

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

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## **House committee approves spare NPS Centennial measure**

The House Natural Resources Committee last week rejected attempts to beef up a Park Service Centennial bill (HR 4680), but the panel did approve the legislation, setting up possible Congressional action this year.

The committee bill would move Centennial legislation a couple of major steps forward by establishing a Centennial Challenge Fund and revising senior citizen America The Beautiful Pass rates. But HR 4680 would not include the \$500 million per year in new authorizations recommended by the Obama administration.

Said committee chairman Rob Bishop (R-Utah) after the March 16 mark-up, "I look forward to advancing this innovative bill to the House floor for a new, prosperous century for our national parks."

He also said, "We need creative solutions to improve the management of the National Park System and to guarantee the centennial is a success for all Americans. This legislation puts forward creative mechanisms to achieve these goals by expanding philanthropic opportunities to our precious parks across the country." He did not mention money.

Ranking committee Democrat Raúl M. Grijalva (D-Ariz.) did. He offered an amendment to add money to the bill. It would establish a National Park Second Century Infrastructure Fund at \$300 million per year.

A second Democratic amendment would spend, right off, a \$50 million Park Service maintenance fund Congress approved last year for fiscal years 2018 and 2019. The committee voted against

the first amendment 14-to-23 and the second 16-to-22.

Said Grijalva after the meeting, "It's unfortunate that even with the simplest and most bipartisan of bills, we can't seem to compromise. The two Democratic amendments introduced today would have provided the necessary funding to help the country celebrate the Service's 100<sup>th</sup> anniversary."

Despite the differences of opinion on spending the bill is now set for House floor action, where the Democrats may have a shot at offering their amendments again.

On the other side of the Hill, three senior Senate Energy Committee leaders have developed a stalking horse legislative proposal for the 2016 Centennial similar to the House committee bill. Led by Sen. Rob Portman (R-Ohio), the three have offered the legislation as an amendment (SA 3295) to a comprehensive energy bill (S 2012).

Like the House bill the Senate amendment would establish a Centennial Challenge Fund without a specific allocation. Unlike the Bishop bill the senators would not revise the America The Beautiful Pass for senior citizens.

Of note the Senate amendment was also sponsored by Senate Energy Committee Chairman Lisa Murkowski (R-Alaska) and ranking committee Democrat Sen. Maria Cantwell (D-Wash.)

Separately, Cantwell and Grijalva have introduced the Obama administration's NPS Centennial recommendation as a stand-alone bill (S 2257, HR 3556). Cantwell, Murkowski and Portman have all said at one point or another they intend to put together their own Centennial proposal based on the Senate amendment and the administration bill.

As Cantwell said February 23 at a Senate Energy Committee hearing on the Interior Department's fiscal year 2016 budget, "I support our efforts to get legislation and was happy to introduce the initiative by the administration. But, having said that, we need to work

together - Sens. Murkowski Portman and others - on a National Park Service bipartisan effort to make sure the national parks' next 100 years are well positioned. So I know this is a big challenge in supporting new dollars."

Thus far, the House Natural Resources Committee is taking the lead. Although the Republican majority rejected a number of Democratic amendments, there was amity in the committee mark-up. Bishop asked that some of the amendments be withdrawn as inappropriate for the Centennial bill.

There was one instance of outright hostility to the Park Service from Alaska's lone Congressman, Rep. Don Young (R). He ripped the Park Service repeatedly for mismanaging national parks and keeping Alaskans off the lands.

"I watch this love-fest on this bill - the Park Centennial bill - and it is a love-fest," he said. "I wish some of you would take the time to see how they are managing the parks in my state. The national parks may be great, like Yellowstone. I hear that and that all these other parks are very good, but in my state the Park Service is a dictatorship. They misuse the land." *(See related article page 6.)*

At the mark-up Rep. Jared Huffman (D-Calif.) offered an amendment addressing a simmering dispute in Yosemite National Park over **intellectual property**, i.e. the right of concessioners to trademark the names of parks and facilities in parks. Huffman's amendment would effectively forbid concessioners and others from trademarking the names of parks, the names of facilities in parks and Park Service symbols.

"I believe the misuse of Park Service images, logos and proprietary names is in essence a misappropriation of a public institution," Huffman said. "It implies an official endorsement of a private group but, more important, is insults our parks heritage and unique values."

Huffman eventually withdrew his

amendment when Bishop advised him that it should be considered by the House Judiciary Committee and not the House Natural Resources Committee. (See *separate article page 10.*)

Huffman also offered an amendment that would establish a system of **National Discovery Trails**, with the already in place American Discovery trail the first unit in the system. The measure was narrowly defeated by a 13-to-15 vote.

Of the American Discovery Trail Huffman said, "This trail connects wilderness areas, national parks and forests with rural towns and even big cities and links important historical and cultural and scenic sites."

He said the formal designation "is necessary so signs can be installed on the trail. Maintenance on the trail would continue to be done as it has been done for years, either by the federal, state or local jurisdiction, as applicable."

Bishop acknowledged that the amendment enjoyed bipartisan support but said the committee should address it by itself. "I have objections to the National Park Centennial bill being hijacked by adding other bills to it, particularly because not all these trails are managed by the Park Service," he said.

Various House and Senate members have been introducing legislation for more than a decade that would establish a National Discovery Trails system.

**Grijalva \$300 million amendment:**

The defeated Grijalva amendment would have put up \$300 million per year for three years to address the Park Service maintenance backlog.

"The Park Service estimates it needs \$700 million per year just to maintain the status quo and prevent the backlog from growing. The longer we turn a blind eye the bigger the problem becomes," he said. "Let's be honest. Private philanthropy is not going to pay to upgrade the wastewater treatment at Yellowstone or replace the roof of an

office building at Grand Canyon."

But the amendment fell because of Republican objections to the source of the \$900 million - the Gulf of Mexico Energy Security Act. Grijalva would have tapped oil and gas royalties used to restore wetlands near the Gulf, infuriating Rep. Garret Graves (R-La.)

"You are trying to take money set aside for conservation purposes and use it in other places," he said. The committee then defeated the amendment 14-to-23.

**Lowenthal \$50 million amendment:**

Rep. Alan Lowenthal (D-Calif.) offered this amendment to spend \$50 million now that was set aside for Park Service maintenance in 2018 and 2019 in a Helium Stewardship Act last year. "My amendment uses money already set aside for maintenance," he said.

But Bishop said the amendment might reopen the controversial Helium Act and force a relitigation of it. He said the Park Service also opposed the amendment. So it went down in a 16-to-22 vote.

The ambitious administration recommendation would approve an additional \$500 million per year in new legislative authority, broken down into \$100 million for the new Centennial Challenge Fund, \$300 million for deferred maintenance in a new Second Century Infrastructure Investment (the Grijalva amendment) and \$100 million for a new competitive Public Lands Centennial Fund.

The Bishop bill, in addition to the challenge fund, would establish an endowment for the Park Service using donations and an increase in lodging fees of less than five percent. The amount of money to be contained in the endowment is open-ended.

Other titles in the bill would include a catchall interpretation and education program that would work with park partners and a \$25 million, one-to-one matching program for the National Park Foundation.

The Senate amendment from Cantwell, Portman and Murkowski includes elements of both the administration and Bishop recommendations, including a Centennial Challenge Fund, an endowment for the parks, and an expanded education and interpretation program. Altogether the amendment would put up \$25 million for the legislation.

## **House, Senate fail to move FY 2017 budgets to the floor**

Congress limped out of town this week for an extended vacation after both the House and Senate failed to approve a fiscal year 2017 Congressional budget.

Although appropriations committees on both sides of the Hill said they would begin writing fiscal 2017 appropriations bills without the guidance of a budget, those money bills could quickly stall.

The problem is most acute in the House where 40 or so conservative members of the House Freedom Caucus are almost certain to block passage of any appropriation bill prepared under a budget agreement (PL 114-74) that Congress struck with President Obama on Nov. 2, 2015.

The Freedom Caucus objects to an increase in domestic spending authorized by the budget agreement, and some members also object to an increase in Defense spending. Rep Jim Jordan (R-Ohio) is the current chair of the caucus.

Despite those objections the House subcommittee on Veterans' Affairs of the House Appropriations Committee March 23 approved a fiscal 2017 spending bill using the budget agreement guidelines.

For its part the House Budget Committee March 16 did approve a fiscal 2017 Congressional budget, but by a narrow 20-to-16 margin, with two committee Republicans (of the 22) voting against. All committee Democrats opposed the budget.

House Budget Committee Chairman

Tom Price (R-Ga.) praised the measure: "It lays before the American people a positive vision for how we can solve our fiscal, economic, and national security challenges through reforms that would grow our economy and hold Washington accountable."

But ranking committee Democrat Chris Van Hollen (D-Md.) said, "Republicans have stumbled through this budget process to produce yet another disastrous blueprint for inequality and disinvestment in America. At a time when families are working harder than ever but feel like they are treading water or falling behind, this Republican plan would devastate the economy - and the middle class."

Perhaps more important one of the dissenting Republicans, Rep Marlin Stutzman (R-Ind.), said, "Tonight, in committee, I could not support the House Budget plan that continued that policy by increasing the caps by \$30 billion. I came to Congress to fight for lower spending not sit on the sidelines and watch it increase."

The House committee budget takes shots at the federal side of the Land and Water Conservation Fund (LWCF) and, indirectly, at a Transportation Enhancements program.

A report accompanying the committee budget first mentions an Obama administration to guarantee full funding for LWCF at \$900 million per year. It then rejects the idea out-of-hand.

"This budget keeps funding for land acquisition under congressional oversight," it says, "giving States and localities more control over the land and resources within their borders."

As for a Transportation Enhancements program that receives more than \$800 million per year for trails and other purposes complimentary to transportation, the committee budget suggests Congress shut off money.

The report says the Highway Trust Fund is running out of money so Congress should reconsider its priorities.

"Congress may conclude, for example, that it bears some role in the great task of rebuilding the decades-old Interstate Highway System, while building bicycle and recreational trails, sidewalks, and streetcars, which produce local benefits, lies outside its purview," says the report.

The long House dispute over fiscal year 2017 spending has spread to the Senate. Democratic leaders earlier this month demanded that the Senate take up appropriations bills in accordance with the budget agreement Congress reached with the President last November.

Well aware that Republicans are split over the advisability of sticking to spending caps in that deal, the Democrats put pressure on Senate Majority Mitch McConnell (R-Ky.) to abide by the agreement. And they asked his support in moving appropriations bills, pronto.

Senate Budget Committee Chairman Mike Enzi (R-Wyo.) said March 7 that his committee has postponed consideration of a fiscal 2017 budget. But he said the Senate could write appropriations bills without a formal budget.

"The Senate already has top-line numbers and budget enforcement features available this year so that a regular order appropriations process can move forward while we continue to discuss broader budget challenges," he said. Those numbers and features come from the November 2015 budget agreement.

In the House Speaker Paul Ryan (R-Wis.) is having even more problems persuading his Republican majority to stick to the budget agreement.

That agreement sets a firm cap on fiscal year 2017 domestic and Defense spending. But Ryan has been unable to summon enough Republican support to bring to the floor a budget that would put flesh on spending priorities under the agreement.

Without a budget agreement appropriators will almost certainly face opposition to even status quo spending bills from the House Freedom Caucus. So Congress may be in the familiar fix of being forced to move omnibus spending

resolutions in the fall to keep the government in business. As noted, Sen. Enzi maintains Congress would be able to move bills without a budget agreement.

The administration was somewhat limited in its request by the budget agreement. That deal essentially freezes fiscal 2017 domestic spending at fiscal 2016 levels. To generate revenues above the agreement - without requiring offsets for higher spending - the administration proposed the new commodity levies.

In its fiscal 2017 budget request for an Interior and Related Agencies appropriations bill the administration actually recommended a \$300 million decrease, from \$13.2 billion in fiscal 2016 to \$12.9 billion in fiscal 2017. But that's deceptive because the budget assumes approximately \$1.1 billion in wildfire costs would be moved out of the Interior bill. So net-net the administration is asking for significantly more.

## **Top court ponders NPS right to regulate Alaska rivers**

The Supreme Court March 22 punted in a landmark case that asks the fundamental question: Does the Park Service in Alaska have authority to regulate rivers through the parks?

In a 9-to-0 decision the court sent the case back to the Ninth U.S. Circuit Court of Appeals to decide whether the Park Service is in charge of rivers through Alaska parks or the State of Alaska is.

In its 19-page holding the Supreme Court ruled that a previous Ninth Circuit decision putting the Park Service in charge did not give due deference to an Alaska-specific 1980 law.

The Ninth Circuit could still rule against the appellant, outdoorsman John Sturgeon, who sought to use a river in Yukon-Charley Rivers National Preserve for access to a moose hunt via a hovercraft. The Park Service said he couldn't.

Supreme Court Chief Justice John Roberts in his decision first faulted the Ninth Circuit decision that, he said, held that nonpublic lands in the park should be managed by laws applicable nationally and that public lands should be managed by an Alaska-only law - the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

Said Roberts, "Those Alaska-specific provisions (in ANILCA) reflect the simple truth that Alaska is often the exception, not the rule. Yet the reading below (the Ninth Circuit decision) would prevent the Park Service from recognizing Alaska's unique conditions."

But Roberts left open the question of what the Park Service in Alaska does or does not manage. "Finally, the Court does not consider whether the Park Service has authority under ANILCA over both 'public' and 'non-public' lands within the boundaries of conservation system units in Alaska, to the extent a regulation is written to apply specifically to both types of land."

Environmentalists are hopeful the Ninth Circuit will back the Park Service. Said Jim Adams, Alaska Regional Director for the National Parks Conservation Association, "The case now returns to the Ninth Circuit and the original question of the National Park Service's right to manage uses of waters in national parks. We are confident the lower court will again affirm the service's ability to manage rivers inside national parks and protect them from damaging uses such as hovercraft, which can impact wetlands, nesting grounds and other sensitive habitat."

The case probably does not set a precedent for national parks nationally or even Alaska national parks because there is no settled decision in place for Sturgeon's situation.

The chief critic of the National Park Service in Alaska, Rep. Don Young (R-Alaska), acknowledged the inconclusiveness of the court's decision. "Today's ruling wasn't the KO punch we were looking for in our fight against the massive overreach of

the National Park Service, but it was a small victory for Alaska and the unique relationship we share with the federal government," he said.

But, Young added, "While the Supreme Court stopped short of reaching a conclusion today, they went to great lengths to describe the uniqueness of Alaska and the historical context to the many instances in ANILCA that prescribe exceptions to the status quo federal management - recognizing 'the simple truth that Alaska is often the exception, not the rule.'"

Alaska Gov. Bill Walker (I-Alaska) also noted the uniqueness of public lands in Alaska, as set up by ANILCA. "I am pleased that the U.S. Supreme Court has vindicated Mr. Sturgeon's perseverance. In passing ANILCA, Congress acknowledged the exceptional realities of Alaska requiring an important role for the State in making resource management decisions," he said.

The facts of the case are clear: Yukon-Charley Rivers National Preserve officials in 2007 banned outdoorsman John Sturgeon from using his hovercraft in a river in the park to reach moose-hunting country. The park officials said the hovercraft was too loud.

The Supreme Court decision fell one week after Young tore into the Park Service March 17 for overzealous management of the national parks. Among other things Young charged with the National Park Service in Alaska of operating a "dictatorship." (See *following article*.)

The Supreme Court decision, *Sturgeon v. Frost*, is available at: <http://www.supremecourt.gov/opinions/15pdf/14-1209>

## **Rep. Young attacks NPS on management of parks in Alaska**

At a House committee "love-fest" during the mark-up of a Park Service Centennial bill last week there was a significant dissenter, senior committee Republican Don Young (R-Alaska).

He blasted Park Service managers of national parks in Alaska for keeping local people out of the parks and for padding visitation numbers.

Addressing his fellow members on the House Natural Resources Committee, Young said, "I watch this love-fest on this bill - the Park Centennial bill - and it is a love-fest. I wish some of you would take the time to see how they are managing the parks in my state. The national parks may be great, like Yellowstone. I hear that and that all these other parks are very good, but in my state the Park Service is a dictatorship. They misuse the land." (See related article page one on the concessions bill.)

A spokesman for Young said the Congressman has long objected to a lack of access to public lands set aside as conservation areas by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA).

"Some of his objections have to do with access and some with very specific laws," the spokesman said. "We have questions about how the Park Service is moving forward with management of game." (See previous article on a Supreme Court decision dealing with access to parks in Alaska.)

The Park Service would not respond to Young's complaints.

One of Young's pet peeves, and one of Sen. Lisa Murkowski's (R-Alaska), is a dearth of hunting and fishing opportunities on conservation lands.

Most of that animus, however, is pointed at the Fish and Wildlife Service (FWS). It proposed a rule January 8 that would limit the hunting of wolves and bears in national wildlife refuges in Alaska. FWS says it is proposing the rule in reaction to a new State of Alaska policy that opens up refuges to increased predator control.

Murkowski said ANILCA "makes clear that the state has jurisdiction over fish and wildlife everywhere in Alaska, off or on refuges."

But, said FWS's Alaska Regional Director Geoff Haskett, "Alaska's national wildlife refuges contain some of the most spectacular wildlife and natural habitats in the nation, and we have a responsibility to future generations to ensure that this unique biodiversity thrives. This proposed rule carefully balances that responsibility with the importance of providing for the subsistence needs of rural Alaskans and visitors alike."

Young tore into Park Service visitation numbers. "They have 100,000 visitors," he told his fellow committee members. "You know what their idea of a visit is in a park in Alaska? Put a bunch of older people in a bus, drive it to a center in a park - I'm talking about Yukon Charley (Rivers National Preserve) - and let 'em get out and look at beautiful park rangers and the pictures on the wall of 19 million acres of land. They use less than 100 acres and they say that's a park visit. An Alaskan tries to walk across it and you go to jail."

Young said not all parks may be poorly run, but. "We sit here and have a love-in for the Park Service, overall it might be good and overall the parks might be good, but what they are doing in the western states is dead wrong," he said.

"They are misusing the land, they don't manage the land and they abuse the people that live in that state. And that's your Park Service. . . We have to realize that to the general public they are sweethearts, but in reality they are abusing the local people."

Young is the third senior House member, having entered Congress in 1973. He formerly served as chairman of the resources committee from 1995 to 2001 and as ranking member in the 110<sup>th</sup> Congress.

## **Florida legislature following through on Everglades aid**

In November 2014 after Florida voters approved a mammoth, \$9 billion conservation initiative, an even more

mammoth question remained: Would the state legislature actually spend the money on conservation or divert it to other state purposes?

It appears that for the time being the legislature intends to spend a large chunk of the money on restoration of the Everglades ecosystem.

Thus, on March 11 the Florida House and Senate gave final passage to legislation that would guarantee at least \$200 million per year for Everglades restoration, for 20 years.

Florida Gov. Rick Scott (R) has until March 26 to sign the legislation or veto it. If he does not act, the bill becomes law.

"This is an incredibly important victory for Everglades restoration and is the first time in state history we have a dedicated funding stream to support Everglades restoration," said John Adornato III, Sun Coast senior regional director for the National Parks Conservation Association

"With the Centennial celebration year of our National Park Service upon us, this funding will support Everglades restoration projects that benefit Everglades and Biscayne National Parks, including the Central Everglades Planning Project and the Biscayne Bay Coastal Wetlands Project."

The Legacy Florida bill builds on the 2014 State of Florida conservation amendment to the state constitution that received almost 75 percent of the vote. Sixty percent of the Florida voters had to approve the initiative because it amended the state constitution.

The amendment would allocate one-third of the revenues from an existing real estate transfer tax to land conservation, outdoor recreation, management of existing lands and protection of lands critical to the water supply.

Now the Florida legislature has stepped up by passing HB 989. The Senate vote was 40-to-0 and the House vote was 113-to-1.

The bill is Everglades specific when it says that, "A minimum of the lesser of 25 percent or \$200 million shall be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan. . ."

HB 989 also puts up \$50 million per year statewide for "spring restoration, protection, and management projects," not incident to the Everglades.

Currently, the Corps of Engineers, the State of Florida, the Fish and Wildlife Service, the Park Service, Indian tribes and local governments are working on a \$7.8 billion - and counting - Comprehensive Everglades Restoration Plan (CERP) to restore the Everglades over the next 30 years.

Various projects in CERP have been approved by various federal laws, called Water Resources Development Act (WRDA). The law requires the feds and the state to each put up half of the money needed for each project. While WRDA authorizes projects, Congress still must put up money to pay for them separately in appropriations bills, which it has done thus far.

Although Congress has approved several CERP projects, one big one is still pending on the Hill - a Central Everglades Planning Project (CEPP).

The Senate Environment and Public Works (EPW) Committee held a hearing on the advisability of a new WRDA bill February 10, but Sen. Bill Nelson (D-Fla.) wants Congress to move now on his legislation (S 2481) to authorize CEEP, not to be confused with CERP.

"We just can't wait that long," said Nelson, according to a transcript of his speech provided by his office.

"There's too much at stake, and this is why we want to get these all bundled up so the Army Corps of Engineers can proceed." His bill would also authorize any other Everglades Restoration projects that the Corps cleared in the next five years.



## Multi-part Wyden rec bill addresses dozens of issues

Sen. Ron Wyden (D-Ore.) formally introduced outdoor recreation legislation (S 2706) March 17 that cuts sideways into other Congressional initiatives to rewrite federal recreation law.

Among other things the Wyden bill would streamline federal recreation area passes, establish a national recreation area system, encourage federal land management agencies to authorize year-round recreation in seasonal areas, establish a trail maintenance pilot program and streamline permitting for outfitters.

Rep. Earl Blumenauer (D-Ore.) introduced a counterpart bill (HR 4790) the same day. Neither bill enjoys cosponsors.

More broadly, the House Natural Resources Committee and the Senate Energy Committee are expected this year to focus their federal recreation reform attention on legislation to replace the Federal Lands Recreation Enhancements Act (FLREA).

The Wyden/Blumenauer bill does address FLREA tangentially when it talks about common entrance fee systems.

Thus, one major point of contention facing FLREA federal agencies now have authority to increase (and decrease) entrance and user fees; the draft from House Natural Resources Committee Chairman Rob Bishop (R-Utah) would require approval of Congress of any fee schedule for the following year.

In another area of change the bill, titled the Federal Lands Recreation Enhancement Modernization Act of 2015 (FLREMA), would authorize broad new partnerships with private companies in the management of developed recreation sites on Forest Service and Bureau of Land Management (BLM) properties.

Finally, the draft purports to address the age-old dispute between the Forest Service and BLM on one side

and backcountry visitors on the other side over entrance fees to developed and semi-developed sites. The bill would attempt to define more precisely when amenity fees should be assessed at developed sites.

The Wyden-Blumenauer bill goes at things differently. Wyden said his goal is to improve access to federal recreation areas and to streamline permitting for outfitters.

To simplify things the bill would encourage federal and state land managers to combine their entrance passes. Presently, federal land management agencies have entrance programs that are different not only from state programs but also from federal agency to federal agency.

To make outfitters lives simpler the bill would have the Forest Service and BLM "adopt a uniform and consistent permitting process for outfitters and guides, including standard forms, deadlines, and informational materials."

Wyden and Blumenauer said their legislation sprung from a series of listening sessions they held last summer around Oregon. Said Wyden, "It's time for fresh recreation policies that cut through the bureaucratic red tape that chokes off opportunities for recreation in Oregon and across the country and clears the path for first-time visitors, fresh economic opportunity and new jobs in rural communities."

Blumenauer complained that federal recreation sites are not always readably available. "Our legislation changes that, removing burdensome barriers and helping support recreation programs so that people in Oregon and across America can more easily get out to enjoy the great outdoors," he said.

In an impressive piece of staff work Wyden and Blumenauer published encomiums from 18 different organizations, ranging from the Vet Voice Foundation to the National Ski Areas Association to the Sierra Club and more.

Not on their list but a bill

backer nonetheless is The Wilderness Society.

Said Paul Sanford, national director of recreation policy for the society, "The Recreation Not Red Tape Act (as it is titled) will increase recreational access for everyone, particularly veterans, seniors and young people, and will engage more young people and volunteers in the stewardship of our shared public lands. In doing so, it will provide significant benefits for recreationists, land managers and the thousands of local communities that benefit from the revenue and jobs that are sustained by the nation's \$646 billion outdoor recreation economy."

A summary of the bill is available at: <https://www.wyden.senate.gov/news/press-releases/wyden-blumenauer-introduce-bill-to-open-access-to-outdoor-recreation>

### **Huffman would bar contractors from NPS site naming rights**

Rep. Jared Huffman (D-Calif.) March 16 attempted to involve Congress in a simmering dispute over intellectual property in the national parks, i.e. the right to name parks and facilities in Yosemite National Park.

His amendment would effectively forbid concessioners and others from trademarking the names of any parks, the names of any facilities in parks and any Park Service symbols. He offered the amendment during House Natural Resources Committee mark-up of a Park Service Centennial bill (HR 4680). *(See separate article page one on the Centennial.)*

"I believe the misuse of Park Service images, logos and proprietary names is in essence a misappropriation of a public institution," Huffman said. "It implies an official endorsement of a private group but, more important, it insults our parks heritage and unique values."

Huffman eventually withdrew his amendment when committee chairman Rob Bishop (R-Utah) advised him that

it should be considered by the House Judiciary Committee and not by the House Natural Resources Committee.

The Yosemite brouhaha involves the previous concessioner Delaware North Companies, which lost its contract March 1; Aramark, operating as Yosemite Hospitality LLC, which took over the concession March 1; and the National Park Service.

Delaware North is asking Aramark to pay \$51 million for the naming rights within the park, which DNCY trademarked. But the feds say the intellectual property is worth about \$3.5 million.

The Park Service, concerned that litigation over the naming rights could close the park, on January 14 renamed sites within Yosemite, including the famed Ahwahnee Hotel. The new name is the Majestic Yosemite Hotel.

In a Sept. 17, 2015, lawsuit in the U.S. Court of Federal Claims DNCY argued that Aramark owes it the \$51 million for intellectual property.

Said Huffman, "If you have followed the story of Yosemite National Park - a beautiful and iconic place in our country - but some reckless action by a private company who decided to seek and was awarded copyright protection of publicly-owned National Park Service properties, places and this includes literally the name Yosemite National Park itself. Other groups have misappropriated iconic symbols such as the National Park Service arrowhead."

Aramark, which took over as lead concessioner in the park March 1, said it has an ambitious plan to renovate and modernize facilities throughout the park. At the same time the concessioner said it would retain 95 percent of the existing employees that served the previous concessioner, Delaware North Companies (DNCY).

DNCY said that NPS should have required that Aramark purchase its intellectual property *before* the new contract began March 1. "The Contract requires NPS to make the successor's purchase of and payment for DNCY's Other

Property 'a condition to the granting of' the next contract to operate concessions in Yosemite," said the company.

A predecessor concessioner to DNCY had trademarked the Yosemite site names prior to DNCY taking over in 1993, and those trademarks conveyed.

In addition to renaming Ahwahnee as the Majestic Yosemite Hotel, NPS redubbed Curry Village as Half Dome Village and Yosemite Lodge as Yosemite Valley Lodge, to name a few changes.

Concessioners belonging to the National Park Hospitality Association in December urged the Senate Energy Committee to loosen up the concessions contract system, by among other things authorizing contract terms longer than the 10-to-15 years now. They recommend as much as 40 years.

In the most notorious concessioner-Park Service dispute, incumbent concessioner Xanterra Parks & Resorts, sued Grand Canyon National Park over a new contract proposal that the company said would require it to put up too much money. NPS eventually capitulated and used its own money to pay the fees.

While the Grand Canyon contract is a big one the 15-year Yosemite contract is the largest single concession contract in the Park Service system. It is valued at \$2 billion.

## **House committee approves Utah RS 2477 ROW assertions**

The House Natural Resources Committee March 16 backed Utah county and state claims to 6,000 miles of RS 2477 rights-of-way (ROWS).

The bill before the committee (HR 4579) would effectively preempt existing law, which requires states and counties to prove claims in federal court. The main thrust of the bill is to withdraw 625,000 acres of BLM land for the Utah Test and Training Range (UTTR) for testing F-35 jets.

Committee Democrats offered an amendment in committee to strike the RS 2477 ROW provision from the bill, but Republicans defeated it in a 14-to-20 vote.

Amendment sponsor Alan Lowenthal (D-Calif.) said, "There is an administrative procedure for counties to address their RS 2477 claims and many of these claims identified in these maps are part of active litigation. I believe it would be irresponsible of this committee to overrule the established administrative procedure and the judicial system."

But committee chairman Rob Bishop (R-Utah) said, effectively, the county claims qualify as RS 2477 ROWs. "These roads are actively used by the counties and they do come under the air space that surrounds the UTTR, . . ." he said. "These roads were grandfathered in under RS 2477. They are not being contested by the state but by BLM, which is having difficulty giving them up. All are actively used rights-of-way in these three counties."

The bill (HR 4579), introduced by Rep. Chris Stewart (R-Utah), would convey 6,000 miles of RS 2477 ROWs to Box Elder, Juab, and Tooele Counties, Utah. Sen. Orrin Hatch (R-Utah) has introduced a counterpart bill (S 2383).

Testifying for the Interior Department at a February 25 House committee hearing, Karen E. Mouristen, assistant director of BLM for Energy and Minerals, objected to the RS 2477 ROW conveyances. "The resolution of these disputed claims is not necessary for the management of the periodic closures around the UTTR," she said. "For this and many other reasons, the Administration strongly opposes the resolution of these right-of-way claims in the manner laid out in this bill."

Except for the RS 2477 ROW provision, the Obama administration generally endorsed the withdrawal for the Utah Test and Training Range.

In still another area the Stewart/Hatch bills would direct BLM to exchange 98,523 acres of public lands in five Utah

counties for 84,400 acres of state-owned land and mineral rights.

BLM's Mouristen said the bureau has misgivings about the exchange because the public lands include sage-grouse habitat and potential historic sites.

On the RS 2477 ROW front, Rep. Paul Cook (R-Calif.) in January introduced legislation (HR 4313) that would ease standards of proof for ROWs in federal court. Cook would allow simple sworn statements to be entered as proof that the ROWs had been used over the years for transportation and were maintained by local governments.

The State of Utah has entered claims in federal court for thousands of such RS 2477 rights-of-way, including in Box Elder, Juab, and Tooele Counties.

Underlying the disputes over RS 2477 ROWs is of course a long-standing dispute over federal management of public lands in the West. In the most dramatic response to the feds is a landmark Utah law (HB 148 of March 23, 2012). It directs the federal government to transfer to Utah of more than 31 million acres of federal land, excepting only national parks (save for portions of Glen Canyon National Recreation Area), national monuments and wilderness areas.

In a related action four Utah House Congressmen introduced legislation (HR 4751) March 16 collectively that would turn over to local governments all law enforcement functions now held by the Bureau of Land Management (BLM) and the Forest Service.

Although the four Utah House members, led by Rep. Jason Chaffetz (R-Utah), took the lead in introducing the bill, the measure would apply to BLM and Forest Service lands in all states. To sweeten the deal for local governments the bill would have the agencies provide grants to local governments, based on federal law enforcement appropriations. The agencies are to turnover law enforcement responsibilities by Sept. 30, 2017.

## **Administration blocks another oil lease near Glacier NP**

Faced with an impatient judge, the Obama administration March 17 finally came to a decision on a controversial oil and gas lease just outside Glacier National Park - it canceled the lease.

The lease is one of 47 that the Bureau of Land Management (BLM) approved in 1982 in the Badger-Two Medicine area at the intersection of the Blackfeet Reservation, Glacier park, and the Bob Marshall Wilderness. The contested land is managed by the Lewis and Clark National Forest.

Under pressure from Congress and environmentalists the holders of 30 of the leases have relinquished them. BLM has suspended the rest.

But the holder of the subject lease, Solenex LLC, a Louisiana company, wants the suspension lifted. After submitting a request for permit to drill, Solenex sued BLM for the right to develop its lease. The court has since directed BLM to make up its mind about what to do about the drilling request.

On March 17 the Obama administration told U.S. District Court Judge Richard J. Leon in the District of Columbia that BLM has canceled the lease.

Sen. Jon Tester (D-Mont.), who has been attempting to persuade oil and gas companies to relinquish their leases, said, "For generations Blackfeet families and outdoorsmen have enjoyed this treasured place and today's decision will help ensure that this area remains pristine for years to come. There are special places in this world where we just shouldn't drill, and the Badger-Two Medicine is one of them."

The game isn't over yet for the Solenex lease. Judge Leon must still decide if he agrees with the company or with the Obama administration on the validity of the lease.

The administration argued that the lease was invalid from its inception

because BLM and the Forest Service performed inadequate analyses under the National Environmental Policy Act and the National Historic Preservation Act. The amendment said it would pay Solenex back for its original \$31,235 in lease payments, with no interest.

On Oct. 30, 2015, Secretary of Agriculture Tom Vilsack recommended to Secretary of Interior Sally Jewell that BLM cancel the lease because of its potential impacts on historical properties.

"Based on this information gained through the full consideration of the spiritual and cultural significance of the Badger-Two Medicine TCD, the Forest Service's determination of adverse effects, ACHP's final comments, changes in land management priorities, and consideration of Solenex LLC's comments, I find that the balance of considerations weigh in favor of not lifting the suspension of operations and production," Vilsack wrote Jewell.

ACHP is the Advisory Council on Historic Preservation and TCD is the Traditional Cultural District.

Of the administration decision Theresa Pierno, president of the National Parks Conservation Association, said, "Interior's historic action sets us on a path toward protecting sacred tribal lands and ensuring the protection of Glacier National Park. This pristine landscape is home not only to the Blackfeet culture's origin stories, but also some of our country's most iconic wildlife - grizzly bears, wolves, wolverines, and bald eagles."

## Notes

**Bill would ban NHA spending.** Rep Steve Russell (R-Okla.) introduced legislation (HR 4746) March 16 that would block future spending for National Heritage Areas (NHAs). On introducing his bill Russell said the Park Service could better use the \$19 million or so Congress appropriates each year for other purposes. "The National Park Service has begged Congress to fund vital historic sites only to have them decay further while needed funds have

been funneled to useless projects," he said. In fiscal year 2016 Congress appropriated \$19.8 million for NHAs, which are broad areas with significant cultural and historic sites that don't rise to the level of national parks. The Obama administration has recommended \$8.5 million for NHAs in fiscal 2017. NHAs are popular with Republicans and Democrats alike, but Congress has set no national standards for them. Russell said NPS has in the last three years spent almost \$52 million for 49 NHAs around the country. The Congressman said there was little logic in the geographical distribution of NHAs. "Mississippi and Utah each have two NHAs, while the neighboring states of Arkansas and Arizona have none," he said. And he noted that Pennsylvania alone has seven. Russell's Oklahoma has none.

### **FWS distributes boating grants.**

The Fish and Wildlife Service (FWS) said March 17 it will allocate \$14 million this year to states and other entities in boating infrastructure grants. Thirty-two states, commonwealths and territories will receive the money for such things as construction and maintenance of facilities for recreational vessels larger than 26 feet. Part of the money, derived from the Dingell-Johnson sport-fishing program, will be distributed noncompetitively at as much as \$200,000 per state and part will be distributed competitively, with a maximum grant of \$1.5 million. The Dingell-Johnson sport-fishing program, through various programs, distributes more than \$440 million per year. The revenues are derived from taxes on outdoor equipment. FWS Director Dan Ashe praised the program: "In the same way good hunting practices and land stewardship benefit terrestrial wildlife, boating facilities can benefit aquatic species by keeping waterways clean and driving revenues to state wildlife agencies through fishing that can be placed back into conservation. It's a cycle of success."

### **Grand Canyon bison in dispute.**

The environmental group Public Employees for Environmental Responsibility (PEER) March 17 took issue with a new Park Service report that "cattalo" are native

to Grand Canyon National Park. PEER argues that the hybrid buffalo-cattle is an invasive species that is damaging park resources. A herd of some 800 cattalo weighing 2,000 pound each have taken up residence at the park's north rim. A 2015 report reversed a prior NPS position and said the cattalo belong in the park, according to PEER. Said PEER Executive Director Jeff Ruch, "These cattalo are no more native to the Grand Canyon than pythons are native to the Everglades." Because the cattalo are decreed native to the park the Park Service may not remove them. The hybridized buffalo/cattle were introduced to the area in 1906.

#### **Nuclear waste in Biscayne?**

Ranking House Natural Resources Committee Democrat Raúl M. Grijalva (D-Ariz.) March 11 asked EPA Administrator Gina McCarthy to stop the flow of radioactive waste into Biscayne National Park from a Turkey Point Nuclear Generating Station. He referred to a report prepared by Miami Department of Regulatory Resources that says, "Due to the porous nature of the Biscayne Aquifer underlying the Cooling Canal System, a hyper-saline plume of Cooling Canal System water has migrated outside the boundaries of the Cooling Canal System through the groundwater and has moved beyond the boundaries of the Turkey Point facility property." Of the radioactive isotope tritium the report says, "Over the past five-year period, tritium levels in the Cooling Canal System typically ranged between 1,200 and 16,500 picocuries (measurement of radioactive elements) per liter (pCi/L), while levels for tritium in the surface waters of Biscayne Bay were typically less than 20 pCi/L." Said Grijalva in his letter to McCarthy, "This plant is polluting Biscayne Bay and risking contamination of drinking water for the three million Floridians living there. The EPA must step in now and address this problem before more serious damage is done." More information is available at: <http://1.usa.gov/IQMNhMg>.

**APPL takes a new name.** The Association of Partners for Public Lands (APPL) has given itself a new name - the Public Lands Alliance - to more closely symbolize its role as a representative

of nonprofit groups partnering with public land managers. The alliance said in a statement that the new name "enables us to align our external identity with our evolution as the national voice for nonprofit public lands partners, a leader in growing effective and successful partnerships, and a vital network for nonprofit leaders and land managers." The association made the change at its annual trade show last week in Spokane, Wash. The Public Lands Alliance is not to be confused with the Public Lands Council (a livestock grazing group), the Public Lands Foundation (Bureau of Land Management retirees) and Public Lands News (our sister publication). The association website is still listed as [www.appl.org](http://www.appl.org).

#### **BLM schedules planning meeting.**

The Bureau of Land Management (BLM) held a public meeting and webinar March 21 in Denver on a proposed new planning rule. The proposal, announced February 11, would modestly revise its existing planning rule. Among the proposed changes are a greater emphasis on broad area planning, preparation of an assessment prior to writing a management plan and earlier public involvement in the planning process. More info on the webinar and on BLM's planning initiative is at: [www.blm.gov/plan2](http://www.blm.gov/plan2). BLM's old planning rules - posted in 1979, 1983 and 2005 - guide the management of public lands, as required by the Federal Land Policy and Management Act of 1976. Said Janice Schneider, assistant secretary of Interior for Land and Minerals Management, "The revisions will enable us to be more agile in addressing challenges like proliferating invasive species and wildfire, helping to meet the Nation's need for energy, and conserving important wildlife habitat." Sportsmen for Responsible Energy Development endorsed the effort. "This process should help the agency increase public participation in land-use planning, better manage for important resources like wildlife and hunting, and enable stakeholders to find common ground in the management of our public lands," said Joel Webster, director of western lands with the Theodore Roosevelt Conservation Partnership. The partnership is a member of the sportsmen's group.

**Utah delegation wants fed police out.** The four Utah House Congressmen introduced legislation (HR 4751) collectively March 16 that would turn over to local governments all law enforcement functions now held by the Bureau of Land Management (BLM) and the Forest Service. Although the four Utah House members, led by Rep. Jason Chaffetz (R-Utah), took the lead in introducing the bill, the measure would apply to BLM and Forest Service lands in all states. To sweeten the deal for local governments the bill would have the agencies provide grants to local governments, based on federal law enforcement appropriations. The agencies are to turnover law enforcement responsibilities by Sept. 30, 2017. Said the Utah Congressional delegation in a joint statement: "Federal agencies do not enjoy the same level of trust and respect as local law enforcement that are deeply rooted in local communities. This legislation will help deescalate conflicts between law enforcement and local residents while improving transparency and accountability. The BLM and U.S. Forest Service will be able to focus on their core missions without the distraction of police functions. This is a win all around." The backstory on HR 4751 is of course the discontent in the West with federal management of public lands, symbolized by the takeover of the Malheur National Wildlife Refuge in January. And, at the state level in Utah, a landmark law (HB 148 of March 23, 2012) directs the federal government to transfer to Utah of more than 31 million acres of federal land, excepting national parks, national monuments and wilderness areas.

**Brengel replaces Obey at NPCA.**

Veteran environmentalist Kristen Brengel has been appointed vice president of government affairs for the National Parks Conservation Association. She replaces Craig Obey, who has been with NPCA since January 2002 and is the son of former Rep. David Obey (D-Wis.) Brengel will effectively serve as NPCA's chief lobbyist. Formerly a staff member with The Wilderness Society for nine years, Brengel has been with NPCA for seven years. As legislative director she has worked on public lands conservation, natural and cultural

resources, and park funding. Obey has taken a position as the chief operating officer for Families USA.

## Conference Calendar

### APRIL

5-9. **American Alliance for Health, Physical Education, Recreation and Dance National Convention & Expo** in Minneapolis, Minn. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191(703) 476-3400. <http://www.aahperd.org>.

6-10. **Society for American Archaeology Annual Meeting** in Orlando, Fla. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, DC 20002-3557. (202) 789-8200. <http://www.saa.org>.

25-27. **National Hydropower Association Annual Conference** in Washington, D.C., Contact: National Hydropower Association, 25 Massachusetts Ave., N.W., Suite 450, Washington, DC 20001. (202) 682-1700. <http://www.hydro.org>.

### MAY

16-20. **National Outdoor Recreation Conference** in Boise, Idaho. Contact: The Society of Outdoor Recreation Professionals, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.recpro.org>

18-21. **National Ski Areas Association National Convention and Trade Show** in Nashville, Tenn. Contact: National Ski Areas Association, 133 South Van Gordon St., Suite 300, Lakewood, CO 90228. (303) 987-1111. <http://www.nsaa.org>.

22-25. **National Sporting Goods Association Management Conference** in Hilton Head, S.C. Contact: National Sporting Goods Association, 1601 Feehanville Drive, Suite 300, Mt. Prospect, IL 60056-6035. (847) 296-6742. <http://www.nsga.org>.

### JUNE

9-11. **International Snowmobile Congress** in Rapid City, S.D. Contact: International Association of Snowmobile Administrators at <http://www.snowiasa.org/>