bring about in the park and recreation world.

In his lead promise Obama would provide "strengthening" of the Land and Water Conservation Fund (LWCF) to acquire open space and green corridors. But he hasn't said how much money he would spend. In addition Obama promises to repair damages to the national parks and forests from "inadequate funding." Again, he didn't say how much funding.

In the end Obama will have little opportunity to increase conservation spending through conventional appropriations. The financial "institution" bailout, coupled with economic stimulus legislation coupled with an everyday national debt of \$500 billion, could push the deficit to \$1 trillion in fiscal year 2009, the experts say.

Obama may be able to make change on the edges. For instance the Bush administration has pretty much opposed new National Park System units, expansion of other federal land management agencies, designation of new wild rivers, designation of new national trails, and establishment of additional national heritage areas.

If an Obama administration attempts to expand the park and rec universe, it may find cover from two ongoing blue ribbon commissions. An Outdoor Resources Review Group and a National Parks Centennial Commission intend to submit policy recommendations to Congress next year. Both panels have already begun receiving input from citizens, scholars and politicians at the local, state and federal levels. (See related article page 8.)

As grim as the money situation may at first appear, there are two possible unconventional sources of revenues for conservation programs - new royalties from offshore oil and gas leasing, a reasonable possibility, and new fees from climate change legislation, a longer shot.

**OFFSHORE OIL:** Both Democrats and Republicans say they are committed to increased offshore oil and gas drilling. That includes Obama, although it is not clear how much leasing he would agree to. Although conservationists oppose offshore oil and gas development, if it were inevitable, they would at least ask Congress to allocate some royalty revenues to conservation spending, particularly to LWCF.

There is recent precedent. In 2006 Congress approved a Gulf of Mexico Energy Security Act that directs MMS to allocate to the state side of LWCF 12.5 percent of royalties from Gulf of Mexico offshore oil and gas lease sales from the 181 Area and the 181 South Area.

The fiscal year 2008 allocation from the act to LWCF is \$8 million. The program is to run through fiscal 2016. The money is guaranteed, does not rely on an appropriation and is in addition to any regular appropriation that Congress might make.

**CLIMATE CHANGE:** The climate change legislation is less predictable than the energy legislation. Congress may hesitate to impose huge penalties on companies for producing climate change gases, if the predicted recession occurs next year. Still, Obama promises to propose major climate change initiatives next year with significant conservation sharing. (*See related article page 7.*)

**IN CONGRESS:** On Capitol Hill the election strengthened the Democratic majority significantly but it probably didn't provide a super majority of 60 Senate votes that could overcome holds, i.e. filibusters. Best guesses put the Democratic edge in the Senate a couple of votes short of the magic 60. Best guesses put the Democratic edge in the House at about 80 votes.

Committee and subcommittee leaders of park and rec programs are expected to stay pretty much the same, although some chairmen could play musical chairs, as they usually do. In the House Rep. Nick Joe Rahall (D-W.Va.) is slated to continue as chairman of the House Natural Resources Committee and James Oberstar (D-Minn.) as chairman of the House Transportation Committee.

On the Republican side Rep. Don Young (Alaska), ranking natural resources committee member, will return, as will Rep. John Mica (R-Fla.), ranking transportation committee member.

In the House subcommittee on National Parks, Forests and Public Lands chairman Raúl Grijalva (D-N.M.) returns, as does ranking minority member Rob Bishop (R-Utah.)

In the Senate Sen. Jeff Bingaman (D-N.M.) is penciled in to continue as chairman of the Senate Energy Committee and Sen. Barbara Boxer (D-Calif.) is expected to continue to pursue climate change legislation as chairman of the Senate Environment and Public Works Committee.

One major change is certain on the Republican side of the energy committee where ranking Republican Pete Domenici (N.M.) did not run for re-election. Sen. Lisa Murkowski (R-Alaska) is the next ranking Republican on the committee, but some more senior outsider could trump her.

Sen. Daniel Akaka (D-Hawaii) returns as chairman of the Senate subcommittee on National Parks and Sen. Richard Burr (R-N.C.) as ranking minority member.

It's way too early to talk about key park and rec officials in an Obama administration. But we hear two prominent department head deputies in the Clinton administration could play significant roles. They are John Berry, Clinton's assistant secretary of Interior for Policy, and Jim Lyons, Clinton's deputy secretary of Agriculture for Natural Resources.

## House Democrats, U.S. Chamber disagree on omnibus bill

Twenty-four Democratic House members and the human-powered recreation industry are both urging the House to address a giant omnibus lands bill later this month.

But critics of the legislation received a huge boost of their own October 30 when the U.S. Chamber of Commerce blasted the measure.

Senate Majority Leader Harry Reid (D-Nev.) is already committed to taking up the bill (HR 5151 in its latest iteration) beginning November 17. But Speaker of the House Nancy Pelosi (D-Calif.) has not committed herself, although she has talked about taking up an economic stimulus bill in the lame duck.

Thus, the 24 Democratic House members wrote Pelosi October 23 and asked her to schedule a vote on HR 5151 if the Senate approves it. "The omnibus Senate package is a bipartisan proposal," the House members wrote. "The individual components have been subject to hearings and formal Committee action. This package includes many bills that Democratic and Republican Members of the House have authored and that have already been adopted by the full House of Representatives."

The letter writers included Rep. Raul Grijalva (D-Ariz.), chairman of the House subcommittee on National Parks, Forests and Public Lands.

Similarly, the Outdoor Industry Conservation Alliance said in an October 27 letter to Pelosi, "As economic uncertainty increases, American are staying closer to home, looking for opportunities in their backyards to enjoy outdoor experiences. In economic terms, the demand for protected public lands is high, and this package would ensure a supply of wild places to meet that demand."

Some 160 companies belong to the alliance including the heads of Patagonia, North Face and Kelty.

The chamber disagreed in a letter to members of the Senate, "This omnibus bill would withdraw millions of acres of public land from energy development, increase government spending by more than \$4 billion, and add even greater restrictions to federally managed lands."

The chamber continued, "At a time when American families are struggling to cope with an unprecedented financial crisis, uncertain oil prices, and elevated food costs, this bill would only serve to exacerbate those problems."

The Chamber of Commerce position is echoed by Western House Republicans. They have heartburn about a provision (S 1139 as a stand-alone bill) that would give Congressional certification to the National Landscape Conservation System (NLCS) managed by BLM. The House approved its version of the NLCS bill (HR 2016) on April 9.

Twenty-seven House Republicans asked President Bush August 4 to veto HR 2016 if it came to him by itself. However, they did not mention a recommended veto of an omnibus bill.

In a subsequent development Rep. Rob Bishop (R-Utah) said September 19 that Interior Department officials told him that the department's Inspector General has launched an investigation of illegal communications between NLCS managers and program supporters.

Urging the western Republicans on is the private property rights group, the American Land Rights Association. "Congress failed to pass the giant Omnibus Federal Lands bill so far," said the association in a bulletin to members just before the November 4 elections. "They are planning to come back for a Lame Duck Session on November 17th. That is when the real trouble will start. You must pound away at your Congressman and both Senators to get commitments before the election to oppose the giant Omnibus Federal Lands Bill (HR 5151), which at this time has over 150 bills added to it."

In addition to the NLCS measure,

HR 5151, as assembled by Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) from committee passed bills, 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 several in wilderness bills: Fossil Creek, Arizona; Snake River Headwaters, Wyoming; and Taunton River, Massachusetts.

\* 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 (it was about to expire.)

\* 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.

## Latest NPS Y'stone proposal would halve snowmobile use

Responding to a court order, the Park Service November 3 proposed snowmobile use for Yellowstone National Park that approximates average daily use of last winter. But the 318-machine daily limit is less than half the 720 snowmobiles that were authorized over the last three winters.

NPS made its plans known in an environmental assessment (EA.) In a separate step on November 5 the park proposed new regulations that it intends to complete before the winter season begins December 15. The proposed regs reflect the EA.

The proposed rule must presumably be accepted by Judge Emmett Sullivan in the U.S. District Court for the District of Columbia. He ruled on September 15 that the Park Service may not allow adverse impacts to Yellowstone from snowmobile impacts unless those impacts are "necessary and appropriate."

NPS clearly has its fingers crossed that Sullivan will accept the November proposal. Said NPS in the EA, "Due to recent court decisions, it is currently unclear what winter use management plan will be in place for the winter of 2008-2009 or future winters and whether snowmobiles will be permitted. However, the purpose of this EA is to provide an interim winter use plan that will have no significant adverse effects on park resources or values pending NPS's response to guidance provided by relevant court decisions."

The proposed rule would last for three winters. Said NPS, "This EA is not intended to result in a permanent regulation authorizing continued public recreational snowmobile and snowcoach use in Yellowstone. A permanent regulation on snowmobile and snowcoach use in Yellowstone may be the product of future winter use analysis."

Sullivan threw out a Dec. 13, 2007, NPS rule that authorized up to 540 snowmobiles per day in Yellowstone this winter. The previous temporary rule

that governed in the winters of 2004-2005, 2005-2006, and 2006-2007 authorized up to 720 machines a day in Yellowstone and 140 per day in Grand Teton National Park and the John D. Rockefeller, Jr., Memorial Parkway.

A second court is involved and is expected to rule temporarily on virtually the same issues as did Sullivan. U.S. District Court Judge Clarence Brimmer in Wyoming has before him a competing lawsuit brought by the State of Wyoming that demands more snowmobile use than the Park Service's December 2007 rule authorized. In the past Brimmer has disagreed with Sullivan.

The latest NPS proposal would allow up to 318 snowmobiles per day in Yellowstone for the next three winters, but riders would have to be commercially guided. In addition the proposal would authorize up to 78 commercially-guided snowcoaches per day.

In Grand Teton National Park and the Rockefeller Parkway NPS would allow up to 25 snowmobiles a day on the Grassy Lake Road and up to 40 snowmobiles a day on Jackson Lake for ice fishing. NPS would eliminate oversnow travel on the Continental Divide Snowmobile Trail between Moran Junction and Flagg Ranch.

## NPCA makes pitch for park road money in stimulus bill

The National Parks Conservation Association October 29 asked Congress to put up \$440 million for Park Service roads in an economic stimulus bill that is expected to move this month.

In testimony prepared for the House Transportation Committee, NPCA President Thomas C. Kiernan said NPS has a track record of getting money out the door, a major goal of a stimulus bill.

"Projects in the Park Roads and Parkways programs have an astounding first-year obligation rate of 98 percent," he said. "Other park road projects have a first-year obligation rate of 80 percent. These are exceptional spend-out rates when compared to the much larger federal highway appor-

tionment programs, which have an overall first-year obligation rate of approximately 25 percent."

Although the House Transportation Committee is not writing the economic stimulus bill - Speaker of the House Nancy Pelosi (D-Calif.) and her confidants are - the committee will submit recommendations.

On the Senate side of the Hill Senate Majority Leader Harry Reid (D-Nev.) will decide what goes into a Senate version of a stimulus bill. He has reportedly promised to include a \$2 billion program to upgrade the National Park System for its Centennial in 2016.

Our sources say Reid told Secretary of Interior Dirk Kempthorne, a former fellow western senator, he would ask the Senate to approve the landmark Centennial Challenge as part of the Senate's economic stimulus bill. The House of course would have to accept such a Senate provision in a final bill.

On the House side the House Transportation Committee is not going to recommend allocations to individual projects. "We are expecting the stimulus to look like HR 7110, the economic stimulus bill the House approved in September," said a committee staff member. "That bill distributed money to states based on formulas in SAFETEA-LU." SAFETEA-LU is the current surface transportation law, formally the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

But in a positive for park road projects the House will probably focus on projects that states can launch within 120 days, said the staff member. And Kiernan said NPS has identified \$270 million in projects normally paid for with SAFETEA-LU money under a federal land highways program (FLHP.)

In addition, said Kiernan, "When ready-to-go road projects that do not receive FLHP funding are included, the system-wide estimate exceeds \$440 million." However, Kiernan used an 180-day window for committing the money, not the 120-day rule-of-thumb used by the committee.

Park Service roads may not be the only recreation-related transportation program that benefits from an economic stimulus bill. A committee staff member said that states could select any project that is ready-to-go and fits within a SAFETEA-LU formula. Thus, said the committee staff member, "Bike trails certainly could be eligible, but that would be up to the states."

Senate Majority Leader Harry Reid (D-Nev.) is committed to holding a lame-duck session of the Senate beginning November 17 to consider both an omnibus lands bill and stimulus legislation. Pelosi has not committed the House to a lame-duck session but she has promised to work on a stimulus bill.

Before Congress adjourned October 3 for the elections the House approved a version of an economic stimulus bill (HR 7110) September 26 by a 264-158 margin. It included \$12.8 billion in highway projects.

Senate leaders did not do as well with their initial stimulus bill (S 3604); it failed to reach the floor on a 52-to-42 vote. The leaders needed 60 votes to break a filibuster. S 3604 included \$8 billion in highway projects. Either the House or Senate bills would have provided a huge boost to a fiscal year 2009 transportation appropriation of \$41.2 billion for all highway programs.

Democratic leaders now talk of shooting higher than the \$12.8 billion in the House bill for surface transportation and the \$8 billion in the Senate bill. The initial House bill included a total of \$60.7 billion for all programs and Democrats are talking of a package ranging from \$150 billion to \$300 billion.

Sen. Barbara Boxer (D-Calif.), a key player as the chairman of the Senate Committee on Environment and Public Works, made the case for a big stimulus bill last week in a series of speeches in California. "The advantage of investments in transportation construction and allied spending is the rapid pace that it can be spread through the

economy and to a broad spectrum of jobs," she said.

## Obama endorsed climate bill with big conservation money

President-elect Barack Obama is committed to climate change legislation that could provide billions of dollars to conservation programs over the next decade.

Obama's commitment is shared by Senate and House Democratic leaders who drew up climate bills over the last year, all with major allocations to conservation.

The fly-in-the-ointment, however, is the economy. Obama and Congress may worry that a new fee on pollutants - the almost certain engine for conservation spending - would have a depressive effect on the economy.

Nevertheless, the proposals are on the table and Obama's position paper on energy is clear. "Barack Obama and Joe Biden support implementation of an economy-wide cap-and-trade system to reduce carbon emissions by the amount scientists say is necessary: 80 percent below 1990 levels by 2050," says the paper.

And Obama is equally clear on sharing revenues generated by auction fees on greenhouse pollutants with conservation programs. The revenues "will also be used to provide new funding to state and federal land and wildlife managers to restore habitat, create wildlife migration corridors, and assist fish and wildlife to adapt to the effects of a warming climate," his position paper says.

Meanwhile, the number crunchers are comparing the impact on conservation spending of a lead House climate change proposal from House Energy Committee Chairman John Dingell (D-Mich.) and a lead Senate bill (S 3036) that made it to the Senate floor in June, only to die. Although Obama was absent June 6 when a key test vote on S 3036 was held, his climate change proposal follows the outlines of S 3036.

But for comparison purposes this article concentrates on the Dingell proposal and the Senate bill, and it doesn't speculate on the details of a possible Obama bill.

The Senate bill and the Dingell draft would allocate money to natural resources program slightly differently. The Senate bill would set up two separate funds (federal fund and state fund) while the House would combine them. Both would receive a share of trillions of dollars garnered from the sale of emission allowances. According to a coalition of 170 environmental groups, the Senate provision would allocate an average of \$7.2 billion per year for 20 years to federal, state and local conservation programs.

Conservationists who are analyzing the bills tell us a key difference between the Senate and Dingell bills may be timing. The likely preferred alternative proposed by Dingell, Option C, would not allocate near as much money to conservation in early years as the Senate.

For instance, Dingell would provide no money in years one and two and only 1.5 percent of auction revenues in years three to five. By contrast S 3036 in the first three years would allocate more than 3.5 percent of revenues to conservation - called Natural Resource Adaptation.

Under both the Senate bill and the House draft the Land and Water Conservation Fund (LWCF) would receive dedicated allocations. Under the Dingell bill's Option C it is not clear how much money would make it through to LWCF. In the early years in particular it would be very little. But S 3036 would guarantee enough money to meet LWCF's current authorization of \$900 million per year.

Within LWCF both bills would subdivide the money further, providing one-third for Interior Department land acquisition, one-third for Forest Service land acquisition, one-sixth for state-side LWCF grants with an emphasis on adaptation projects, and one-sixth to states for a Forest Legacy program.

The Senate provision would allow the state LWCF grants program to receive other streams of revenues, presumably allowing LWCF to exceed its \$900 million cap with money from other sources, such as appropriations and a new program providing extra royalties from offshore oil and gas leasing.

Politically, climate change legislation stands a better chance in the next Congress than it did in the last Congress, what with major Democratic gains in both the House and the Senate. In addition, the Bush administration objected to the \$6.2 trillion price tag on the Senate bill and promised a veto. Again, Obama on paper supports the Senate legislation.

Dingell said on introducing his mammoth, 461-page discussion draft that he is trying to avoid the complexities that doomed the Senate bill. Dingell said that rather than impose a new program on top of the Clean Air Act he would merge climate change rules with clean air rules.

The Senate bill was introduced by Sens. Joe Lieberman (I-Conn.) and John Warner (R-Va.) Warner retired this year and Lieberman is on the outs with majority Democrats because he supported Sen. John McCain's (R-Ariz.) Presidential bid.

## **Commissions on recreation and NPS doing their homework**

A blue ribbon commission on the national parks last week looked outside the box a bit and focused on sometimes controversial partnerships called National Heritage Areas (NHAs.)

The commission, chaired by former Senate Majority Leader Howard H. Baker, Jr. (R-Tenn.) and former Senate Energy Committee Chairman J. Bennett Johnston, Jr. (D-La.), visited the Essex National Heritage Area in Massachusetts.

The 30-member commission is still gathering information - it doesn't anticipate submitting recommendations to Congress until next fall. But the com-

mission has begun to form working groups (see below.)

Meanwhile, a parallel blue ribbon commission focusing on recreation nationally will hold its next meeting November 12 at the National Geographic Society headquarters in Washington, D.C. The 18-member Outdoor Resources Review Group (ORRG) is led by Henry Diamond, a partner with the law firm Beveridge & Diamond, and Patrick Noonan, chairman emeritus of The Conservation Fund. Sens. Jeff Bingaman (D-N.M.) and Lamar Alexander (R-Tenn.) are honorary co-chairs.

The ORRG panel held a second meeting on September 29 in Washington, D.C. It anticipates submitting recommendations to Congress in May.

At the November 12 meeting the ORRG members will review election results, be updated by Resources for the Future Senior Fellow Margaret Walls who is helping staff the commission, listen to a four-man panel on private land acquisition and hear a presentation from the recreation industry on recreation demand.

The 17 members of the ORRG commission include two governors, other state officials, local officials, National Geographic Society Chairman Gilbert Grosvenor, Diamond, and representatives of the recreation industry and conservation.

Money for the ORRG would come from foundations associated with the Rockefellers, Mellons and Packards. The Conservation Foundation and National Geographic, major players in the new group, would not finance it.

The commission is evaluating 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. And of course it intends to explore diminished federal spending on conservation.

The National Parks Conservation

Association is paying the estimated \$1 million cost of the parks panel, formally the National Parks Centennial Commission. Commission members include such national figures as former Supreme Court member Susan Day O'Connor and such national parks advocates as former deputy director Denis Galvin.

The commission has scheduled its next meeting for Yellowstone National Park January 27-29. By then commission spokesman Mike Bento says recommendations, or at least suggestions, may begin to take shape. After Yellowstone the parks commission will meet March 19-20 at Gettysburg National Military Park and June 2-4 at Great Smoky Mountains National Park.

The commissions are not without their critics. The private property group the American Lands Rights Association views them as a pretext for asking Congress for more money for land acquisition.

Here are the Park Service commission working groups and their chairmen:

\* Natural Resources and Science: Rita Colwell - Chair. Colwell is the distinguished professor (microbiology and biotechnology) of the Johns Hopkins School of Public Health.

\* Cultural Resources and Heritage Preservation: Jerry Rogers - Chair. Rogers is former associate director for cultural resources for NPS.

\* Education and Learning: Milton Chen - Chair. Chen is executive director of the George Lucas Educational Foundation.

\* Visitation and Public Engagement: Sally Jewell - Chair. Jewell is chief executive officer of the Recreational Equipment, Inc. (REI)

\* Future Shape of the National Park System: Galvin - Chair.

\* Funding and Budget: Linda Bilmes - Chair. Bilmes is professor of public policy of the Harvard University's Kennedy School of Government.

## War over visibility in parks being fought in two EPA regs

EPA took a major step last week toward implementing a regulation that could open the way for construction of power plants near national parks and wilderness areas.

EPA sent to the Office of Management and Budget (OMB) the proposed rule, apparently in an attempt to get the rule implemented before the next administration takes over January 20. OMB apparently would like to issue a final rule by November 21.

The rule is one of dozens the Bush administration is attempting to complete on its watch, dealing with every subject under the sun. Only a handful of the dozens of impending rule changes affect outdoor programs.

In a second Clean Air Act development the National Parks Conservation Association (NPCA) and the Environmental Defense Fund filed a lawsuit last month that demands that EPA make states develop plans to reduce haze over national parks.

Under the Clean Air Act the states were required to submit their haze plans to EPA by Dec. 17, 2007. According to the lawsuit filed in the U.S. District Court for the District of Columbia only 14 states have submitted plans.

The lawsuit asks the court to order EPA to comply with the Clean Air Act haze provisions within 60 days.

The environmentalists argue that Park Service readings demonstrate that "human-caused air pollution reduces visibility in most national parks throughout the country. Average visual range - the farthest a person can see on a given day - in most of the western United States is now about one-half to two-thirds of what it would be without man-made air pollution (about 140 miles). In most of the east, the average visual range is about one-fifth of what it would be under natural conditions (about 90 miles)."

Said Jennifer Chavez, an attorney for the Earthjustice law firm, "Millions of Americans visit national parks each year to breathe clean, fresh air and enjoy the majestic vistas. When you can't see the mountains and canyons under all the filthy haze, it's time for EPA to enforce the Clean Air Act."

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

The upcoming, separate power plant rule from EPA would change the formula for measuring pollution over Class I federal areas. Under existing rules EPA and NPS measure spikes in pollution to assess peak period damage. The EPA proposal would average the amount of pollution produced by power plants over a year, thus eliminating spikes.

Senate Environment and Public Works Chairman Barbara Boxer (D-Calif.) threatened a personal investigation of top EPA officials if the rule is finalized. In an October 24 letter to EPA Administrator Stephen Johnson, she said, "Given the weight of evidence against the rule, if the EPA does promulgate the rule, this Committee may be compelled to undertake extensive investigation and oversight of the agency's and its officials' conduct and actions in connection with the promulgation of the rule."

NPCA will contest the administration's plans. "Clearly, we're not going to accept this," Mark Wenzler, director of clean air programs for NPCA, told *FPR*. "We will file a petition for reconsideration. We'll make sure the next administration corrects it."

However, that won't be easy, whether the Obama administration attempts to rewrite the rule or environmentalists pursue a lawsuit. A lawsuit

almost always requires many months or years to resolve. And, administratively, once regulations become final changing them can take months or years.

Although the existing regulations that require state action and the proposed regulations that would affect power plants are two different initiatives, they are closely related, said Mark Wenzler, director of clean air programs for the National Parks Conservation Association.

"They are separate regulatory matters but they are related to the same problem - haze over national parks," he said.

## **Pressure applied to NPS to complete Smokies road deal**

The Park Service has not set a firm deadline for completing a deal that would avoid construction of an expensive North Shore Road in Great Smoky Mountains National Park. Such as the end of the Bush administration.

Both Congress and the Bush administration have agreed that the federal government should pay Swain County, N.C., a buy-out rather than build the \$600 million road in the park. The county is asking for \$52 million.

But because negotiations have not been completed, park advocates worry that a new administration would have to begin anew in January, delaying a final agreement for the foreseeable future.

But a spokesman for the park said this week time isn't everything. "I don't think that is a big concern," he said. "We have \$6 million available from a fiscal year 2008 appropriation in no-year, highway money and we have ongoing negotiations."

Four parties are in the talks: NPS, Swain County, the State of North Carolina and the Tennessee Valley Authority.

Putting pressure on the negotiators are such organizations as the Southern Appalachian Forest Coalition.

It sent its members a bulletin last week urging them to press Secretary of Interior Dirk Kempthorne and Assistant Secretary of Interior for Fish and Wildlife and Parks Lyle Laverty for a quick resolution of the negotiations.

Said the coalition, "Negotiations of the settlement are now being conducted by Congressman Heath Shuler (D-N.C.) and (Laverty), and we need your letters to help push these negotiations to a close before a new administration takes office in 2009. If the settlement is not resolved before the administration changes, there will be another long delay, with new people to be brought up to speed, and with new concerns and interests added to the negotiating mix."

Although NPS has established no arbitrary deadline for completing negotiations, the spokesman said, "They would like to settle this thing. They would like to go quicker because new people would have to be brought in (with a new administration.)"

Not everyone agrees with a buy-out. Asheville City Councilman Carl Mumpower, who Shuler handily defeated in the November 4 election, is dead set against it. He complained recently, "Through the efforts of Congressman Heath Shuler, a \$6 million down payment on a proposed \$52 million settlement was included in the larger budget bill. In reality, it was a down payment on the surrender of the future of Swain County."

Mumpower and some other North Carolinians argue that the road was promised to Swain County in 1943 after the federal government took land in the county for the Tennessee Valley Authority. The road would run through inaccessible land on the north shore of Lake Fontana to old graveyards. At the same time TVA was moving in, the inaccessible land was transferred to the National Park Service as part of Great Smoky Mountains National Park.

But as the price of the road rose along with its potential to cause environmental damage, legislators such as Sen. Lamar Alexander (R-Tenn.) objected. Alexander and Shuler then secured \$6

million in the Department of Transportation title of an omnibus money bill (PL 100-261 of Dec. 26, 2006) to begin the acquisition.

The Park Service effectively agreed on May 25, 2007, and it prepared an EIS with the buy-out as a preferred alternative to building the 34.3-mile road.

## **Utah BLM completes south Utah plans of national interest**

The Bureau of Land Management (BLM) October 31 approved five land use plans for southern Utah that are drawing national attention because of their possible impact on off-highway vehicle (OHV) use. A sixth from the Monticello Field Office is still waiting final okay by the Interior Department.

The plans would set aside up to 20,000 miles of trails for OHV use on 11 million acres of the 23 million acres BLM manages in southern Utah. Conservationists complain the plans would disturb the land as well as disturb the quiet in the red rock canyon area of south Utah.

Environmentalists, led by the Southern Utah Wilderness Alliance and The Wilderness Society, have filed massive protests against the six management plans that will almost certainly guarantee a major lawsuit.

BLM will not begin to implement the plans until Assistant Secretary of Interior for Land and Minerals Management C. Stephen Allred signs a record of decision. Allred will almost certainly do that before President-elect Obama takes over in January.

BLM Utah State Director Selma Sierra offered a noncommittal judgment on the plans. "BLM Utah has reached an important milestone as we prepare to replace outdated RMPs with plans that reflect current conditions on the land, as well as new and emerging patterns of public use," she said.

The office of Utah Gov. Jon Huntsman, Jr., has affirmed that the plans

are consistent with state policy, BLM said.

The six planning areas are Kanab, Moab, Monticello, Price, Richfield and Vernal districts. Of those six both environmentalists and OHV users agree that the Moab area may be the most important for OHV purposes. It hosts a million recreationists a year for all sorts of activities, including OHVs, off-trail bikes, cliff jumpers, river runners, hikers and campers.

At an October 14 press conference former BLM Director Jim Baca joined with environmentalists in objecting to the plans. "The thing I'm most concerned about is the off-road vehicles and all terrain vehicles in essentially every corner of the great landscape," said the former Clinton-era BLM director. "They are the most damaging thing that can happen."

Although BLM completed the resource management plans (RMPs) several months ago, it didn't declare five of them final until last week.

BLM finished writing the Moab RMP August 1 that assessed 1.8 million acres of public land. It would open 1,866 miles to OHV use, allow limited OHV use in 1.5 million acres and would close 339,298 acres.

BLM completed an RMP for the Kanab area June 23. The Kanab planning area covers 2.8 million acres and BLM would designate 1,385 miles of OHV routes, close 118 miles, open 525,000 acres and close 28,900 acres.

BLM completed an RMP for the Richfield area August 8. The Richfield RMP covers 2.1 million acres and the RMP would designate 3,693 miles for OHV use, close 204 miles, allow OHV use in another 1.9 million acres and close 210,400 acres.

BLM completed a Vernal plan on August 22. The Vernal RMP covers 5.5 million surface acres managed by BLM and designated 4,860 miles of OHV routes, closed 75,845 acres to OHVs and opened another 1.6 million acres to OHV use.

BLM completed a Price area plan August 29. The Price RMP covers 2.5 million acres and would authorize limited OHV use on 1.9 million acres and would close 557,000 acres to OHVs.

Finally, BLM completed a Monticello area plan September 5. The Monticello RMP covers 1.8 acres and would authorize limited OHV use on 1.4 million acres and would close 400,000 acres.

## **Oberstar to make livability top focus in highway law**

He may be swimming against the tide, but House Transportation Committee James Oberstar is talking about a very different new highway bill than conventional wisdom expects next year.

Conventional wisdom holds that Congress will focus on highway and bridge construction, rather than set-aside rec programs.

But in a public hearing and private conversations last week Oberstar said that when his committee writes a new surface transportation law a main anchor will be the concept of "livability." By livability he means a transformation in the way Americans live.

At an October 29 hearing of the committee Oberstar said, "In the next transportation legislation, we're going to create an office of permit expediting in the Federal Highway Administration, along with an office of livability."

Reinforced a senior aide to Oberstar this week, "Livability will be a major component of the bill. For instance he (Oberstar) would encourage communities to build around public spaces. Those communities would be laced with walkways and green space so residents could walk to stores rather than drive."

Further, said the aide whose boss bicycles regularly, "You know he has been a strong supporter of bicycling for 20 years. You can see the next authorization bill expanding on that."

Oberstar is also giving serious thought to a new program to build bicycle trails in the national parks. Any bicyclist who has ridden narrow park roads from Acadia National Park in the East to Santa Monica Mountain National Recreation Area in the West knows how dangerous they can be. On the other hand rights-of-way in those park units are often so narrow that construction of bicycle lanes could be an expensive proposition.

But at any rate Oberstar is thinking about it. It is not clear whether Oberstar's transportation committee would go first with such a program or the House Natural Resources Committee under chairman Nick Joe Rahall (D-W.Va.) Under the existing House organization Rahall oversees the national parks but the transportation committee puts up money for park roads in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.)

The Oberstar aide did note, "Mr. Rahall is also vice chairman of our (transportation) committee. I think they can work it out."

SAFETEA-LU, enacted in calendar 2005, expires at the end of this fiscal year on Oct. 1, 2009. 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.

Indeed, Secretary of Transportation Mary Peters and the Bush administration proposed this 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.

The American Association of State Highway Officials (AASHTO) also emphasizes major highways projects in its

list of priorities for the next surface transportation law. Meeting in Hartford, Conn., the association October 24 endorsed a program that would increase investments to Interstate and National Highways and elimination of non-core programs.

AASHTO also called for a total expenditure in the next six-year surface transportation law (including mass transit) of \$545 billion, almost twice the \$286.4 billion in the six-year SAFETEA-LU.

In a related situation, if and when Congress puts together an economic stimulus bill during a lame-duck session later this month, it is expected to provide more than \$12.8 billion in assistance for ready-to-go highway projects. (See related article page 5.)

## Notes

### **NPS anniversary project I done.**

Secretary of the Interior Dirk Kempthorne marked the completion October 24 of an inaugural project under an NPS Centennial Challenge program in Yosemite National Park. The project consists of a reworking of a Tunnel View Overlook in Yosemite that faces Yosemite Valley, El Capitan, Bridalveil Fall, and Half Dome. The Yosemite Fund put up \$1.8 million for the project and NPS put up \$1.5 million. Although Congress has not yet approved the full \$2 billion Centennial Challenge program, it did provide \$25 million in seed money in fiscal year 2008. The federal money is to be matched dollar-for-dollar by nonfederal partners. The full Challenge program still stands a chance of enactment in an economic stimulus bill later this month in a lame-duck session of Congress. Kempthorne is widely acknowledged as the father to the Challenge program concept.

### **NPS anniversary project II noted.**

Secretary of the Interior Dirk Kempthorne attended a ceremony October 30 signaling the completion of a first phase of a project to conserve the Vicksburg National Military Park. The project consisted of a remarking of 22 signs denoting locations of artillery batteries during the siege of Vicksburg.

The Friends of Vicksburg National Military Park put up \$71,000 for the project and the Park Service added \$71,000. The project was conducted under the Park Service Centennial Challenge program. However, the complete renovation of the Vicksburg battlefield is a \$142 million project.

**Take Pride given extension.** Secretary of Interior Dirk Kempthorne October 28 extended the Take Pride in American program through 2010. The program was scheduled to expire on November 1. Since it was begun in 1985 Take Pride has enlisted more than 400,000 volunteers to improve the public lands. Clint Eastwood serves as national spokesman. Partnering with federal agencies are national nonprofits, schools, and companies such as Toyota and Travelocity. Department of Interior External Affairs head Katie Loovis serves as the executive director. Take Pride in America says it has three priorities: youth service, voluntourism, and beautification as an economic development strategy.

**TRCP hits Colorado roadless rule.** Hunters and fishermen as represented by the Theodore Roosevelt Conservation Partnership (TRCP) are demanding major revisions in a proposed State of Colorado national forest roadless area rule. The Forest Service proposed the rule July 25 that would govern 4.5 million acres of national forest, as requested by the governor of Colorado. However, TRCP and the state worry that the rule as written by the Forest Service would lead to oil and gas development in some areas and would open other facilities to road construction. TRCP said that "loose management guidelines" could lead to the destruction of big game and trout habitat. The Forest Service accepted comments until October 23. A Forest Service roadless area advisory panel failed to complete its review of the proposed rule October 9. The Forest Service said October 27 a follow-up meeting has been scheduled for November 18 and 19 in Washington, D.C. Although the Bush administration's 2005 rule that established a state petition process was blocked by a federal judge, the Forest Service is continuing to accept state petitions for state-specific rules under

the Administrative Procedures Act.

## Conference Calendar

### NOVEMBER

8-12. **The Wildlife Society** annual meeting in Miami, Fla. Contact: The Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

11-15. **National League of Cities** annual Congress of Cities in Orlando, Fla. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

12-15. RV Resort & Campground convention and expo in Nashville, Tenn. Contact: ARVC, 455 Tenderfoot Drive, Larkspur, CO 80118. (303) 681-0401. <http://www.arvc.org/>

### DECEMBER

3-5. **America Outdoors** marketing and management conference in Knoxville, Tenn. Contact: <http://www.americaoutdoors.org/confluence.htm>

4-7. **Council of State Governments** state trends forum in Omaha, Neb. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. [www.csg.org](http://www.csg.org).

### JANUARY

8-11. **Archaeological Institute of America** annual meeting in Philadelphia. Contact: Archaeological Institute of America, 656 Beacon St., Boston, MA 02215-2006. (617) 353-9361. <http://www.archaeological.org>.

13-14. **National Ski Areas Association** eastern conference at Mount Snow, Vt. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

17-19. **U.S. Conference of Mayors** winter meeting in Washington, D.C. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, D.C. 20006. (202) 293-7330. <http://www.usmayors.org>.