

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

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## Senators close to introducing new NPS Centennial bill

Four senators are preparing to introduce legislation shortly that would implement a Bush administration \$2 billion Centennial Challenge program for the National Park System, *FPR* has learned.

The legislation is based on both the administration recommendation and a set of recommendations of a broad coalition of interest groups. Sen. Ken. Salazar (D-Colo.) will be the lead sponsor.

A spokeswoman for Salazar confirmed February 20 that Salazar was writing a bill. She could not say precisely when the bill would be introduced.

It is understood that Salazar and his cosponsors have settled all details of the legislation except the most important one - budget offsets to provide the \$1 billion of federal money needed to match \$1 billion in partnership money.

The senators are reportedly reviewing a handful of possibilities for producing the \$100 million per year in federal money. Some offsets are familiar such as \$50 million per year for canceling an ultra deepwater oil and gas research program.

Some are not so familiar such as a special postal stamp that would cost more than a conventional stamp with revenues transferred to the Centennial Challenge program. That could bring in as much as \$10 million per year. Still another suggestion would charge oil and gas companies a special fee to pay for inspection of offshore oil and gas drilling facilities. That could bring in another \$20-\$30 million per year.

Expected to join Salazar in introducing the bill are Senate Finance Committee Chairman Max Baucus (D-Mont.), Sen. Susan Collins (R-Me.) and Sen. Lamar Alexander (R-Tenn.) Alexander has a long record of support for park and rec programs, having served as the chairman of the President's Commission on Americans Outdoors in the 1980s.

Meanwhile, House Natural Resources Committee leaders are also searching for offsets to pay for a lead Centennial Challenge bill (HR 3904) that has been stalled in committee since an Aug. 2, 2007, hearing. Committee chairman Nick Joe Rahall (D-W.Va.) and subcommittee on National Parks chairman Raúl Grijalva (D-Ariz.) introduced the bill.

They have not set a date yet for committee action on the bill. "We are still working on an offset," said a committee spokeswoman.

Rahall and Grijalva have altered HR 3904 to incorporate recommendations from the broad coalition of interest groups called the National Parks Centennial Network. Craig Obey, vice president for Government Affairs for the National Parks Conservation Association, is the titular lead for the network.

Recent drafts of HR 3904: describe in detail how partnerships would work, what kinds of projects Challenge money could be spent on, insure that smaller parks that lack powerful "friends" groups would be cut in, authorize multi-park and national projects, and authorize the acquisition of private lands with the money. The Senate bill is expected to follow the House example.

The Bush administration came up with the idea of the Challenge program, with Secretary of Interior Dirk Kempthorne the putative father. It is part of a \$3 billion, \$300 million per year Centennial Initiative designed to upgrade the National Park System for its Centennial in 2016.

In addition to the \$200 million per year in Centennial Challenge money for noncore operations the program calls on Congress to appropriate \$100 million

per year to improve core operations. In the current fiscal year, 2008, Congress complied. The administration has requested another bonus appropriation for NPS operations in fiscal 2009.

Kempthorne told the Senate Energy Committee February 13 that partner groups are eager to provide money for the Challenge program. "We have received 321 written letters of commitment from Americans across the country pledging \$301 million dollars of their money for Centennial projects," he said at a hearing on the fiscal 2009 Interior Department budget. He promised the money would "be available to benefit parks all around the country - large parks, small parks and parks in between. We have the goals, we have the projects."

In the fiscal 2008 appropriations bill (PL 110-161 of Dec. 26, 2007) Congress allocated \$25 million in seed money for the Challenge program. (FPR had heard a rumor that NPS would announce a distribution of the \$25 million, matched by \$25 million in nonfederal money, last week. But an NPS official said the announcement won't be made until near the end of the month.)

At the hearing Kempthorne made a pitch for the Senate to act on the Challenge program. "What is needed now is for Democrats and Republicans in Congress to pass the National Park Centennial Challenge Fund Act," he said, referring to an initial version of a bill from the administration. "National parks are not a Republican issue. They are not a Democrat issue. They are an American issue. Once this legislation is passed, it will be my responsibility to ensure that every philanthropic and public dollar is well spent."

## **Interest groups present rec commission recommendations**

An alliance of recreation industry officials, state officials and federal land managers February 8 submitted to Congress a smorgasbord of recommendations for a new national outdoor recreation commission.

The recommendations from Partners Outdoors 2008 include the possibility of beginning the data collection for a commission this year followed by the formal designation of commission members next year by the next administration.

The recommendations also lay out these possible strategies for launching a commission - (1) legislation, (2) White House executive order, or, thinking outside the box, (3) sponsorship from an angel such as Bill Gates.

Time is an overarching concern. "A commission that does not begin until mid-2009 would be unlikely to produce results in a timely way for the Administration taking office in January 2009," says the recommendation from the 140 representatives.

"For that reason," it continues, "participants recommended that the commission be created by June 2008 but have two clear phases. Phase One, through early 2009, would focus on information gathering. Phase Two, beginning in early 2009 and lasting through May 2009 would involve development of recommendations." A final product would be submitted to the President (and Congress) in time for the development of the fiscal 2010 budget.

Partners Outdoors delivered its recommendations to Sen. Lamar Alexander (R-Tenn.), who has expressed interest in sponsoring legislation this year to establish the commission. Alexander served as the chairman of the last national panel, the President's Commission on Americans Outdoors (PCAO), in the 1980s.

Alexander's office said the senator is still evaluating the Partners Outdoors recommendations. "Sen. Alexander still thinks the new outdoor commission is a good idea and he continues to talk to people about the best way to achieve that," said an aide. "The last commission he chaired was a generation ago, and he thinks it is time to consider having another look at it. He would like a plan to be developed this year so the new president could include it as part of his or her new agenda."

Derrick Crandall, president of the American Recreation Coalition and a driving force behind Partners Outdoors, said legislation may be out of the question this year because of the workload facing Congress. "I don't think it would be possible to do unless it was attached to an appropriations bill," he said. "And Congress may end up with a continuing resolution and not allow any amendments (to an appropriations bill)."

Crandall acknowledged that the Partners Outdoors recommendations, developed at a January 13-16 conference at Snowbird Resort in Utah, raise numerous difficult questions for Alexander to answer. "We wanted to give him those options," said Crandall. "I will consult with him privately but at this point we wanted to outline the possibilities."

Other than Congressional action a second option would have President Bush establish a commission by Executive Order. The obvious problem there is political, with a lame duck President setting up a commission that would report to his successor.

A third possibility of a wealthy private entity was described this way in the memo to Alexander, "The third option is intriguing and deserves consideration if a suitable and credible anchor can be identified," it said. "One suggestion from the group was for an emissary of the Rockefellers like (activist attorney) Henry Diamond to be enlisted to approach Bill and Melissa Gates, Warren Buffet, or an alternative acceptable source of support."

The Partners Outdoors memo acknowledges that times have changed and

### **Notice: Schedule Change**

Dear Subscriber:

The next issue of *Federal Parks & Recreation* will be published on March 14, one week later than the usual bi-weekly cycle. After that we will resume our regular biweekly publishing schedule. We thank you for your consideration.

The Editors

the commission should not attempt to simply rework recommendations from PCAO. "Rather, we believe the new commission needs to explore the connections between the Great Outdoors, people and important societal needs including health, education and economic sustainability of communities," Partners Outdoors recommended.

That new agenda would almost certainly emphasize the health benefits of outdoor activity in tandem with a need to attract young people to the outdoors. In several instances Partners Outdoors mentions the importance of health and youth. For instance, it identifies a first primary goal this way: "Redefine recreation as a valuable tool in health, education, economic sustainability of communities, national unity and family cohesiveness."

PCAO under Alexander in the 1980s recommended dozens of major strategies to revive park and rec programs. Perhaps most noteworthy the commission recommended in 1987 a \$1 billion trust fund to guarantee money for the Land and Water Conservation Fund.

### **Bingaman objects to LWCF budget; Congress in bind**

Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) took the Bush administration to task February 13 for allegedly requesting too little money for the Land and Water Conservation Fund (LWCF) in fiscal year 2009.

At a hearing on the fiscal 2009 budget for the Interior Department, Bingaman told Secretary Dirk Kempthorne, "Last year I complained that the administration was proposing only \$59 million for the federal LWCF spending, and nothing for the state program. The new budget is even worse - this year's budget proposes only \$51 million for the federal land LWCF program, and proposes no funding for the state program. If approved, this would be the lowest level of spending for land and water programs in the past 40 years."

An aide to Bingaman said the senator has no particular strategy in mind

for obtaining new money for LWCF. "He has always pursued options when he thinks there's a chance to get increased funding, whether discretionary or mandatory," said the staff member. "But that has always been very difficult to do."

For now said the staff member, "Nothing is imminent like a bill that he would drop in."

Congress of course will have a say in allocating money to LWCF this year in an annual appropriations bill. But President Bush has Democratic appropriators in a bind: He promises to veto any spending bill that exceeds his requests. Although Congress may move money around within Bush's caps, appropriators must borrow from other programs to provide assistance to LWCF.

Kempthorne has an ambiguous record on LWCF, at least the state-side program. He has consistently supported the program in public, but under his watch the Bush administration has requested no money for grants for the last two fiscal years. Similarly, the administration has requested no money for nonfederal recreation facility restoration under the Urban Parks and Recreation Recovery program.

In contrast Kempthorne has at times been bullish about the state side of LWCF. In introducing a report on the fiscal year 2007 accomplishments of the state side program he said, "At Interior, we are striving to assure a future for our children, grandchildren and their children in which they can listen to crickets chirping or see a fox scamper across a field. The Land and Water Conservation Fund is fundamental to achieving this goal by helping to provide these special places where families and children can reconnect with nature and with each other."

The administration did insert a request for \$1.4 million in fiscal 2009 for administration of the state LWCF grant program in a Recreation and Preservation line item, thus keeping it alive. In addition a new program to refer some Outer Continental Shelf oil and gas leasing revenues to state LWCF grants will begin in fiscal 2009. The

program will provide \$6.3 million of automatic money outside the appropriations process.

State wildlife conservation grants did better in the budget request. The administration recommended \$74 million, the same as Congress appropriated in fiscal 2008.

The administration has also been tough on the federal side of LWCF at Interior. For fiscal 2009: NPS would receive \$21.8 million, compared to a fiscal 2008 appropriation of \$44.4 million; the Fish and Wildlife Service would receive \$10.2 million, compared to a fiscal 2008 appropriation of \$34.6 million; and the Bureau of Land Management would receive \$4.5 million, compared to a fiscal 2008 appropriation of \$8.9 million.

## **Corps ponders ambitious new recreation services strategy**

The hidden giant of recreation providers - the Corps of Engineers - may be about to announce itself.

Corps leaders will meet around May 1 to plan the implementation of an ambitious new strategy for attracting new users to Corps facilities and for upgrading those facilities. The strategy recommends, among other things, a public relations campaign, stronger partnerships and more fee money.

The strategy was developed by a broad coalition of interest groups ranging from the recreation industry to state park directors to the National Recreation and Park Association. The head of the Corps, Lieutenant General Robert Van Antwerp, signed off on the strategy in principal February 11.

Said Mike Ensich, chief of operations and regulatory community practice for the Corps, "General Antwerp asked a group of (Corps officials) to come back to him around May 1 with ideas on a way to move ahead. We thought the best focus would be to concentrate on two or three things. One of the most viable would probably be communications."

The Corps of Engineers is the single largest recreation services provider of all federal land managers, with more than 400 million visits per year. By contrast the Park Service hosts about 275 million.

The Corps estimates recreation visitors spend some \$8 billion per year in local communities and the related business produces 105,000 jobs. At the same time federal appropriations to recreation are dwindling. "The importance of a new strategy is highlighted by intense competition for dollars for all federal programs and within the (Corps)," says a release from the American Recreation Coalition. "In some cases, (Corps) recreation sites are being closed or cut back."

As justification, the strategy emphasizes the new national concern that children are not exercising enough to maintain minimal health. And the strategy says Corps recreation facilities can benefit military personnel.

So the Recreation Strategy Group recommended:

- \* A massive PUBLIC OUTREACH campaign to tell the public and Congress of the importance of recreation on the 12 million acres of lakes and lands managed by the Corps. The campaign would inform military commanders and personnel of the availability of Corps resources, contact via media markets some 10 million people on the availability of the Corps resources by the end of 2008, support online initiatives and more.

- \* A stronger PARTNERSHIP with communities and private organizations. As a starter the strategy calls for periodic summits between Corps leaders and its public in the recreation, tourism, public health and economic development arenas.

- \* More MONEY. The strategy recommends the Corps redouble its efforts to persuade Congress to provide new authority to collect entrance fees and retain the fees to improve collecting areas. And it recommends the Corps seek legal guidance on the possibility of allowing

outside groups to spend money in joint management of four or more pilot sites.

The bipartisan Arkansas House delegation introduced legislation (HR 4304) Dec. 6, 2007, 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.

The bill, based on a Bush administration proposal, would allow the Corps 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 the bill would allow the Corps offices collecting the fees to retain 80 percent of the money.

## **BLM, Forest Service close in on OHV trail designation**

As the Bush administration enters its final year, it has set as a top recreation priority the designation of off-highway vehicle (OHV) roads on federal lands.

The spotlight will shine on the Forest Service and the Bureau of Land Management (BLM.) Both are conducting ambitious exercises to designate OHV routes.

The Forest Service anticipates completing plans for each of its forests that indicate trails and areas open for OHVs by the end of fiscal 2010. BLM intends to complete 32 resource management plans (RMPs) this year including six big ones in Utah. The RMPs will include travel management plans.

The issue has caught the attention of Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) Apparently unaware that BLM is already working on dozens of travel management plans, he asked Secretary of Interior Dirk Kempthorne February 13 at a budget hearing, "Will the BLM adopt a similar policy (to the Forest Service) by requiring all districts

to revise their policies to deal with this issue?"

Kempthorne, apparently also unaware of BLM's program, said, "I can't tell you there is a current directive for them to revisit that. I will tell you the vast majority of BLM is multiple use, taking into account the variety of utilizations including recreation that the public enjoys. We will communicate with the FS and look at what their suggestions are and see what applications that might have for BLM."

BLM launched its travel management program on Jan. 21, 2001, with the publication of a National Management Strategy on motorized OHV use. It directed BLM to develop a strategy and regulations. BLM issued regulations to carryout the strategy on Oct. 1, 2001.

OHV users and their critics in the environmental community have focused much of their attention in Utah on the revision of BLM management plans in the Kanab, Moab, Monticello, Price, Richfield and Vernal districts. Those plans will govern 11 million acres of the 23 million acres BLM manages in the state. The comment period deadlines for the six plans have closed, the Monticello plan most recently on February 8.

The Southern Utah Wilderness Association complains, "The plans would allow oil and gas development and off-road vehicle use on the vast majority of bureau lands in the area. In total, of the 11 million acres affected, 8 million would be open to oil and gas development, and blanketed by over 15,000 miles of ORV trails."

The Forest Service issued regulations covering its travel management program on Nov. 9, 2005. The rule requires each of the 155 national forests and 20 grasslands to map areas open to OHVs.

**BLM SUMMARY:** BLM travel management plans identify areas that are open to OHV use, areas where OHV are limited to certain times or certain kinds of vehicles, and areas that are closed.

BLM's travel management website says that of BLM's 258 million acres, 32 percent are presently open to OHV use, 48 percent are open to limited use, 16 percent are undesignated and four percent are closed. More information is available at BLM's website: [http://www.blm.gov/wo/st/en/prog/Recreation/recreation\\_national/travel\\_management.html](http://www.blm.gov/wo/st/en/prog/Recreation/recreation_national/travel_management.html).

FOREST SERVICE SUMMARY: The Forest Service has a more complex classification system with four categories - open, existing routes, system routes and cross-country routes. The Forest Service anticipates completing 58 percent of its use maps by the end of fiscal 2008, 86 percent by the end of fiscal 2009 and 100 percent at the end of 2010. More information is available at the Forest Service website: <http://www.fs.fed.us/recreation/programs/ohv/index.shtml>.

## House Ag leaders propose less money for huge farm bill

House leaders from both political parties teamed up last week to offer a spending compromise to free up a multi-year farm bill (HR 2419) that is trapped in a House-Senate conference committee.

The House leaders offered to split the difference between the amount of new money the Senate approved, \$12 billion, and the amount of money in the last farm bill that sets the base. They recommended \$6 billion in new money. The idea is to reach agreement with the Bush administration.

The lead authors of the proposal, Senate Agriculture Committee Chairman Collin Peterson (D-Minn.) and ranking Republican Bob Goodlatte (Va.), wrote their Senate counterparts, "We have had both the House and Senate bills in our hands for three months with very little progress toward resolving differences. It is our belief that if we can begin with a common framework, the work of finalizing the bill can proceed more quickly."

Senate Agriculture Committee Chairman Tom Harkins (D-Iowa) took a

wait-and-see position, while holding out for further tinkering. "This outline is provided as a basis for further collaborative work and negotiation, and that's the spirit in which it should be received and judged here in the Senate, where we of course have our own perspectives," he said.

Harkins complained that the Bush administration was not cooperating in the search for new money. But Secretary of Agriculture Ed Schafer said the administration "is working hard" to find the offsets. And, Schafer said, "With these reforms and with acceptable offsets for the \$6 billion of additional spending, we believe this offer represents a package that is moving in a direction of a bill that the President would sign." The Bush administration has promised a veto of both the House- and Senate-passed versions of HR 2419.

Conservationists are apprehensive about the Peterson-Goodlatte proposal because it would reduce spending across-the-board. "We would accept some cuts that didn't disproportionately affect conservation," said Neil Shader, a communications specialist for Ducks Unlimited. "Obviously, the big problem is the percentage," he said. "Because conservation is such a small part of the bill, any across-the-board reduction is going to hit us harder."

Major substantive concerns for Ducks Unlimited are caps on acreage that farmers are paid to set aside for conservation, such as a Grassland Reserve Program, a Wetland Reserve Program and a Conservation Reserve Program. Those programs have either reached acreage caps or are approaching the caps. Without a new farm bill and infusions of money little additional acreage could be set aside.

The Peterson-Goodlatte proposal would allow for increases in the Conservation Reserve Program beginning Oct. 1, 2009, and would add 200,000 acres per year to the Wetlands Reserve Program.

Peterson and Goodlatte say the House and Senate must complete a bill by March 15. They said their "framework" is not a take-it-or-leave-it proposition

but "is intended to illustrate how spending might be allocated."

One key element of their proposal would reauthorize farm bill programs for 10 years instead of the five in the House- and Senate-passed versions of HR 4219 and in past farm bills.

To form its version of 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 have removed millions of acres of open land from farming and devoted them to conservation purposes, preserving wildlife habitat across the country.

The version of HR 2419 approved by the Senate Dec. 14, 2007, includes basic conservation programs such as a conservation reserve program, a wildlife habitat improvement program, a wetland reserve program, a grassland reserve program, and an environmental 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, 2007. It also includes most of the conservation programs advocated by hunters and fishermen, including the private landowner program.

## **FS says new planning rule will mirror 2005 rule**

The Forest Service said this month that it anticipates issuing a new planning rule in March that will essentially do the job of the rule it replaces - give equal emphasis to all uses rather than favor protection of the ecosystem.

To that end the service completed an EIS that will back the rule, as required by a U.S. District Court judge. The judge had blocked implementation of an original Bush administration rule of January 2005 because the service did not

write a programmatic EIS for it.

Now the Forest Service has. The new SEIS is at <http://www.fs.fed.us/emc>. And the preferred alternative in the SEIS says the service will issue a plan that will continue to demand a balance of uses in the national forests. Says a draft of the planning rule, "Sustainability, for any unit of the National Forest System, has three inter-related and interdependent elements: social, economic, and ecological."

And, like the 2005 rule, the new one will not require forests to prepare an EIS for each forest plan. Asked by us at a February 7 press conference if that is the agency's intent, David Dillard, the Forest Service ecosystem management coordinator, said, "An EIS will not be mandatory."

"However," he said, "we expect full NEPA (National Environmental Policy Act) compliance. A plan will fall into a categorical exclusion, an environmental assessment or an EIS. We expect to see a range of documents."

The Bush administration issued the first iteration of its national forest planning rules on Jan. 5, 2005. The 2005 rule and the anticipated new rule are designed to guide the 155 national forests in writing land use plans that last for a decade or more.

U.S. District Court Judge Phyllis J. Hamilton in Northern California ruled March 30, 2007, that the Forest Service violated NEPA by not writing a programmatic EIS.

In the final SEIS the Forest Service chose an Alternative M as its preferred policy. The service said Alternative M is the same as the preferred Alternative A in the 2005 planning rule, with some minor variations.

The Forest Service said plans written under Alternative M, compared to a 1982 Reagan administration planning rule, would take three years to complete instead of five, would cost the agency about \$50 million per year to prepare plans instead of \$71 million and would

cost \$51 million to monitor instead of \$33 million. (That last set of numbers is correct; the new plan would cost more to monitor.)

The 2005 rule was particularly controversial because it exempted individual forests from preparing an EIS for forest plans. The service argued that plans don't authorize any specific activities that require environmental analysis; that can be done later when specific projects are proposed, such as for a ski resort expansion project.

In the substance of the 2005 rule the Forest Service reversed several major thrusts of Clinton administration rules of Nov. 9, 2000 (which the Bush administration suspended on May 17, 2001,) including a policy of ecological sustainability as the paramount goal of national forest management.

On behalf of a coalition of environmental groups the law firm Earthjustice brought the lawsuit against the 2005 planning rule.

## **Rep. Dicks searches for ways to pay for fire expenses**

The man who controls the purse, Rep. Norman Dicks (D-Wash.), said February 12 he is looking for a new source of money for emergency fire fighting, presumably outside the appropriations process.

"I'm working with authorizing committees to come up with a better way of funding emergency wildfire funding suppression activities," said Dicks, chairman of the House subcommittee on Interior Appropriations at a hearing on federal fire fighting policy.

Dicks is obviously dissatisfied with the existing system that has seen Forest Service fire-fighting costs make up increasingly large amounts of the agency's budget. He posed the question, "What options exist for a new budget approach for suppression so extreme emergency costs are covered with emergency funds and not borrowed from basic operations?"

The Interior Department and the Forest Service are seeing fire fighting consume an increasing percentage of their budgets. In joint testimony Under Secretary of Agriculture Mark Rey and Deputy Assistant Secretary of Interior James Cason told the subcommittee, "(T)he inflation-adjusted ten-year average for wildlife fire suppression of the two departments, \$1.3 billion, is nearly three times the FY 2001 level of \$472 million."

At the hearing Department of Agriculture Deputy Inspector General Kathleen S. Tighe said more and more fire fighting money is being used to protect private property in and around federal land. "Some FS managers estimate that between 50 to 95 percent of large wildfire costs borne by the agency are directly related to protecting private property in the WUI (Wildland Urban Interface,)" she said. "Based on these estimates, FS spent as much as \$1 billion during (fiscal 2003 and 2004) protecting private properties in the WUI."

Tighe recommended that the federal government persuade state and local governments to tighten their zoning laws to limit building in and around national forests.

For Forest Service fire fighting in fiscal 2009 the administration recommended an appropriation of \$1.880 billion, or \$378 million less than a fiscal 2008 appropriation of \$2.258 billion, including both suppression and prevention. The numbers are a little misleading because the Forest Service and Interior Department received an extra \$500 million in fiscal 2008 for emergency fire-fighting paybacks.

Still, the administration is requesting \$545 million more for national forest fire programs in fiscal 2009 than for the operation of the National Forest System.

National forest recreation and trail programs are taking their share of hits. The fiscal 2009 Bush administration budget request seeks a reduction of \$25.6 million for national forest recreation, down from \$262.6 million in fis-

cal 2008 to \$237 million. Similarly for national forest trails the administration is asking for a \$26.4 million decrease from \$76.365 million to \$50 million.

For Interior Department fire fighting in fiscal 2009 the administration is requesting \$850.1 million, or \$206.9 million less than a fiscal 2008 appropriation of \$1.057 billion (not counting a fiscal 2008 emergency supplemental.)

Meanwhile, the Western Governors' Association is once again asking Congress to find a "fix" to pay for the accelerating cost of fire fighting. In a letter to Congressional leaders the governors endorsed a National Association of State Foresters proposal for a federal budget set-aside for fire fighting.

The state foresters recommendation would "partition the federal suppression budget by introducing a budget set-aside for a flexible suppression spending account that would be linked to rigorous cost containment management controls and agency line officer incentives." The state foresters didn't say how much Congress should set aside but do note that suppression costs have exceeded \$1 billion every year since 2000 and have exceed \$2 billion twice since 2000.

The western governors wrote Congressional leaders February 1 asking for the funding fix. Of the state foresters proposal they said, "This would relieve the annual strain on federal agency budget, enabling them to return to delivering the full suite of agency products and services the public enjoys." Wyoming Gov. Dave Freudenthal (D) is the current chairman of the Western Governors' Association and was the lead signatory on the letter.

Finally, House and Senate leaders in the natural resources arena introduced legislation (S 2593, HR 5263) this month that would authorize projects to head off wild fires on broad landscapes.

Senate Energy Committee Chairman Jeff Bingaman (D-N.M.), chief sponsor of the Senate bill, said the prototype

projects could help lower the enormous federal costs of wild fire suppression. "We will not be able to get control of the ballooning costs of fire suppression until we can allow more fires to play their natural, beneficial role in restoring and maintaining healthy, fire-resilient forests," he said February 5 on introducing S 2593. "But that will not be possible until we can reduce hazardous fuels and the risk of unnaturally intense fire on a landscape scale."

The chairman of the House subcommittee on National Parks and Public Lands, Rep. Raúl Grijalva (D-Ariz.), introduced the House counterpart bill February 7. Both measures would authorize up to \$40 million for landscape-scale projects.

### **Chambers gets help in legal battle to head NPS police**

A federal appeals court last week revived litigation against the Park Service for firing former Police Chief Teresa Chambers in 2004.

The U.S. Court of Appeals for the Federal Circuit held that, at first impression, Chambers was guilty of misconduct by going public with budget complaints. But the court said Chambers may nonetheless be protected from NPS sanctions by the Whistleblowers Protection Act.

So the court sent the case back to the Merit Systems Protection Board to reconsider whether Chambers's actions were indeed protected by the whistleblower law.

The two-judge majority (a third judge dissented) told the board to consider whether the danger Chambers disclosed was sufficient to warrant protection under the Whistleblowers Protection Act. If the disclosure was speculative and did not address an immediate danger, it would not merit protection, said the court.

"A harm likely to occur in the immediate or near future should identify a protected disclosure much more than a

harm likely to manifest only in the distant future," said the decision written by Circuit Judge Sharon Prost, a 2001 appointee of President Bush.

Congress established the Federal Circuit Court in 1982 to combine the work of the former U.S. Court of Claims and the U.S. Court of Customs. It operates outside the direct chain of command of the federal district courts, appeals courts and the U.S. Supreme Court.

Chambers defenders treated the federal circuit decision as a big win for her. Said Jeff Ruch, executive director of the Public Employees for Environmental Responsibility (PEER), "This is a great victory for Chief Chambers. Now is the time for the Interior Department to bring Chief Chambers back to solve the problems she risked her job to raise." PEER represents Chambers in the litigation.

However, PEER is a little apprehensive because the Merit Systems Protection Board took more than 500 days to render the decision on Chambers that was appealed to the Federal Circuit. Still, PEER worried that the Federal Circuit's decision requires the board to reinstate her as chief of the park police.

In a dissent in the Federal Circuit decision Judge Haldane Robert Mayer, an appointee of former President Reagan, contradicted PEER. Mayer said the Merit Systems Protection Board adequately considered whether Chambers revelations involved imminent danger the first time around, as required by the Whistleblowers Protection Act. Because the board "concluded they did not, there is no reason to remand the case for reconsideration," he said. Implicitly, Mayer anticipates the board will again find there was no imminent danger.

Chambers served as the Park Service chief from Feb. 10, 2002, to July 9, 2004. Then deputy NPS director Donald Murphy fired Chambers because she complained in 2003 to the Washington Post and the House subcommittee on Interior Appropriations about a flat appropriation for the park police. That began a four-year legal odyssey by Chambers and PEER.

## Notes

### **FS sides with Idaho snowmobilers.**

The Forest Service earlier this month announced it has prepared a new draft forest plan for the Beaverhead-Deerlodge National Forest that would allow snowmobile use to continue on portions of Mt. Jefferson. An earlier draft plan in 2005 would have closed much of the 4,000-acre Mt. Jefferson area to snowmobile use. The plan would allow snowmobiling to continue "in the south half of Mt. Jefferson and in parts of the West Big Hole," the Forest Service said. The 2005 draft plan would have barred snowmobiling in those areas. "Public comment helped us develop a new proposal for snowmobiling and for wilderness for Mt. Jefferson," the service said. The BlueRibbon Coalition, which represents powered recreation users, calls Mt. Jefferson the "crown jewel of western snowmobiling." The Idaho Congressional delegation praised the Forest Service for changing its mind. "Mt. Jefferson is the 'draw' that brings snowmobilers, and the hundreds of dollars they spend daily, to recreation dependent economies in Island Park, West Yellowstone and Eastern Idaho." Mt. Jefferson sits astride the Continental Divide between northeast Idaho and southwest Montana.

### **Glen Canyon flow changes possible.**

The Interior Department says it will decide later this month if it will experiment with a new pattern of water releases from Glen Canyon Dam into the Colorado River. The Bureau of Reclamation and the Fish and Wildlife Service are studying the possible impacts of high releases in the spring, usually March, teamed with steady flows in September and October through 2012. The agencies are evaluating the impact of such a new system on a build-up of sediment in the Colorado from recent storms and the improving status of the endangered humpback chub. The Colorado of course flows through Grand Canyon National Park and has great influence on the environment there.

### **Marylanders ask Baltimore NHA.**

Maryland Democratic legislators introduced a bill (S 2604, HR 5279) early

this month that would designate a Baltimore National Heritage Area (NHA.) The NHA would include 24 historic landmarks, five Maryland scenic byways, one All-American road and numerous historic buildings. Sens. Barbara Mikulski (D-Md.) and Benjamin Cardin (D-Md.) introduced the Senate bill and Rep. Elijah Cummings (D-Md.) introduced the House

bill. As with most NHA bills the legislation would authorize spending up to \$1 million per year and \$10 million altogether. Both the Senate Energy Committee and the House Natural Resources Committee are looking at more than a dozen NHA bills, and the House even passed a few last year that are still waiting final action.

## Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
<b>Appropriations 2009</b> No bills yet	President Bush submitted his budget recommendations Feb. 4.	President would decrease spending for most park and rec programs, except NPS.
<b>Appropriations 2008 (Interior)</b> HR 2643 (Dicks)	President Bush signed into law Dec. 26, 2007, as PL 110-161	Increases park and rec spending across-the-board, despite veto threat.
<b>Appropriations 2008 (Energy &amp; Water)</b> HR 2641 (Visclosky)	President Bush signed into law Dec. 26, 2007, as PL 110-161	Increases Corp of Engineers and Bureau of Reclamation spending.
<b>Appropriations 2008 (Transportation)</b> HR 3074 (Olver)	President Bush signed into law Dec. 26, 2007, as PL 110-161	Provides full funding for park and rec programs, as called for by SAFGTEA-LU.
<b>NPS Centennial Challenge</b> S 1253 (Bingaman) HR 2959 (Rod Bishop) HR 3994 (Rahall)	House and Senate hearings Aug. 2, 2007.	S 1253 and HR 2959 would establish \$2 billion program to help the parks. Rahall would impose new DOI fees.
<b>NPS tax assistance</b> HR 1731 (Baird)	Baird introduced March 28, 2007.	Would authorize NPS improvement fund financed by income tax check-off.
<b>FLREA repeal</b> S 2438 (Baucus)	Baucus introduced Dec. 10, 2007.	Would repeal most of 2004 federal agency recreation fee law.
<b>Heritage areas national</b> S 278 (Thomas) HR 1483 (Regula)	Senate committee approved July 25, 2007. House approved Oct. 25, 2007.	Would establish national standards for new NHA designations. HR 1483 Would designate six new NHAs.
<b>Farm bill</b> HR 2419 (Peterson)	Senate committee approved Oct. 25, 2007. House approved July 27, 2007.	Would authorize major conservation programs for five years, including new Open Fields program.
<b>Conservation tax credits</b> S 469 (Baucus) HR 1576 (Thompson)	Senate committee approved Sept. 20, 2007. Thompson introduced March 19, 2007.	Would make semi-permanent conservation tax credits Congress approved last year.
<b>Wildlife conservation grants</b> HR 3221 (Pelosi) HR 2338 (Dicks)	House approved August 4, 2007. Dicks introduced May 16, 2007.	Both would make grant program permanent, open way for new source(s) of money.
<b>American Discovery Trail/National Discovery Trails</b> HR 74 (Bartlett)	Bartlett introduced Jan. 4, 2007.	Would designate an American Discovery Trail and discovery trail system.
<b>Trail acquisition authority</b> S 169 (Allard) HR 1847 (M Udall)	Allard introduced Jan. 4, 2007. Udall introduced March 29, 2007.	Would authorize land acquisition authority for nine national trails.