

Federal Parks & Recreation

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Grijalva - possible new DoI head - hits Bush 'disasters'

President-elect Barack Obama may not be in on it yet, but there is considerable ferment among his friends as to what his park and rec policies should be next year, and who should carry them out.

One prominent Democrat, House subcommittee on National Parks chairman Raúl M Grijalva (Ariz.), is making clear that he would do things differently than the Bush administration has. He also matters because he is being mentioned as a possible Secretary of Interior.

Grijalva in a November 14 report described what the Congressman calls the "disasters" of the Bush administration and told *FPR* he would adopt park and rec policies 180 degrees differently.

The report criticizes the Bush administration for, among other things, regulations that would allow increased air pollution over parks, regulations that allow snowmobiles in Yellowstone National Park, a policy that allows personal watercraft in national parks, a policy that opens the way for RS 2477 rights-of-way across federal lands, proposed regulations to allow firearms in parks, an outsourcing policy, alleged politicization of Park Service employees, an increased NPS maintenance backlog and alleged abandonment of the Land and Water Conservation Fund.

We asked Grijalva in a recent interview if he would consider the Secretary of Interior post. "Yes, of course I would be interested," said Grijalva, chairman of Hispanics for Obama. "But our plan has been to continue to be proactive next year (in subcommittee) and undo the disasters of the last eight years."

Grijalva is but one of many pos-

sible candidates being mentioned for the Secretary of Interior position. Also in the running at Interior are western governors, former Interior Department employees and other Hill legislators, as mentioned below. Speculation about agency directors won't become more serious until the Obama administration nominates secretaries.

As for Secretary of Transportation the number of possible nominees is almost as long as for Secretary of Interior. But the probable candidates in some books have been reduced to four: Mortimer Downey, a consultant and former deputy secretary under President Clinton; Jane Garvey, a former Federal Aviation Administration boss and former acting administrator of the Federal Highway Administration; Steve Heminger, executive director of the San Francisco Metropolitan Transportation Commission; and House Transportation Committee Chairman James L. Oberstar (D-Minn.)

Oberstar is a particularly intriguing choice for the park and recreation community because he has been a leading advocate of such programs as transportation enhancements, recreational trails, scenic byways, safe-routes-to-school and the like.

Meanwhile, the nonpartisan Government Accountability Office (GAO) has weighed in with recommended policy questions for senators to ask nominees during confirmation hearings. Among the questions GAO recommends for top Interior Department nominees, "What steps do you think would be necessary to enhance further collaboration among federal, state, and local stakeholders to reduce resource management conflict and improve natural resource conditions?"

For Department of Transportation nominees who must wrestle with the need for as much as \$250 billion per year in surface transportation money, GAO recommends senators ask: "In your experience, what are important factors to consider in determining which funding sources should be tapped to meet it?"

Separately, environmentalists and sportsmen are weighing in on recommended policies for the Obama administration to

adopt (see separate articles pages 7 and 8.) In a 391-page report 29 environmental groups including the National Parks Conservation Association laid out their requests. Most immediately, the greens called for action on economic stimulus legislation and climate change legislation.

But the greens and sportsmen are by definition outsiders, whereas Grijalva will be an insider whether he becomes secretary of Interior or remains chairman of the House subcommittee on National Parks, Forests and Public Lands. In his interview with *FPR* Grijalva attacked with vehemence alleged political interference in the Interior Department.

"I'm going to talk with the Coalition of National Park Service Retirees at their conference week after next about how to restore professionalism and good stewardship in the Park Service," he said.

Grijalva's subcommittee report on the Bush administration's record objected to numerous personnel actions including the involvement of appointees in an attempt to rewrite the Park Service's Management Policies. "In particular, the rewritten policies would have placed visitor use above conservation, eased regulations against commercializing parks and removed most references to the NPS organic act from which the NPS garners its preservation authority," said the report. NPS eventually published new policies with minimal changes.

Grijalva also criticized the Bush administration for not requesting more money for the Land and Water Conservation Fund (LWCF) that is approaching a balance of \$17 billion from offshore oil and gas royalties.

The Bush administration requested \$40 million from the fund for the federal side of LWCF in fiscal 2009. "This request represents nothing less than the abandonment of this forty-three-year-old program and a full retreat from a presidential commitment to fully fund LWCF programs," said the report.

Grijalva's report objects most pointedly to the Bush administration's rejection of an order from the House Natural Resources Committee to withdraw one million acres of land from mining near Grand Canyon National Park. The committee approved the withdrawal June 25. In a bold move, BLM on October 10 effectively declared the withdrawal provision of law cited by the committee illegal and proposed to remove the provision from its regulations.

Said Grijalva in his report, "The Department knows it is legally vulnerable in federal court where it is being sued over this same issue. Instead of simply complying with existing law, the Administration is going so far as to try to do away with the regulation entirely."

Grijalva is not the only House member drawing support for the Interior Department position. Thirty hunting and fishing organizations have reportedly urged the Obama team to nominate Rep. Mike Thompson (D-Calif.) for the position. Former House Natural Resources Committee Chairman George Miller (D-Calif.) is also supporting Thompson. House subcommittee on Interior Appropriations Chairman Norman Dicks (D-Wash.) is receiving some support.

Numerous western governors have held the Interior post over the years, so Montana Gov. Brian Schweitzer (D), Colorado Gov. Bill Ritter (D) and Wyoming Gov. Dave Freudenthal (D) by that definition top the list. Former governors Tony Knowles (D) of Alaska and John Kitzhaber of Oregon are supposedly in the mix.

Appropriators readying FY '09 money bill for Obama

Remember old-fashioned appropriations bills? In the mad rush to develop economic stimulus bills using emergency money, Congress kind of forgot about the stalled fiscal year 2009 appropriations bills.

No more. House and Senate Appropriations Committee members are expected

to go to work next week on completing fiscal 2009 money bills so that President-elect Barack Obama can sign them and get them out of the way on taking office January 20. That would allow the incoming administration to concentrate on fiscal 2010 appropriations.

"We are now working to produce nine separate appropriations bills to put in an omnibus bill," said a House staff member. This staff member said that President-elect Barack Obama and his team are involved in the process.

The Hill negotiations are taking place both between the House and Senate staff members and between Democratic and Republican staffers. There is always a chance that the negotiations will fail, of course, and in that event Congress may simply extend fiscal 2008 appropriations levels through fiscal 2009.

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

In addition to interim spending for fiscal 2009, PL 110-329 includes a separate section that provides emergency supplemental appropriations for fiscal 2008. That includes \$910 million for fire fighting. Of that, \$500 million is going to the Forest Service to repay line programs that had been forced to cough up money for fire fighting.

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

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

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

* URBAN PARKS AND RECREATION RE-

COVERY: No money; House subcommittee approved no money; administration asked no money,

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

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

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

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

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

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

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

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

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

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

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

Obama, Hill shoot for fast action on economic stimulus

President-elect Barack Obama and Congressional Democrats hope to put together by January 20 a mammoth economic stimulus bill with major investments for park and recreation initiatives.

If the legislation follows the

outline of a previous economic stimulus bill considered by the Senate in October, it will include money for a \$2 billion Park Service Centennial Challenge bill, billions of dollars for rehabilitating federal lands and billions of dollars for road construction, including trails.

Rep. Raúl M Grijalva (D-Ariz.), chairman of the House subcommittee on National Parks, Forests and Public Lands, is all for it. "If there is an opportunity to attach it, I think that would be good," he told *FPR* November 28. "We are still talking about a recovery package."

Indeed the game plan calls for the House and Senate to begin laying the groundwork for legislation with hearings this month. Then next month the 111th Congress, rather than just holding one perfunctory session January 6 before the Presidential inaugural January 20, will immediately get down to cases. That strategy could produce legislation for Obama to sign on or about January 20.

Speaker of the House Nancy Pelosi (D-Calif.) told the National Governors' Association December 1, "I'll meet with our (House) members next week." She said she has already consulted with appropriators and the House Transportation Committee on content. A \$500 billion package is anticipated, Democratic leaders are saying.

For his part Obama said November 24 in announcing the formation of his economic team, "It is my hope that the new Congress will begin work on an aggressive economic recovery plan when they convene in early January so that our Administration can hit the ground running."

The amounts of money that the Obama team and Congressional leaders are talking about in a stimulus bill are staggering. The Senate stimulus bill (S 3688) was considered a big deal in October when it contained \$100 billion. Now Democrats such as Sen. Charles Schumer (N.Y.) are floating the idea of an economic rescue package that would run from \$500 billion to \$700 billion.

Interest groups want a piece of the pie. For instance, trails advocates are circulating a petition that asks Congress for stimulus assistance to trails, biking and walking programs. In a letter to supporters last week the Rails-to-Trails Conservancy warned its members that most of expected transportation infrastructure money could be set aside for road construction, if they didn't importune Congress.

The conservancy said that "in partnership with Thunderhead Alliance and America Bikes, (we have) collected a list of hundreds of ready-to-go transportation projects from communities across the country. These projects would create new jobs and revitalize communities by funding trails, bike lanes, sidewalks and other infrastructure."

*** PARK SERVICE CHALLENGE:** The earlier Senate bill, S 3688, included a 10-year, \$2 billion Centennial Challenge program. The legislation would have Congress provide up to \$100 million per year to match a like amount of nonfederal contributions to upgrade the national parks coincident with the 2016 National Park System Centennial.

The House approved its own version of an economic stimulus bill (HR 7110) September 26 but it did not move after that. The House bill did not include the Park Service Centennial Challenge legislation. Again, Pelosi told the governors, "We need more now."

The NPS Centennial Challenge provision does not contain a specific economic offset. That was the great obstacle preventing a stand-alone Challenge bill (HR 3094) from reaching the House floor. All money in the stimulus would be guaranteed, effectively no-year money that would be available for a decade. No annual appropriation would be needed.

The substance of the Senate economic stimulus provision followed HR 3094. It would give priority to projects that have a dedicated match, i.e. major parks with friends groups, but the bills would also authorize projects without matches.

The provision would allow NPS to spend money for seven kinds of projects with the only major limit that no more than 50 percent of the money could be spent on construction of facilities that cost more than \$5,000,000. The seven areas are: education, diversity, personnel, environmental leadership, natural resource protection, cultural resource protection, and health and fitness.

The provision would authorize the transfer of \$1 billion total to the Challenge program from general funds, with annual allocations beginning in fiscal year 2009 and lasting through fiscal 2018, or two years after the Centennial.

If the Centennial Challenge bill fails, "we are prepared to introduce it as soon as we get back next year," Grijalva told us.

Grijalva's putative boss, House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.), talked of upgrading the National Park System in a November 21 agenda he published for next year. But he did not commit specifically to the Centennial Challenge legislation. Instead, he said, "The Congress must work with the new President to explore not only significant increases in funding for the National Park Service and its programs but also visionary strategies to attract and accommodate new visitors through innovation and outreach."

*** FEDERAL LAND MAINTENANCE:** S 3688 would provide some \$2.165 billion for maintenance-related projects for federal land management agencies. Some of the money would be set aside for trails. The breakdown:

Corps of Engineers: \$1 billion with \$500 million for maintenance (\$25 million of that for rehabilitation of public use areas), \$400 million for construction and \$100 million for Mississippi River projects.

Interior Department: \$540 million with \$105 million for the Park Service (\$45 million for deferred maintenance, \$45 million for trails and \$15 million for abandoned mines), \$147 million for

the Bureau of Land Management (with \$15 million for trails), \$88 million for the Fish and Wildlife Service deferred maintenance, and \$200 million for Bureau of Indian Affairs deferred maintenance.

Forest Service: \$425 for capitol improvements and maintenance with allocations beyond that not spelled out.

The Senate bill does NOT include some \$440 million that the National Parks Conservation Association (NPCA) last month recommended the House put up for Park Service roads.

*** TRANSPORTATION:** S 3688 would provide \$10 billion for transportation projects, with 100 percent of the money for projects coming from the feds. States and local governments would not have to match any of the allocations.

A House Transportation Committee staff member has told us that, if transportation money was included in a stimulus, it would be allocated based on formulas in a current surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users. That includes trail maintenance and construction money.

Rahall, other Hill chairs set out ambitions for 2009

House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) made clear November 21 that much of the Congressional fire and brimstone next year will come from his committee.

In an agenda he laid down after the House Democratic Caucus re-elected him committee chairman, Rahall said, "This is no time to shirk our responsibility to be good stewards of our Nation's rich and diverse natural resource heritage. I intend to continue to work toward building a stronger National Park Service as we draw closer to the 100th Anniversary of this American innovation, to make further progress in achieving the goals of the Wilderness Act and to nurture hunting, fishing, and other outdoor recreational activities on our federal lands."

However, Rahall said energy legislation would be the committee's top priority. "Issues relating to oil and gas development off the Nation's coastlines will be front and center in the Committee's agenda for the 111th Congress . . .," he said.

That matches the agenda of his counterpart Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) "I plan to push early and hard in the next Congress to return us to an effective, bipartisan and comprehensive approach to energy policy," Bingaman said in a floor speech in late October.

House and Senate Democratic leaders were bolstered by the November 4 election of former Sen. Barack Obama (D-Ill.) as president and the election of larger Democratic majorities in each House of Congress. That has given them added political muscle. The new Congress will be formally sworn in January 6 and begin work January 20, but Obama has already called on Congress to prepare an economic stimulus legislation this month and in early January.

House Transportation Committee Chairman James Oberstar (D-Minn.) will have greater Democratic support when he writes a new surface transportation law this year. The old law expires September 30. That will give Oberstar a leg up on his advocacy of "livability," i.e. more concentration on open space near transportation corridors. That contrasts with a Bush administration concentration on traditional road building.

This assumes Oberstar does not take the post of Secretary of Transportation, for which he is being mentioned. Oberstar laid out this agenda for the year in case he retains the committee chairmanship, "Enhancing safety and security, investing in our infrastructure, and addressing the twin challenges of rising energy costs and global climate change. We passed major legislation to address these principles, but more needs to be done. Our nation faces serious challenges on many fronts, and I look forward to working with our subcommittee chairs and other members of the T&I Committee to get America moving in the right direction."

Oberstar's counterpart, Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.), is also committed to writing a new surface transportation bill this year, but she has said her most immediate priority will be climate change legislation.

The House panel that oversees climate change, the House Energy Committee, received a major shake-up November 21 when the House Democratic Caucus chose Rep. Henry Waxman (D-Calif.) as chairman to replace Rep. John Dingell (D-Mich.) Waxman favors even stronger climate change medicine than Dingell.

Rahall said he would promote an upgrade of the National Park System for its 100th anniversary in 2016, but he did not commit to moving legislation to establish a \$2 billion Centennial Challenge bill. His committee approved a challenge bill (HR 3094) on May 7, but it moved no further.

Rahall's 2009 agenda says, "The Congress must work with the new President to explore not only significant increases in funding for the National Park Service and its programs but also visionary strategies to attract and accommodate new visitors through innovation and outreach."

The Senate Democratic Caucus has yet to select committee chairmen for the next Congress, and neither the Senate nor the House have chosen subcommittee chairmen. But these subcommittee chairmen were re-elected and are in position to continue their roles in 2009:

In the House subcommittee on National Parks, Forests and Public Lands chairman Raúl Grijalva (D-N.M.) will be back if he does not become secretary of Interior. Ranking minority member Rob Bishop (R-Utah) returns. In the House subcommittee on Interior appropriations Rep. Norman Dicks (D-Wash.) is likely to remain the chair if he doesn't become secretary of Interior. Both he and Grijalva are being mentioned for that job.

A major change is due 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 in line to replace Domenici. In fact we understand that Murkowski has already begun lining up staff members.

Sen. Ron Wyden (D-Ore.) returns as chairman of the Senate subcommittee on Public Lands and Forests. Sen. Dianne Feinstein (D-Calif.) served as chairman of the Senate subcommittee on Interior appropriations in the last Congress and may do so again.

Green manifesto begins with reg halt, suit settlements

Twenty-nine national environmental groups last week submitted a manifesto to President-elect Barack Obama that calls for immediate action on park and rec programs.

Although the 391-page, soups-to-nuts recommendations dig into virtually every outdoor program, the groups ask Obama to act as soon as possible to halt all new pending Bush administration regulations.

Said the groups, including the National Parks Conservation Association, "The new Administration should conduct an expedited review of any harmful Bush Administration regulations affecting the Park System that have not become effective as of January 20th and to the maximum extent allowed by law, either withdraw or rewrite those regulations."

Says the report, "Examples include the proposed regulation allowing concealed weapons in National Parks that was initiated without any study on wildlife impacts such as poaching."

In addition the environmentalists ask Obama to settle all pending lawsuits, including those brought by the environmentalists themselves. "NPS is currently defending many lawsuits that are directly related to detrimental Bush Administration policies," says the report. "Efforts should be undertaken to settle as many of those lawsuits as possible in order to realign Park Ser-

vice polices as quickly as possible with the environmentally protective policies of the Obama Administration."

The report has its critics, beginning with ranking House Natural Resources Committee Republican Don Young (Alaska.) "What they're saying is the Obama Administration should immediately surrender on all federal cases where the environmentalists are losing, or may lose, to achieve their means," Young said. "This would set a new precedent of establishing new law through court settlements."

Settling lawsuits is one small piece of the environmentalists manifesto, called *Transition to Green*. The environmentalists also want Obama and the new Democratic majority in Congress to move these major pieces of legislation:

* **Economic stimulus:** The environmentalists recommended Congress fund \$800 million in "ready-to-go" projects in the national parks, such as bridges and roads, in an upcoming economic recovery bill. The projects were identified by the Park Service in July, the groups said. (*See separate article page 4.*)

* **Park Service Centennial Challenge:** The environmentalists called on Congress to quickly approve the challenge program that would guarantee \$100 million per year in federal funds for 10 years to upgrade the national parks. Congress may attach the Challenge legislation to the economic stimulus bill.

* **Fiscal 2009 money bills:** The environmentalists urged Congress to adopt fiscal year 2009 spending levels recommended by the House subcommittee on Interior appropriations June 11. And it recommended Congress use those amounts as a floor for a fiscal 2010 money bill.

Further down the road as part of the fiscal 2010 appropriations law the environmentalists recommended a \$425 million allocation to the Land and Water Conservation Fund, with \$325 million for the federal side and \$100 million for state grants.

The environmentalists also recommended that Congress double spending on national park roads in a new surface transportation law next year. The current law allocates \$240 million per year to park roads. The report does not mention other park and rec surface transportation programs such as transportation enhancements (i.e. bike trails.)

Transition to Green does recommend these specific initiatives involving the national parks: fund new parks and park additions to reverse a near moratorium on new parks during the Bush administration; transfer leadership for the Everglades restoration project from the Corps of Engineers to a new Everglades "Czar" in the Council on Environmental Quality; follow through on a House Natural Resources Committee order and withdraw 1 million acres of national forest land from uranium mining near Grand Canyon National Park; direct the Federal Aviation Administration to complete air tour plans and insure NPS determines noise standards (no plans have been completed since the law was enacted in 2000); and pay Swain County, N.C., up to \$52 million to avoid construction of a \$600 million road in Great Smoky Mountain National Park.

Transition to Green is available at <http://www.saveourenvironment.org>.

Outdoor rec companies seek new fed land priorities

The human-powered recreation industry is asking the incoming Obama administration for a near-complete reversal of priorities on the public lands.

Instead of oil and gas leasing, hard rock mining, grazing and timber harvesting, the recreation companies would give top priority to recreation. "(T)he new administration must better measure the recreational economic value of healthy public land and incorporate this value in both policy development and implementation," says a position paper developed by the Conservation Alliance and submitted to the Obama campaign.

Said Amy Roberts, vice present for government affairs for the Outdoor Industry Alliance, a member of the Conservation Alliance, "I think our top priority is getting the administration to recognize the value of recreation to federal land. We have struggled with the Bush administration's emphasis on energy development. Recreation provides significant money and it provides health and mental benefits."

The Conservation Alliance recommends an immediate review of the value of commodity development. "The first step in restoring this balance (between commodity uses and recreation) is to comprehensively explore whether market conditions and modern extractive technologies make superfluous the full range of government policies designed to promote consumptive uses of public land," the alliance said.

As a major step in that direction, the Conservation Alliance, which includes the Outdoor Industry Association and the Outdoor Alliance, said the administration should consider moving the Forest Service to the Interior Department. "(T)he new administration should take a hard look at how federal land management agencies are presently organized and entertain potential new organization structures that may enhance the non-consumptive value of public land, such as moving the U.S. Forest Service from the Department of Agriculture to the Department of Interior," said the alliance.

The human-powered recreation industry has flexed increasing muscle over the last decade and has inserted itself in policy debates over protection of the public lands for outdoor uses. Member companies include such major players as REI, Patagonia and L. L. Bean.

The Conservation Alliance put out a smorgasbord of other recommendations that it submitted to both the McCain and Obama campaigns. Since then the industry has resubmitted its recommendations to the Obama transition team, said Roberts.

The alliance recommended: legislation that guarantees funding for the

Land and Water Conservation Fund; swift enactment of climate change legislation, with revenues reinvested in green spaces; enactment of a \$2 billion Park Service Centennial Challenge bill; review of travel management plans prepared by the Forest Service that designate off-highway vehicle routes; and support for a 2001 Clinton administration roadless rule that limits road construction on 58 million acres of national forest land.

NPS and BLM reach Utah O&G lease sale accord, for now

The Bureau of Land Management (BLM) said November 25 that it has reached an agreement with the Park Service on a giant oil and gas lease sale scheduled for December 19 in Utah.

BLM said it will remove from the sale 24 full parcels of 288 oil and gas and geothermal tracts and portions of four others in response to objections from NPS. That's 46,763 acres removed. The BLM State Office in Utah will however offer 85 tracts that NPS has had concerns about, although a BLM spokeswoman said, "I anticipate we will see some additional parcels removed before the lease sale."

The proposed sale has created a national controversy. John D. Podesta, head of the President-elect Barack Obama's transition team, called the sale "a mistake."

Eight senators led by Sen. Maria Cantwell (D-Wash.) November 25 asked Secretary of Interior Dirk Kempthorne to call off the sale to protect national parks and recommended wilderness areas. They wrote Kempthorne before the agreement was reached, "We encourage you to continue this important work and postpone the entire sale until stakeholders can research likely impacts and reach consensus on a way forward."

Even after BLM and NPS announced an accord, environmentalists were not satisfied because they said many more tracts should be pulled. They portrayed the Park Service as suckers.

"It appears that the Park Service is being forced to accept the sale of leases that it contends will damage the air, water, and natural quiet of its parks," said Stephen Bloch, conservation director for the Southern Utah Wilderness Alliance (SUWA.) "Despite public protests and the concerns of its own park service, the outgoing Bush administration is using this sale to push its extreme drill-everywhere agenda, and America's national parks and other spectacular public lands will be the worse for it."

The controversy began last month when the Park Service said it had not had an opportunity to review the impact of the scheduled sale on Arches National Park, Dinosaur National Monument and Canyonlands National Park.

NPS Intermountain Region Director Mike Snyder asked BLM to consult with the Park Service on the impact of the sale of the parcels on air, water and noise in and around the parks. Those parcels cover 140,000 acres of the 359,450 acres BLM planned to offer for oil and gas development. BLM intends to offer another 146,339 acres for geothermal development.

Environmentalists will almost certainly protest the sale of the remaining tracts, as may sportsmen and House members. "The upcoming lease sale remains short-sighted and disastrous for Utah's best lands," said SUWA's Bloch.

The Park Service's Snyder had complained to BLM in a November 24 memo that he was unsure how much protection lease stipulations would provide. "We found that stipulations commonly contain exemption and waiver clauses whereby the BLM may make exceptions, modification, or waivers to stipulations," he said.

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

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

As part of the negotiations the two agencies agreed to consult more closely on future oil and gas lease sales.

BLM made way for the sales by completing October 31 five resource management plans for southern Utah, the same plans that have created a separate controversy over off-highway vehicle use in the area. A sixth plan for the Monticello Field Office was completed after the sale tracts were assembled.

Assistant Secretary of Interior for Land and Minerals Management C. Stephen Allred signed records of decision on the five plans. 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.

Greens ask court to reverse Yellowstone snowmobile rule

Attorneys for environmental groups asked a federal judge in Wyoming this week to pull his order authorizing large numbers of snowmobiles this winter in Yellowstone National Park.

However, an attorney for the environmentalists said there was little or no chance the courts would block the 720 snowmobiles-per-day rule. "It won't be decided before this season," said Robert D. Rosenbaum, senior counsel with the law firm Arnold & Porter. Rosenbaum represents the National Parks Conservation Association, which has intervened in a case before U.S. District Court Judge Clarence Brimmer in Wyoming.

Brimmer on November 7 ordered the Park Service to allow snowmobile use this winter to the same degree as a temporary rule did in 2004-2005, 2005-2006, and 2006-2007. That is, up to 720 commercially-guided vehicles a day and

up to 78 snowcoaches per day. NPS said November 17 it would comply.

There are two competing lawsuits involved. In the second suit Judge Emmett Sullivan in the U.S. District Court for the District of Columbia took a different tack than Brimmer on September 15 and threw out a 2007 Park Service regulation that called for 540 snowmobiles per day this winter.

Pursuant to the Sullivan decision NPS had proposed November 3 allowing 318 snowmobiles per day in Yellowstone when the winter season begins December 15. Once judge Brimmer issued his decision, however, NPS changed its proposal and revived the temporary rule of 2004-2007.

On behalf of the environmental groups Rosenbaum December 3 took action in each case. The environmentalists argued to Brimmer that he had no right to act because the lawsuit before him contesting the original Dec. 13, 2007, NPS rule had been settled by Sullivan.

"We're asking Judge Brimmer to reconsider his order for 720 snowmobiles per day on the grounds he didn't have subject matter jurisdiction because the cases were moot," said Rosenbaum. "The cases both challenged the 2007 rule and there was nothing he could do (because judge Sullivan had said the rule was invalid.

Brimmer and Sullivan disagree fundamentally on snowmobile use in Yellowstone, but court etiquette limits how much the judges can intrude on each other's turf. For instance, Brimmer said he did not have authority to veto Sullivan's order, so he did the next best thing - he directed NPS in its new rule to adopt its old interim rule.

Judge Brimmer acknowledged that the temporary rule in effect from 2004 into 2007 contained a sunset provision. "Nevertheless," he said, "this Court has recently recognized that it has 'full authority to grant any equitable remedy it deems proper and necessary without violating the principles of comity.'" He cited recent decisions with that quote.

Brimmer also criticized Sullivan for interfering in his court's business because "comity" requires the first court to have jurisdiction over litigation, i.e. Wyoming. Finally, Brimmer said that the Dec. 13, 2007, rule NPS prepared for this coming winter met environmental law, despite Sullivan's finding to the opposite.

As for Grand Teton and the Rockefeller Parkway NPS in the November 3 proposal would have allowed up to 25 snowmobiles a day on the Grassy Lake Road and up to 40 snowmobiles a day on Jackson Lake for ice fishing. NPS would have eliminated oversnow travel on the Continental Divide Snowmobile Trail between Moran Junction and Flagg Ranch. The interim rule NPS will now try to implement calls for up to 140 snowmobiles per day in Grand Teton and the parkway.

Obama and Dems promise action on climate change legislation

The Democratic establishment, buoyed by the November 4 election, is raring to move ambitious climate change legislation with huge money for conservation, despite the difficult economic times.

President-elect Barack Obama set the tone November 18 when he told the Governors' Global Climate Summit in Los Angeles, "My presidency will mark a new chapter in America's leadership on climate change. . .," he said. "That will start with a federal cap and trade system. We will establish strong annual targets that set us on a course to reduce emissions to their 1990 levels by 2020 and reduce them an additional 80% by 2050."

In a major development in the House on November 20 the House Democratic Caucus ousted Rep. John Dingell (D-Mich.) as chairman of the House Energy and Commerce Committee and installed Rep. Henry Waxman (D-Calif.) While Dingell had drafted a major climate change bill in October, Waxman has advocated an even more aggressive attack.

Finally, on November 20 Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) said she would introduce climate change legislation in January. "Instead of procrastination, we will have action," Boxer said.

Obama, Waxman and Boxer have all supported climate change legislation this past year that could provide billions of dollars to conservation programs over the next decade. 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 depress the economy.

Indeed, Boxer said she would introduce a "streamlined" bill that would "focus on achieving the emissions reductions needed while restoring the economy." That leaves room for her to exclude conservation spending from any collected revenues.

But the three are still pressing the buttons that please conservationists. Larry Schweiger, president and CEO of the National Wildlife Federation, said of Obama's speech to the governors' summit, "We applaud President-elect Obama's determination to aggressively pursue his campaign commitment to cap the pollution that is causing global warming and invest financial resources from a cap-and-trade plan in deploying clean energy technologies and safeguarding America's natural resources."

In the last issue of *FPR* we quoted Douglas Wheeler, a member of an Outdoor Resources Review Group that is studying national recreation policy, as saying, "Climate change has great potential but it depends on whether Congress acts," he said. "There is a question whether open space will receive revenues from emission auctions. There is intense competition for that money, including from the Treasury Department." Wheeler has held a number of outdoor policy posts at both the state and federal levels. He is now a partner with the Hogan & Hartson law firm.

On paper are two lead climate change bills, one that reached the Sen-

ate floor last June but died (S 3036) and a Dingell draft. Both would allocate to conservation programs 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 nearly 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.

The Senate bill was introduced by Sens. Joe Lieberman (I-Conn.) and John Warner (R-Va.) Warner retired this year and Lieberman is not popular with majority Democrats because he supported Sen. John McCain's (R-Ariz.) Presidential bid.

Notes

Judge limits roadless decision.

The judge who reinstated a Clinton era regulation limiting road construction in the national forests limited the sweep of the decision on December 2. Judge Elizabeth D. Laporte's original decision

of Sept. 19, 2006, reinstated the 2001 Clinton rule nationally. This week she limited the sweep of the decision to states in the jurisdiction of the Ninth Circuit Court of Appeals. Laporte is a district judge in the Northern California District. Her latest order subjects roadless areas not in the following states to a Bush administration rule: Arizona, Alaska, California, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon and Washington. The Bush administration asked Laporte to limit the sweep of her 2006 decision to accommodate a competing August 12 decision from Judge Clarence Brimmer in Wyoming that held the Clinton rule invalid. That left the Forest Service without a valid roadless area rule. Said Laporte in the December 2 order, "Specifically, the balance of equities weighs in favor of keeping the injunction in force in the Ninth Circuit as well as in the state of New Mexico, which is a Plaintiff in this case, while staying it elsewhere, at least pending further action by the Wyoming court or the Tenth Circuit."

Sportsmen: Don't rush Colorado roadless rule. The Theodore Roosevelt Conservation Partnership (TRCP) last week urged the Forest Service not to rush to complete a roadless rule tailored for Colorado by the end of the Bush administration on January 20. At a meeting of the Roadless Area Conservation National Advisory Committee (RACNAC), TRCP echoed recommendations by the state that the Forest Service should be most concerned with getting the job done right. "The RACNAC is charged with developing recommendations for refining the Colorado rule, but the federal push to get this plan done before the end of the current administration could undermine both the RACNAC's utility and the final product," said TRCP Roadless Initiative Manager Joel Webster. "If Colorado wants its state-based roadless rule to be successful, we need to slow down and do this the right way." TRCP is most apprehensive in the proposed rule about exceptions that would allow for power line corridors, water projects and road building for 70,000 acres of backcountry oil and gas leases. The Forest Service proposed the Colorado rule and EIS July 25 and accepted com-

ments until October 23. The proposed Colorado rule would apply to 4.013 million of 4.4 million acres of roadless areas in the state.

West govts see haze progress.

Western states said last month they are taking steps to reduce haze over Class I national parks and wilderness areas. The Western Regional Air Partnership (WRAP) said four states have submitted plans to EPA to reduce haze-causing pollutants - Arizona, New Mexico, Utah and Wyoming. In addition the partnership says it has established a new website for tracking progress in improving visibility over Class I areas, <http://www.wrapair.org/SIPStatuts/>. Although WRAP says it is making progress, the National Parks Conservation Association and the Environmental Defense Fund filed a lawsuit in October that demands that EPA make states move more quickly on their plans. Under the Clean Air Act the states were required to submit 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 done so. The lawsuit asks the court to order EPA to comply with the Clean Air Act haze provisions within 60 days. In the Clean Air Act Amendments of 1977 Congress directed EPA to eliminate haze over national parks larger than 6,000 acres, wilderness areas larger than 5,000 acres, national memorial parks larger than 5,000 acres and international parks. There are more than 158 such areas, including 48 national parks, 21 national wildlife refuges and 88 wilderness areas managed by the Forest Service.

Should NPS run Mount St. Helens?

An environmental law clinic at the University of Washington says the designation of Mount St. Helens National Volcanic Monument as a national park would provide immediate benefits to surrounding communities. The Forest Service presently manages the monument. The Steve and Kathy Berman Environmental Law Clinic say that just the designation of Mount St. Helens as a national park would produce at a minimum \$400,000 per year in tourist dollars. Moreover, the clinic says monuments in the National

Park System received three-to-six times as much money per acre in appropriations as did Mount St. Helens in 2007. The National Parks Conservation Association among other organizations is championing the transfer of the 110,000-acre Mount St. Helens in the State of Washington from the Forest Service to NPS.

NAPA faults NPS cultural programs.

The National Academy of Public Administration (NAPA) says in a new report Park Service cultural resource programs are not receiving the same attention as natural resource programs. For one thing over the last 12 years cultural resources staffing decreased by 27 percent while natural resources staffing grew by 31 percent. NAPA, an independent nonprofit network of public management experts, said 2,811 historic structures are in poor condition and 45 percent of museum collections are not catalogued. The report, *SAVING OUR HISTORY: A Review of National Park Cultural Resource Programs*, is available at http://www.napawash.org/pc_management_studies/NPS_Saving_Our_History_Oct2008.pdf.

Conference Calendar

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, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

22-25. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.

FEBRUARY

1-5. **National Association of Conservation Districts** annual meeting in New Orleans. Contact: National Association of Conservation Districts, 509 Capitol Court, N.E., Washington, DC 20002. (202) 547-6233. <http://www.nacdnet.org>.

2-4. **National Ski Areas Association** western conference at Keystone, Colo. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

MARCH

1-5. **Association of Partners for Public Lands** annual convention in Baltimore. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.

3-5. **National Forest Recreation Association** annual conference and trade show in San Diego. Contact: National Forest Recreation Association, P.O. Box 488, Woodlake, CA 93286. (559) 564-2365. <http://www.nfra.org>.

7-11. **National Association of Counties** legislative conference in Washington, D.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, D.C. 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

12-15. **Recreation Vehicle Industry Association** annual meeting in Dana Point, Calif. Contact: Recreation Vehicle Industry Association, 1896 Preston White Drive, Reston, VA 20195-0999. <http://www.rvia.org>.

17-20. **National Legislative Forum on Parks and Recreation**, in Washington, D.C. Contact: National Recreation and Parks Association, 1901 Pennsylvania Ave, N.W., Washington, DC 20006. (202) 887-0290. <http://www.nrpa.org/forum>.

23-29. **National Off Highway Vehicle Conservation Council** annual conference in Houston. Contact: National Off Highway Vehicle Conservation Council, 4718 South Taylor Drive, Sheboygan, WI 53081. Ann Vance at (800) 348-6487. <http://www.nohvcc.org/>