

Federal Parks & Recreation

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In this issue. . .

Appropriations proposals stall.

Money bills face another delay. OMB said no to Dem plans to limit size of increase. Dems may eliminate set-asides ... Page 1

NPS 'Challenge' approps candidate.

But it's late in the game and appropriators are having enough trouble with spending now .. Page 2

House okays Rim of Valley study.

For first time. Study could lead to major expansion of SMMNRA. Critics will fight study ... Page 4

Senators seek repeal of FLREA.

Target is developed site fees charged by FS and BLM. NPS could still collect entry .. Page 5

Arkansans seek FLREA for Corps.

Would authorize amenity fees and keep money at sites Page 6

Senate makes farm bill progress.

But still has to go through conference and beat veto ... Page 7

Initiatives seek help for kids.

Legislation, nonprofit fund would support outdoor activity ... Page 8

DoI pushes tribe role in refuges.

Directs FWS to work out a deal to control Bison Range Page 9

FS retirees fault personnel moves.

Criticize reorganizations to slim D.C. HQ and regions Page 11

Notes Page 12

Boxscore of Legislation Page 14

Appropriations dispute not solved, heading to Xmas

Congress and the White House this week were still at loggerheads over fiscal year 2008 appropriations bills. Congress was expected after press time to extend a temporary spending law from December 14 to December 21 (HJ Res 69.)

Congressional Democrats have tried a couple of new strategies in the last month, only to be rebuffed by the White House. In strategy one the Democrats, led by Senate Majority Leader Harry Reid (D-Nev.), offered to reduce increases over Bush administration requests from \$22 billion in existing domestic spending bills to \$11 billion.

When the Office of Management and Budget (OMB) shot that down last week-end, House Appropriations Committee Chairman David Obey (D-Wis.) suggested strategy number two - elimination of almost all earmarks from almost all domestic spending bills. He would exempt an Energy and Water appropriations bill; it provides money for the Corps of Engineers and is made up largely of earmarked projects.

Strategy number two would also eliminate spending increases requested by President Bush. The combination of eliminating earmarks and Bush pet projects would reduce spending roughly to the administration's request, Obey said.

But OMB and the White House are standing firm against both the Congressional spending levels and the Democrats' plan to put all remaining 11 domestic money bills in one package.

"This is not fiscally responsible," said OMB director Jim Nussle. "Our economic growth and job creation cannot be taken for granted, and Congress should not burden taxpayers with

billions of dollars in additional wasteful spending."

Senate Appropriations Committee Chairman Robert Byrd (D-W.Va.) fired back, "It is extraordinary that the President would request an 11 percent increase for the Department of Defense, a 12 percent increase for foreign aid, and \$195 billion of emergency funding for the war, while asserting that a 4.7 percent increase for domestic programs is fiscally irresponsible."

What the impasse means for individual park and rec programs is unclear. The bottom line for many Congressional Republicans, and perhaps the White House, is to maintain fiscal 2008 domestic spending at fiscal 2007 levels. That would slash hundreds of millions of dollars of increases from park and rec programs.

A major victim could be the Bush administration's own Centennial Initiative to prepare the national parks for the system's 100th anniversary in 2016. A fiscal 2008 Interior and related agencies appropriations bill (HR 2634) as approved by the House and the Senate Appropriations Committee would increase spending for operations and maintenance by \$100 million over fiscal 2007.

In addition it is understood that Secretary of Interior Dirk Kempthorne has asked the House Appropriations Committee to include a separate Centennial Challenge program in HR 2634 that would provide as much as \$100 million per year for the parks outside of core operations and maintenance. (*See following article.*)

If Democratic leaders stick with their initial strategy of increasing spending by \$11 billion, the Centennial Initiative and other park and rec increases could be accommodated, according to a House Appropriations Committee staff member.

This member said that under that strategy Democratic leaders would not automatically cut all spending in half but would give each appropriations subcommittee a spending cap. The subcom-

mittee would then decide where and how to shift money around.

"Each subcommittee has a different allocation," said the staff member. "We're doing a very traditional conference between the House and Senate with substantially reduced numbers."

The House approved its version of an Interior bill (HR 2634) June 27 with \$2 billion more than the President recommended, \$27.6 billion compared to a request of \$25.6 billion. The Senate Appropriations Committee approved a counterpart to HR 2634 (S 1696) June 21 with \$1.5 billion more than the administration request.

Similarly, the House approved an energy and water bill (HR 2641) July 17 that would increase fiscal 2008 spending for the Corps of Engineers alone by \$713 million more than the administration requested, \$5.584 billion compared to an administration request of \$4.871 billion. The Senate Appropriations Committee approved its version of an Energy and Water bill June 28 that would increase Corps spending by \$577 million above the administration request.

Finally, a House-Senate conference committee did agree on a 'final' version of a Transportation appropriations bill (HR 3074) last month that exceeds the administration request by \$3 billion, according to OMB. The House approved the conference bill November 14 but the Senate has not acted yet, so it is part of the overall domestic spending negotiations.

NPS Challenge being discussed as appropriations add-on

House appropriators are willing to consider the inclusion of an NPS Centennial Challenge program in a giant fiscal year money bill now moving through Congress, according to several sources.

The provision, as envisaged by supporters, would provide guaranteed money for projects designed to upgrade the National Park System for the next 10 years. It would essentially be a trun-

cated version of a Challenge program bill (HR 3094) being developed by the House Natural Resources Committee.

At press time the key players - the House Natural Resources Committee, the House subcommittee on Interior appropriations and Secretary of Interior Dirk Kempthorne - had not agreed on details of the provision. Still under discussion were such crucial issues as a role for small parks that lack wealthy partner groups and a role for recreation projects.

Appropriators are listening to requests to add HR 3094 to an omnibus appropriations bill. Said a House Appropriations Committee staff member, "If the authorizing committee puts something together, Mr. Dicks told Mr. Kempthorne he would be open-minded." Dicks is Rep. Norman Dicks (D-Wash.), chairman of the House subcommittee on Interior and related agencies appropriations.

However, Congressional staff members warn that the appropriations bill is so far down the track it will be politically difficult to graft a \$2 billion program onto it at the last minute.

Besides Congress and the White House are not sure at this late date how they will put together final appropriations bills and at what level. They may simply punt and extend fiscal year 2007 spending through fiscal 2008. (See *previous article*.)

For now House and Senate leaders are negotiating with the Bush administration on the size and scope of a comprehensive fiscal year 2008 appropriations bill. An interim appropriations bill was due to expire today (December 14), but Congress was working on an extension to December 21.

"There is some heavy lifting yet to do," said Rich Dolesh, public policy director for the National Recreation and Parks Association. "As a back-up we are discussing feeding the Challenge bill into appropriations."

The appropriations route provides

perhaps the most expeditious - if not the most dangerous - route for establishing the \$2 billion Centennial Challenge called for by the Bush administration. It's dangerous because programs established by appropriators don't have the gravitas of programs established by authorizing committees.

One important example of the risks of establishing programs in appropriations bills: In fiscal 2001 appropriators established a five-year, guaranteed conservation spending program popularly called CARA-lite that was supposed to provide more than \$1.5 billion per year for the Land and Water Conservation Fund and other initiatives. After two years appropriators effectively abandoned the program.

Three versions of Centennial Challenge legislation designed to provide NPS a billion or more dollars to prepare parks for its centennial are under consideration. All three would implement a Challenge program that is at the heart of an administration Centennial Initiative to upgrade the National Park System for its 2016 anniversary.

An initial bill from the Interior Department (S 1253, HR 2959) would pay for the Centennial Challenge with \$100 million per year in guaranteed off-budget funding matched by up to \$100 million per year in contributions from nonfederal partners.

Subsequently House Natural Resources Committee chairman Nick Joe Rahall (D-W.Va.) and subcommittee on

Holiday Publishing Schedule for Federal Parks & Rec

Federal Parks & Recreation will not be published over the holidays so that we may take a brief vacation. Our offices will remain open. The next issue of *Federal Parks & Recreation*, Volume 26 Number 1, will be published January 11, 2008. If news breaks over the holidays, we will send out an E-mail bulletin. We will also post the bulletin at our website, <http://www.plnfpr.com> under Breaking News.

National Parks chairman Raúl Grijalva (D-Ariz.) introduced a second bill, HR 3094, that would finance the program from up to \$100 million per year in fees charged by Interior Department agencies to commercial users and lessees of federal lands. Rahall and Grijalva did not address partner contributions.

The third bill is a variation on HR 3094 and was developed by House Democratic staff members based on recommendations from a broad alliance of interest groups operating as the National Park Centennial Network. Craig Obey, vice president for Government Affairs for the National Parks Conservation Association (NPCA,) is the lead signatory for the interest group draft.

The alliance includes groups varying from NPCA to the powered rec industry as represented by the American Recreation Coalition to the human-powered recreation industry as represented by the Outdoor Industry Association to environmental groups such as The Wilderness Society to park advocates such as the Coalition of National Park Service Retirees and to concessioner reps such as the National Park Hospitality Association.

As always, the biggest hurdle is money. The Interior Department had recommended the committee use three sets of energy program savings to pay the \$100 million per year price tag. But because of Congressional budget scoring rules much of that money cannot be counted.

The negotiators are considering three main recommendations from Interior Department energy revenues: a \$1,866 fee for each application for permit to drill on oil and gas leases (\$23 million and up per year); a two percent deduction on the state share of oil and gas royalties (\$41 million plus per year); and cancellation of an ultra-deepwater oil and gas research program (\$50 million per year.)

Most of those energy proposals are also included in fiscal 2008 money bills, providing a convenient offset if appropriators choose to add the Challenge to an omnibus money bill.

It is understood committee Republicans led by Rep. Rob Bishop (R-Utah) also suggested two more possibilities - revenues from salvage timber sales and from energy conservation by federal agencies. Bishop has been meeting with Kempthorne and committee staff members on the legislation.

House approves Rim of Valley bill; Senate may follow

The House gave a major victory December 4 to legislation that could lead to a major expansion of the Santa Monica Mountains National Recreation Area (SMMNRA.)

The House approved a Rim of the Valley study bill as part of an omnibus park and rec study bill (HR 3998) by an overwhelming margin of 326-to-79. In the two previous Congresses the Senate approved the legislation only to see the measure fail in the House.

This year Sen. Dianne Feinstein (D-Calif.) has introduced a stand-alone bill (S 1053) again, but the Senate has yet to act on it. Various senators have placed holds on most natural resources legislation approaching the Senate floor. In response the Senate Energy Committee is batching bills it has passed into omnibus bills. Whether Rim of the Valley will be added to one of those omnibus bills or not remains to be seen.

Rep. Adam Schiff (D-Calif.) introduced a counterpart House bill (HR 1835) that was included in the omnibus study bill, HR 3998. Said Schiff, "The Rim of the Valley is a special place and we owe it to our children to develop a long-range plan that will balance preservation, recreation and the needs and rights of those living in and around the area."

The measure would authorize a study of nearly 500,000 acres that lie along the rim that encircles the San Fernando, La Crescenta, Santa Clarita, Simi, and Conejo Valleys in southern California. The three-year study would examine the possibility of adding "all

or a portion" of the rim to the SMMNRA.

Critics such as Chuck Cushman, president of the American Land Rights Association (ALRA), will contest the proposal in the Senate and beyond. "If this bill passes and the Park Service begins a study, we'll fight it every inch of the way," promised Cushman. "I think it will die of its own merits once 169,000 landowners in the valley realize their land may be bought."

Cushman predicted a huge cost if the Park Service recommended an expansion of SMMNRA and Congress subsequently approved it. "It's going to come to more than \$2 billion," he predicted. "That takes an enormous amount of money away from existing parks such as Yosemite and Yellowstone and Grand Canyon."

When it was noted that a study is just a study, he said, "The National Park Service is being asked if it wants more land, more power, more people and more money. Any self-respecting bureaucracy wants more land, more power, more people and more money."

In addition to the Rim of the Valley HR 3998 would authorize: a Harry Truman Birthplace study, a Lewis and Clark National Historic Trail study, a Battle of Matewan study, a Battle of Camden study, a Mississippi River study (for park and trail additions), a Fort San Geronimo study, a Wolf House study, a Stranahan House study and a Butterfield Overland Trail study.

The Senate approved the Rim of the Valley study the first time on April 7, 2003 and a second time on July 26, 2005. The bill made it through the House Resources Committee once on Sept. 22, 2004, and moved no further, until last week. The House panel did not address the bill in the last Congress.

In addition to Schiff, Rep. Brad Sherman (D-Calif.) sponsored the House bill. However, Rep. David Dreier (R-Calif.) who cosponsored the measure in the past did not sign on this year. ALRA and other private property groups told their members last year to petition

Dreier to oppose the bill henceforth.

Supporters of the legislation argue the study is needed because the greater Los Angeles area is desperate for open space. "There is a great need for expanded parkland in southern California," said Feinstein. "While the Los Angeles metropolitan region has the second-largest urban concentration in the United States, the area has one of the lowest ratios of park-and-recreation-land per thousand-population of any urban area in the country."

The Bush administration has generally supported the Rim of the Valley legislation in the past; however, NPS has said it prefers that a study be combined with a separate ongoing study of green space in the San Gabriel Watershed of Los Angeles.

SMMNRA is the largest urban park in the National Park System with 153,750 acres within its boundaries. NPS says it provides recreational opportunities for approximately 530,000 visitors annually. The study area extends over 491,518 acres and includes considerable private property.

Senators seek FLREA repeal, NPS could collect for entry

Sens. Max Baucus (D-Mont.) and Mike Crapo (R-Idaho) introduced legislation (S 2438) December 10 that would eliminate the guts of a controversial 2004 federal recreation fee law.

The bill would leave in place only Park Service entrance fees (as established in a previous law), with 80 percent of revenues still retained by collecting NPS units. In other areas S 2438 would:

- * eliminate collection of "standard amenity fees" at developed sites that the 2004 law authorized for the Forest Service, the Bureau of Land Management, and the Bureau of Reclamation,

- * eliminate retention of recreation fees by the agencies and return use fees to the U.S. Treasury,

* cap entrance fees charged by NPS at \$25 for a single visit by car, \$12 by foot or bicycle, and \$40 for an annual pass (instead of \$15),

* eliminate a multi-agency American Passport and reinstate the old Golden Eagle and Golden Age Passports charged by the Park Service, and

* increase the Golden Eagle passport fee from \$25 to \$65.

On introducing the bill Baucus and Crapo did not attack federal land managers for overly aggressive collection of fees in agencies other than the Park Service, particularly the Forest Service, as many critics from both the left and the right have.

Instead, Baucus attacked the underlying law. "Americans already pay to use their public lands on April 15," he said in a statement. "We shouldn't be taxed twice to go fishing, hiking, or camping on OUR public lands. It just doesn't make any sense. That's why Mike and I are going to fight like the dickens to get this bill passed."

Said Crapo, "Mandatory user fees for access to many of those lands limit accessibility to those who can afford the cost and results in a 'pay-to-play' system that is unacceptable."

Critics of the law believe they have enough support in Congress to repeal it. Kitty Benzar, president of the Western Slope No-Fee Coalition said, "I'm very optimistic. I think the on-ground abuses by the agencies have got enough people angry that I think we can get the bill through. In talking with people back there in Washington last week I believe they are very receptive. In addition to the Senate bill I think the House Natural Resources Committee will hold hearings early next year."

President Bush signed the Federal Lands Recreation Enhancement Act (PL 108-447) on Dec. 8, 2004. Called FLREA, it established a permanent program that included authority for federal land management agencies to collect user fees; the Park Service and the Fish and

Wildlife Service (FWS) to collect entrance fees; the Forest Service, the Bureau of Land Management and the Bureau of Reclamation to collect access fees to developed recreation sites; and all agencies to sell and honor the new All-American Passport.

For the most part the law allowed collecting offices to retain 80 percent of revenues for infrastructure repair initiatives. And that is where critics, such as the Western Slope No-Fee Coalition, say the law went awry.

They maintain that federal land management agencies such as the Forest Service went overboard in collecting fees, particularly entrance fees to areas that include developed sites.

In addition the Forest Service in particular has aroused Baucus's ire by conducting master recreation planning. Critics say the exercise is designed to close campgrounds in national forests for economic reasons. The Forest Service has revised its policy this year to insure the public is consulted to help ease opposition.

Arkansas House members seek FLREA authority for Corps

The bipartisan Arkansas House delegation introduced legislation (HR 4304) December 6 that would include the Corps of Engineers in a federal recreation fee program.

The bill would effectively authorize the Corps to charge fees to enter developed recreation sites for the first time by putting it on the same footing as the Forest Service, the Bureau of Land Management, and the Bureau of Reclamation.

Although the Arkansas delegation thinks highly of the existing recreation law, others don't. Sens. Max Baucus (D-Mont.) and Mike Crapo (R-Idaho) introduced legislation (S 2438) December 10 to essentially repeal it. Baucus and Crapo fear that agencies are using the law to gouge the public for unwarranted fees. (See previous article.)

The Corps bill, based on a Bush administration proposal, would allow the agency to collect an extra \$10 million per year for entrance into developed sites above the \$37 million in user fees it already collects. In addition - and this is what interests the Arkansas House members most - the bill would allow the Corps office collecting the fees to retain 80 percent of the money for infrastructure.

"Our goal in working with the Arkansas delegation is that the state includes a significant portion of Corps projects," said an aide to Rep. John Boozman (R-Ark.) "The goal is to take the money that is now being spent by the federal government and redirecting 80 percent to Arkansas."

Cosponsoring the bill were Arkansas Democrats Marion Berry, Vic Snyder and Mike Ross. They calculated that the bill would provide almost \$4 million to Corps offices within the state out of almost \$5 million in fees collected.

"Our state is well known for its tremendous hunting, fishing and recreational opportunities," said Berry. "It makes sense that we should be able to reinvest these dollars back toward the preservation of these resources."

Said Ross, "Allowing local user fees to remain at the local level will help ensure that vital Corps services will not be cut at campgrounds and recreational areas throughout Arkansas and the country."

The Bush administration has repeatedly sought from Congress authority to charge fees to use developed Corps sites. In its fiscal year 2008 budget the administration asked for a "Corps recreation facility modernization initiative based on a model now employed by other Federal recreation providers including the National Park Service and the Forest Service."

That model is the Federal Lands Recreation Enhancement Act (FLREA) of Dec. 8, 2004. While FLREA only authorizes the Park Service and FWS to charge entrance fees, it does authorize other

land managers to collect fees for developed sites, including the Bureau of Reclamation.

The meat of HR 4034 is two paragraphs long. The first paragraph says the Corps may charge rec fees just as the Bureau of Reclamation is authorized to collect fees under FLREA.

The second paragraph authorizes the Corps to retain fee revenues in the same fashion as those revenues are retained by the other five agencies under FLREA. FLREA authorizes the agencies to retain 80 percent of revenues by the collecting office with the remaining 20 percent distributed agency-wide.

The Corps presently collects use fees at its 4,300 recreation areas in 43 states, but is not allowed to collect fees for developed recreation sites. The White House says Congress must appropriate \$267 million per year in recreation management money for the Corps.

Senate hones in on farm bill, but there's a long way to go

The Senate was nearing a final vote on a multi-year farm bill (HR 2419) at press time that would preserve most programs that involve outdoor recreation. But the measure has only a slim chance of enactment this year.

With barely a week left in the first session of the 110th Congress, the measure still must go through a House-Senate conference committee, the House and Senate must approve the conference bill, and Congress must overcome a sure veto. And that presupposes the Senate will approve HR 2419.

The Office of Management and Budget (OMB) objects in particular to a provision in the Senate bill that would collect money for conservation through tax credits on conservation programs and make those revenues available for the entire farm bill. The tax credits would generate \$4 billion over ten years.

Said OMB, "The Administration opposes the option of shifting Conserva-

tion Reserve Program funding from the traditional cost-share and incentive payments to tax credits. Providing program participants this option will cost \$770 million more than current law without increasing the number of acres enrolled or obtaining the desired associated environmental benefits."

The Senate was expected to consider an amendment from Sen. Larry Craig (R-Idaho) that would limit state and local government eminent domain authority to take agricultural lands for parks, open space or conservation.

The amendment would have forbid federal assistance to a state or local government if the state or local government attempted to obtain agricultural land "for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purpose."

Said Craig on the Senate floor, "Additionally, many of our parks in this country are facing major budgetary shortfalls. To unnecessarily add more parks using eminent domain makes the problem worse, and to take private land to do so simply makes no sense. If the city wants to create a park, go find a willing seller and a willing buyer." Craig said the American Farm Bureau and the National Cattlemen Beef Association supported his amendment.

To form HR 2419 the Senate combined the recommendations of two committees - Agriculture and Finance. The agriculture committee provided the details of programs and the finance committee provided money to pay for them.

Past iterations of farm bills (each one usually covers five years) have removed millions of acres of open land from farming and devoted them to conservation purposes, preserving habitat across the country.

The version of HR 2419 before the Senate includes basic conservation programs including a conservation reserve program, a wildlife habitat improvement program, a wetlands reserve program, a grasslands reserve program, and an envi-

ronmental quality incentives program. It also includes a new program to encourage private landowners to open their property to hunters and fishermen.

The House approved its version of HR 2419 July 27. It also includes most of the conservation programs advocated by hunters and fishermen, including the private landowner program.

The Congressional Budget Office says the Senate bill would increase spending by \$3.2 billion over the five fiscal years between fiscal 2008 and 2012. Given the size of the Congressional budget that doesn't sound like too much money, but the total amount of money the bill would approve over the five-year period, \$283 billion, does.

The sportsmen's access program, called "Open Fields", would authorize state and Indian tribes to apply for grants to encourage private owners of farms, ranches and forests to make that land available for hunters, fishermen and wildlife watchers. The provision would make \$20 million per year available for grants.

Senate leadership is giving the farm bill top priority because the existing law technically expired October 1. However, the Department of Agriculture is continuing most programs under a prior farm bill enacted in 2002.

Some House Republicans assume HR 2419 will not be enacted, either this year or next. Led by the ranking Republican on the House Agriculture Committee, Rep. Robert Goodlatte (R-Va.), they have introduced legislation that would extend a 2002 farm bill through 2008. Goodlatte and 22 other Republicans said that would insure that farm policy was fairly current. Without the extension the Department of Agriculture would be forced to rely on 1938 and 1949 laws.

Congress, Conservation Fund seek outdoor help for kids

The growing gap between children and the outdoors is getting attention - both in Congress and in a major new nonprofit grant program.

On the Hill 36 House members and 11 Senators are trying to move legislation (HR 3036, S 3036) that would authorize up to \$100 million per year in grants to encourage teaching about the environment in schools. The bill is called the No Child Left Inside Act.

Separately, the Conservation Fund next year intends to award grants to 20 projects designed to help children connect to nature. The Fund has received as many as 500 applications and reportedly has commitments from partners to provide some \$20 million for the grants. The one-time program is called the National Forum on Children and Nature.

"We're looking for 20 great ideas," said Myrna Johnson, a consultant who is working with the Fund on the program. "Some would be national in scope. Some would be replicable in the community. We would hope to get a mix of ideas."

An October 31 deadline for applications has already passed. The Fund intends to make a first cut early next year on potential qualifiers and to make final selections in time for a September 2008 announcement.

Conservation Fund President Larry Selzer justified the program this way: "The staggering divide between children and nature places this magnificent legacy at risk. As this generation grows into adulthood, they may never feel a strong affinity for their natural heritage: the lands and waters that surround us. Reconnecting children with nature is a critical health issue - but it also looms as one of the great environmental challenges we will face in the years ahead."

The Conservation Fund effort is not designed to dovetail with the Congressional legislation. "It's not directly related but the legislation is a very hopeful sign because so many people are looking at the issue," said Johnson, who some outdoor professionals may remember for her work as director of government affairs for the Outdoor Industry Association.

Sen. Jack Reed (D-R.I.) and Rep. John Sarbanes (D-Md.) are the chief sponsors of the No Child Left Inside bill that was introduced this summer. No action has been taken on the legislation yet, but supporters hope it will be attached to the White House's No Child Left Behind initiative that was enacted five years ago.

Rich Dolesh, public policy director of the National Recreation and Park Association, said support is building. "A coalition of more than 160 national education and conservation groups are behind it," he said. "It's caught fire among a very diverse number of groups. Environmental literacy is a key component."

The bill would encourage states to apply for grants that would be awarded to local school districts to implement state environmental literacy plans.

The No Child Left Inside Coalition said recently, "We know from experience that environmental education engages and stimulates students, but many schools lack the resources or support they need to offer high-quality instruction in this critical subject. It's time for Congress to fix that and make sure all of our young people have the opportunity to take part in good environmental lessons."

DoI tells FWS to let tribes help manage Bison Range

The Interior Department has come down solidly on the side of Indian tribes in the tribes dispute with the Fish and Wildlife Service (FWS) over management of the National Bison Range Complex in Montana.

The department last month ordered FWS to enter into an annual funding agreement (AFA) with the Confederated Salish and Kootenai Tribes (CSKT) that would provide a role for CSKT in management of the refuge. FWS has resisted transfer of authority over the refuge to the tribes.

In an action plan assistant secre-

tary of Interior for Fish and Wildlife and Parks Lyle Laverty told the field, "Policy and management direction for the NBR (National Bison Range) will be provided by the FWS. On-the-ground operations decisions will be made by the staff located at the NBR, including both FWS and CSKT staff."

While management of the Bison Range involves a modest \$1.3 million budget and 13 full-time equivalent employees, a new contract could set a precedent for dozens of similar arrangements for other national wildlife refuges and national parks. A previous contract between CSKT and FWS ended in acrimony in December 2006.

The environmental group Public Employees for Environmental Responsibility (PEER) called on the department to establish a national policy on cooperative management agreements between tribes and federal agencies.

"Given that more than 75 national parks and wildlife refuges are eligible for similar tribal transfers, Interior needs to end its ad hoc approach and adopt a national policy on these funding agreements," said PEER Executive Director Jeff Ruch. "A function is either 'inherently federal' or it is not - what is inherently federal does not vary from place to place or mutate through negotiation."

The dispute has involved senior House Democrats on both sides of the issue. House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) is siding with delegation of the authority to the tribe. But House Energy Committee Chairman John Dingell (D-Mich.) says the transfer is unauthorized.

FWS reached a final decision to terminate the old CSKT contract on Dec. 11, 2006. But on Dec. 29, 2006, the Interior Department overruled FWS, infuriating FWS line employees and client interest groups.

At the moment FWS is managing the Bison Range while the Interior Department attempts to work out an agreement

with CSKT that is agreeable to all parties. In a memo to the field Laverty demanded that an agreement be completed by the end of March.

Rahall entered the picture after he cosponsored a bill (HR 3994) that is designed to specify what Interior Department programs Indian tribes may participate in. For the most part the bill, titled the Department of the Interior Tribal Self-Governance Act of 2007, would authorize tribes to manage Indian-specific programs, such as those administered by the Bureau of Indian Affairs and those that directly benefit Indians.

But the bill would also allow the tribes to participate in federal land management agency programs by authorizing funding agreements in areas "that are of special geographic, historical, or cultural significance to the Indian tribe." That would by definition include some national parks.

The FWS termination decision also effectively rejected a proposal from the tribes to take over virtually all management functions in the refuge over the next three years.

Hard feelings have marked the disagreement between FWS and CSKT. In a Dec. 11, 2006, letter to the tribes FWS Mountain Region Director J. Mitch King essentially said the tribes had failed a two-year trial that had delegated to them about half the management positions for the refuge.

But the tribes in response to a report card from FWS said that FWS itself caused as many problems at the Bison Range as did the tribes themselves.

Under the Indian Self-Determination Act Amendments of 2004 FWS contracted with the CSKT tribes to perform about half of the management chores in the refuge and to receive about half the budget, or \$500,000.

Implementation of the joint management program began on March 15, 2005. HR 3994 would extend the 2004 law's AFA authority to many new programs.

FS retirees not happy about agency's reorganization plans

Retired Forest Service employees are less than enthusiastic about proposals to downsize the agency's regional offices and Washington, D.C., headquarters.

The service has already begun moving financial service and human resource functions to an administrative center in Albuquerque, N.M. It is also contemplating a program that would have directors of specific activities in regional offices and Washington negotiate the consolidation of technical functions. And it is committed to closing offices in Rosslyn, Va. that are part of the Washington headquarters.

The service has abandoned a plan to consolidate technical services in three offices around the country with each center servicing groups of regional offices, said Hank Kashdan, deputy chief of operations for the Forest Service.

Former Chief Max Peterson, looking at the initiatives as a whole, told us, "All the experience of the last 50 years indicates this hasn't worked, so it's a foolish idea."

Former regional director G. Lynn Sprague has studied consolidations extensively. He recently led a review team of former Forest Service employees that concluded such reorganizations don't often save money or improve efficiency in the long run.

"While unit consolidations have been done in a sincere effort to improve organizational performance, in most of the cases observed by this team, the decision to consolidate ranger districts and national forests has not achieved that objective," said the team. "This unfortunate outcome reflects a decision-making process that is overly focused on cost efficiency, as opposed to effectiveness in delivering the Agency mission."

Sprague said that some consolidations made sense as the Forest Service transitioned from the horse-and-buggy

era to the automotive era and again to the telecommunications era. But, he said, "My belief is that sometime in the last 20 years those consolidations reached the point of diminishing returns, with a few exceptions."

Sprague fears that new consolidations and reorganizations could separate Forest Service employees from the public. "One of the purposes of ranger districts is to put rangers in touch with the ground and the people who depend on them," he said. "My belief is we got away from that."

The Forest Service point man on the reorganizations, Kashdan, says the agency has given up on two of its more controversial proposals, an earlier plan to transfer much of the Washington, D.C. headquarters to Albuquerque and the technical center plan. But he said, "We do anticipate the Washington office and regional offices will be smaller."

He said the service has not backed off the closure of the Rosslyn, Va., offices. "We are planning for a relocation out of the Rosslyn facilities by August 2008," he said. Some personnel will go to Albuquerque but the fate of the others hasn't been decided yet, he said.

Instead of a wholesale, top-down reorganization of the Washington headquarters and regional offices the service now contemplates a negotiated consolidation of functions, Kashdan said. "We'll ask directors (of specific activities such as engineering) in regions and in Washington to talk to see how they can share costs and possibly consolidate technical groups," he said.

Kashdan and the Forest Service don't have much choice in the matter. The Office of Management and Budget has decreed that the Forest Service reduce overhead by 25 percent.

To that end on Nov. 1, 2006, the Department of Agriculture announced the Forest Service would transfer more than 200 employees from its Washington, D.C., headquarters to a new facility near Albuquerque, N.M.

"The Forest Service is anticipating relocating additional functions and positions to Albuquerque and/or other locations outside the metro D.C. area," said Jacqueline Myers, associate deputy chief of business operations for the Forest Service at the time. "We are in the process of looking at which functions, roles and responsibilities would be appropriate for relocation."

The service had intended to transfer a majority of its Washington, D.C., headquarters employees to Albuquerque, primarily from the satellite headquarters office in Rosslyn that is across the Potomac River from Washington, D.C. The service has since backed off and is transferring just financial and human resources personnel to Albuquerque.

The Bush administration is calling for major budget reductions for the Forest Service at the same time it is calling for a \$300 million per year increase in National Park Service spending. Former Chief Peterson blames the Department of Agriculture for not speaking up for the Forest Service in budget negotiations.

"Why isn't the Cabinet officer weighing in at the White House with that?" he asked. He did note that the department is between secretaries, with former North Dakota Gov. Ed Schafer (R) not yet confirmed to replace Mike Johanns.

The Forest Service was at one time evaluating the idea of establishing technical centers to serve groups of regional headquarters, said Kashdan, but has since dropped the idea. In one formulation a technical center of perhaps 20 people would have provided assistance to regions.

One technical center would have served Regions 1 and 2 in the East, one would have served Regions 3, 4 and 5 in the Rockies and one would have served Regions 5, 6 and 10 in the far West.

As for the establishment of an administrative office in Albuquerque to handle personnel management, Peterson said human nature argued against it.

"When you have a regional forester in Atlanta, say, who has a personnel problem, he isn't going to ask Albuquerque for help," he said. "He's going to create a personnel position on his staff."

Similarly, for financial operations, Peterson argued, "If you have a family budget that is being administered from 1,000 miles away, you're going to establish a second set of books in your home that will let you keep track of your records."

Notes

Yellowstone snowmobile rule final. The Interior Department made it official yesterday (December 13.) It issued a regulation that will authorize snowmobile use at a substantial rate in Yellowstone National Park for the foreseeable future. For this coming winter the regulation authorizes snowmobile use at the levels of the last three winters, beginning December 19. That is, 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. NPS will also limit the number of snowcoaches in Yellowstone to 78 per day. For the 2008-2009 season and henceforth the rule allows up to 540 snowmobiles per day in Yellowstone and 83 snowcoaches. All snowmobiles and snowcoaches would have to use best available technology. All snowmobiles would have to be led by commercial guides. NPS would allow 65 snowmobiles per day in Grand Teton and the parkway. Environmentalists, led by the Greater Yellowstone Coalition, will not contest the rule for this winter but say they will sue to block the use in subsequent winters. They will argue that the final rule contradicts the best science developed by park professionals. In one area of great importance to the Wyoming Congressional delegation NPS reversed course and said it would allow access to Yellowstone via Sylvan Pass on the east side of the park. But in future winters the park said it would only open the pass when it believed visitors would be safe from avalanches. The rule is in the December 13 issue of the *Federal Register*. A final EIS, record of deci-

sion and other pertinent documents are available at <http://www.nps.gov/yell/planyourvisit/winteruse.htm>.

NPS watercraft use protested.

Three environmental groups notified the Interior Department they intend to sue if it doesn't bar personal watercraft in three national park units. The groups, including the National Parks Conservation Association, argued that NPS discontinued use in the three units from 2002 to 2006, but last year approved jet ski use again. The three park units are Cape Lookout National Seashore (N.C.), Gulf Islands National Seashore (Fla. and Miss.) and Pictured Rocks National Lakeshore (Mich.) Said Danielle Fugere of Friends of the Earth, "The 2006 decision to re-open Cape Lookout, Gulf Islands, and Pictured Rocks to jet ski use without any new data appears to have been based on politics, not sound science." A press release that provides access to a Notice of Intent to Sue is available at: <http://www.wilderness.org/NewsRoom/Release/20071205.cfm>.

DoE to rereview electric ROWs. In the face of stiff criticism from Congress and the states, the Department of Energy (DoE) said it will reconsider electrical right-of-way (ROW) corridors it identified October 5. DoE laid out the corridors on direction of Congress in an Energy Policy Act of 2005. Critics such as Rep. Maurice Hinchey (D-N.Y.) said the law as written would allow applicants for ROWs to obtain eminent domain authority in the corridors from the feds even if states objected. Hinchey said the eastern corridor would endanger the Upper Delaware Scenic and Recreational River, Antietam National Battlefield and Gettysburg National Military Park, among other sites. The eastern corridor goes through parts of Delaware, the District of Columbia, Maryland, New Jersey, New York, Ohio, Pennsylvania, Virginia and West Virginia. The southwestern corridor traverses seven counties in southern California and three counties in western Arizona. The new procedures would apply only to ROWs in the two transmission corridors. Congress directed DoE to designate the corridors in order to expedite the location and approval of electricity ROWs in high-use areas.

Senate considers Rapanos decision.

The Senate Environment and Public Works Committee was scheduled to hold a hearing December 13 after press time on a Supreme Court decision that limited permits for activities on water bodies. The hearing could set the stage for the Senate to act next year on legislation that would require the Corps of Engineers and EPA to require permits for projects on all waters. In the decision, *Rapanos v. U.S. Nos. 04-1034 and 04-1384 of June 19, 2006*, the Supreme Court held that the agencies could only require a permit on navigable waters, not all waters. Among the witnesses scheduled to testify was Dr. Scott C. Yaich, director of conservation operations for Ducks Unlimited. In past testimony to Congress Yaich has argued that prairie potholes - many of less than an acre and many far from navigable waters - produce as much as 70 percent of the nation's ducks in a wet year. Ergo, he said, any activity that affects potholes should require a permit. House Transportation Committee Chairman James Oberstar (D-Minn.) and 172 cosponsors introduced legislation (HR 2421) in May that is aimed at requiring permits for all water bodies. Sen. Russ Feingold (D-Minn.) introduced a counterpart bill (S 1870) with 20 cosponsors in July.

FS plots open space strategy. The Forest Service said December 6 it has developed a strategy for working with partners to preserve a network of open space across the country. "Our vision for the 21st Century is an interconnected network of open space across the landscape - one that supports healthy ecosystems, renewable resources, and a high quality of life for Americans," said service chief Abigail Kimbell. The service says farm bill recommendations submitted by the Department of Agriculture would help by paying farmers to conserve open land rather than to cultivate it. The service projects in a report, *National Forests on the Edge*, that by the year 2030 21 million acres of rural private land near national forests and 44 million acres of private national forest will face an increase in housing density. The strategy is available at <http://www.fs.fed.us/openspace>.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Congressional budget 2008 S Con Res 21 (Conrad)	House and Senate gave final approval May 17.	Makes room for a \$2 billion hike in natural resources spending.
Appropriations 2008 (Interim) HR 3222 (Murtha)	President Bush signed into law November 13 as PL 110-116.	Keeps federal agencies in money through December 14 at fiscal year 2007 levels.
Appropriations 2008 (Interior) HR 2643 (Dicks) S 1696 (Feinstein)	House approved June 27. Senate committee approved June 21.	Both Houses would increase park and rec spending across-the-board. Veto is more than likely.
Appropriations 2008 (Energy & Water) HR 2641 (Visclosky)	House approved July 17. June 6. Senate committee approved June 28.	Would increase Corps and Reclamation spending more than OMB will accept.
Appropriations 2008 (Transportation) HR 3074 (Olver)	House approved conference bill November 14.	Would provide full funding for park and rec programs, as called for by SAFETEA-LU.
NPS Centennial Challenge S 1253 (Bingaman) HR 2959 (Rod Bishop) HR 3994 (Rahall)	House and Senate hearings August 2.	S 1253 and HR 2959 would establish \$2 billion program to help the parks. Rahall would impose new DOI fees.
NPS tax assistance HR 1731 (Baird)	Baird introduced March 28.	Would authorize NPS improvement fund financed by income tax check-off.
FLREA repeal S 2438 (Baucus)	Baucus introduced December 10.	Would repeal most of 2004 federal agency recreation fee law.
Heritage areas national S 278 (Thomas) HR 1483 (Regula)	Senate committee approved July 25. House approved October 25.	Would establish national standards for new NHA designations. HR 1483 Would designate six new NHAs.
Farm bill HR 2419 (Peterson)	Senate committee approved October 25. House approved July 27.	Would authorize major conservation programs for five years, including new Open Fields program.
Conservation tax credits S 469 (Baucus) HR 1576 (Thompson)	Senate committee approved September 20. Thompson introduced March 19.	Would make semi-permanent conservation tax credits Congress approved last year.
Wildlife conservation grants HR 3221 (Pelosi) HR 2338 (Dicks)	House approved August 4. Dicks introduced May 16.	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.	Would designate an American Discovery Trail and discovery trail system.
Trail acquisition authority S 169 (Allard) HR 1847 (M Udall)	Allard introduced January 4. Udall introduced March 29.	Would authorize land acquisition authority for nine national trails.
Trail expansion authority S 169 (Allard)	Hatch introduced Feb. 14.	Would authorize route variations for four national historic trails.