

Federal Parks & Recreation

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Volume 26 Number 10, May 23, 2008

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Congress readying budget to open way for money bills

The House and Senate are closing in on a fiscal year 2009 Congressional budget that, if enacted, would set the stage for consideration of domestic appropriations bills.

A House-Senate conference committee reached agreement on the budget (S Con Res 70) May 20. The House and Senate at press time were expected to approve the conference agreement before a Memorial Day break that begins May 23.

As soon as the House and Senate complete the budget, they will assign a spending ceiling for domestic spending to guide House and Senate Appropriations Committees. Appropriators and Congressional leaders will then assign spending caps for each individual money bill.

If all goes as planned, the House Appropriations subcommittee on Interior and related agencies could begin work on a fiscal 2008 money bill in early June, as soon as Congress returned from its Memorial Day vacation.

"We're continuing to work to get ready as soon as we get a (spending cap) number," said a House appropriations Committee staff member, "but we don't have a specific schedule."

As *FPR* reported in the last issue Rep. Norman Dicks (D-Wash.), chairman of the House subcommittee on Interior, intends to mark up a fiscal 2009 money bill soon. Dicks is aware that Congress may in the end simply extend fiscal 2008 spending levels into fiscal 2009 because the Senate is gridlocked politically. But he wants to be ready just in case the Senate is willing to let the Interior bill go.

The Congressional budget process has lain dormant for two months, but it

perked up last week when House Budget Committee leaders reached tentative agreements with Senate Budget Committee leaders. On May 20 they struck a final deal.

In the natural resource portion of the budget (Function 300) the conferees approved a large \$7.3 billion increase in budget authority, rising from \$33.1 billion in fiscal 2008 to \$40.5 billion in fiscal 2009.

A Senate Budget Committee staff member said most of the increase would be allocated to Hurricane Katrina recovery projects. Thus, the increased budget authority would likely not translate into a big increase in park and rec spending in appropriations bills.

However, S Con Res 70 does call on appropriators to reject Bush administration proposals for substantial spending reductions for federal land management agencies, particularly the Forest Service.

The Bush administration has proposed huge decreases for the National Forest System to offset increased fire suppression costs. But the conferees said, "(The budget) also increases funding for a number of other programs throughout the Department of the Interior and the Forest Service." The budget does not specify which programs should increase, nor by how much.

The budget also would make room for a National Park Service Centennial Challenge Fund, but it does not provide any money for it. As always, sponsors of the legislation must come up with budget offsets to pay the \$1 billion cost of the program. The budget endorses the fund "so long as it complies with the pay-as-you-go principle." (See related article page 6.)

Extension of a fiscal 2008 money bill into fiscal 2009 would help most programs in the Interior bill because the Bush administration has requested \$1 billion less for fiscal 2009 than a final fiscal 2008 appropriation of \$26.6 billion. However, that could reduce spending substantially for Park Service

operations and maintenance that are in for major increases in the administration budget above fiscal 2008.

For instance, the administration has asked for an increase in Park Service operations of \$161 million in fiscal 2009, \$2.132 billion compared to \$1.971 billion in fiscal 2008. Similarly the administration has asked for a \$31.4 million increase for Park Service maintenance, increasing from \$680.8 million to \$712.1 million. However, Congress sometimes makes exceptions in extending prior year spending bills.

NPS working on new tourism policy; visitation not all

The Park Service is closing in on a new tourism policy that would not only address a flat visitation rate but also the quality of park visits.

"Let me be very clear the goal is not just to increase visitation," said Dean Reeder, national tourism chief for the Park Service. "We are asking people when they prepare visitation strategies to use a market basket of tools to enhance the visitation experience."

A draft of the policy has been around for a year, Reeder said, and regional directors have been briefed on its contents. The next step will be a presentation to the NPS National Leadership Council. A date for that presentation has not been set. Reeder guessed that a final policy is 60 to 90 days away.

The Park Service leadership has been somewhat distracted in the last year by the development of a \$3 billion Centennial Initiative to spruce up the National Park System for its Centennial in 2016. However, the proposed tourism policy can dovetail with the Centennial Initiative because one of the initiative's five basic goals is to enhance the visitor experience.

The draft strategy contains a half-dozen common sense recommendations, to wit, engage partners, improve marketing, increase off-season visits, improve

visitor experience, improve NPS training, and establish an extra funding source.

Money is as usual a touchy subject. The draft plan assumes the creation of a "dedicated funding source" to pay for the tourism plan. The money would come from "leveraging with tourism partners and stakeholders in cooperative projects."

NPS hasn't decided exactly where the money would come from and is looking at a number of options, including entrance fees and franchise fees. "We're not talking about tapping funding sources that are programmed to go somewhere else," Reeder said. "We're looking at new money."

Most of the money would be used for marketing projects, he said, with a "reserve amount set aside for lesser-known parks, even those that don't have fees. The main criterion is we're looking for matches from partners."

Reeder said most parks do not now have a tourism budget. "We have zero money now," he said. "Most superintendents said they are willing to buy in if we got partners to pay their share. They say, 'Great, but show us the money.'"

Individual parks and regions have long attempted to invite the public to visit in shoulder seasons in the spring and fall when many units provide unique attributes to the public. The park policy would make that, well, policy.

"We think we and our partners can focus on shoulder seasons and off-seasons and target people who can travel in those seasons," said Reeder. "We'd like to even out the visitation curve. Effective marketing may help us chop off the peaks."

Visitation to the National Park System has for the most part been flat or declined over the last two decades, even without the setback of the 911 terrorism attacks. Although some park advocates are just as pleased the parks aren't overrun with visitors, gateway

communities, concessioners and the recreation industry at large are not.

In calendar 2007 visitation increased just over one percent, rising from 272,623,980 in 2006 to 275,581,547 in 2007, according to NPS statistics.

NPS and the recreation industry have cited a number of reasons for the long, flat trend in visitation to the national parks, beginning with competition from commercial tourist facilities, such as the Disney properties. Other cited reasons are an increase in minority groups in the population that don't visit parks as often as whites traditionally have and a Park Service policy that favors protection of parks over recreational uses.

Reeder emphasized that no individual park was overcapacity, despite tales of traffic jams in Yosemite, Yellowstone, Grand Canyon, and Acadia National Parks and other units. "There are a handful of parks where visitor services are strained at peak periods," said Reeder. A more even visitation in the non-summer months would help that, he said.

The proposed policy is not a rule or a regulation and has not been subjected to the public comment rigors that a rule or regulation would require. But Reeder said NPS has circulated the draft policy widely among its partners and interested publics.

Farm bill nears enactment; mixed results for outdoors

Congress was on course at press time to override a Presidential veto of a five-year farm bill (HR 2419), ensuring enactment of major conservation provisions into law. The House May 21 voted to override the veto 316-to-108.

The bill contains good news and bad news for sportsmen, according to hunting and fishing groups. Of great importance HR 2419 would reduce the size of the Conservation Reserve Program (CRP) from 39.2 million acres to 32 million acres. Called the "holy grail"

of conservation programs by Ducks Unlimited, CRP pays farmers not to cultivate fields.

In addition the bill would not provide as much assistance as sportsmen had hoped for a Wetlands Reserve Program and a sodsaver program.

A House-Senate conference committee put together a final version of HR 2419 May 8. The House then approved the conference bill May 14 by a 318-to-106 vote and the Senate approved it May 15 by an 81-to-15 vote.

Despite those veto-proof margins President Bush vetoed the bill May 21. He didn't single out conservation programs in his veto message. Rather, he objected to subsidies to farmers in a time of great prosperity.

Depending on who is doing the estimating the bill would provide \$5.1 billion more for conservation programs over five years (Sen. Tom Harkin (D-Iowa) or \$4 billion (Sen. Mike Crapo (R-Idaho.)) Either way there will be more money in the pipeline.

Still, conservation groups such as Ducks Unlimited were concerned that HR 2419 would reduce total acreage set aside under the CRP program. At the moment the stipend farmers receive for dedicating land to the CRP is dwarfed by profits they can make from farming corn for ethanol.

Ducks Unlimited made this case for expanding CRP: "For example, 7.8 million CRP acres in the Prairie Pothole Region are responsible for adding more than 2.2 million ducks to the annual fall migration each year, according to the U.S. Fish Wildlife Service - equivalent to all ducks harvested in the Atlantic Flyway."

Ducks Unlimited was also disappointed that the conferees removed a mandatory provision that would have withheld crop insurance and disaster payments designed to prevent cultivation of crops on virgin grasslands. Said Ducks Unlimited, "The Sodsaver provisions were originally planned to be

mandatory nationwide. Changes to the bill altered the language to only apply to the five Prairie Pothole states (Montana, North Dakota, South Dakota, Iowa and Minnesota) and participation in the program is now at the option of those states' governors."

The Environmental Defense Fund (EDF) added, "The conference committee's decision to gut Sodsaver - while adding almost \$4 billion in new subsidies for a new permanent disaster fund that will accelerate the conversion of grassland to intensive crop production - is a real disaster for the nation's remaining native prairies," said Sara Hopper, an attorney with EDF.

Sportsmen believe they achieved one big victory in HR 2419 in the form of an Open Fields program that is designed to provide incentives to private landowners to open their lands to hunters and fishermen. The House and Senate had each earlier approved \$20 million per year for five years of guaranteed money, but the conferees reduced that to one big \$50 million allocation, to be used over five years.

Still, "Open Fields is a winner on all fronts," said Geoff Mullins, initiative manager for the Theodore Roosevelt Conservation Partnership (TRCP). "It helps farmers and ranchers by establishing new financial incentives, it helps fish and wildlife by expanding their habitat base and it helps sportsmen by expanding the places where they can hunt and fish."

TRCP President George Copper praised the assistance of labor unions. "Multiple national unions affiliated with the AFL-CIO joined together to push for Open Fields, as did scores of rank-and-file union members from across the country," he said.

The National Trust for Historic Preservation said HR 2419 contains a half-dozen positive historic preservation provisions. Among them the bill extends for two years a provision of law that grants capital gains tax breaks for voluntary easements for conservation purposes.

New Senate omnibus bill still at early planning stages

Senate Energy Committee leaders intend to put together another omnibus bill in June after Congress takes a Memorial Day break.

Like an omnibus bill (S 2739) that was enacted earlier this month (PL 110-229 of May 8), the new measure would wrap a host of committee-passed bills into one big package. The omnibus procedure helps overcome Senate floor "holds" that prevent consideration of single bills.

Unlike S 2739 the next omnibus bill will likely not be restricted to legislation that the House has already passed. Instead it will include all measures passed by the committee in this Congress that Chairman Jeff Bingaman (D-N.M.) and ranking Republican Pete Domenici (N.M.) deem acceptable, i.e. are not too controversial.

"The assumption is we'll include everything the committee has passed," said a Democratic committee staff member. "We have 48 bills on the (Senate) calendar (that the committee passed over the last two years) and we passed another 43 May 7. The assumption we'll begin with is we'll include everything that the committee has passed."

Said a Republican committee staff member, "At some point there probably will be another omnibus but there is no indication of what will be in it. At the staff level there hasn't been much discussion yet."

The committee will assemble an omnibus bill because Sen. Tom Coburn (R-Okla.) has objected to any legislation that would come with a price tag and require additional spending. By placing a "hold" on individual bills he has prevented Senate consideration.

To work around Coburn's hold earlier this spring the committee put together S 2739 and Senate Majority Leader Harry Reid (D-Nev.) negotiated an agreement for its consideration with Coburn.

Under the quid pro quo Coburn was allowed to offer a handful of amendments on the Senate floor.

For the moment committee staff members anticipate a new omnibus bill will include a measure (S 1139) that was somewhat controversial in the House that would certify the 26 million-acre National Landscape Conservation System (NLCS) managed by the Bureau of Land Management. "It passed out of committee unanimously," said a Senate Energy Committee staff member.

Still, considerable opposition sprung up when the House considered its counterpart NLCS bill (HR 2016.) Although the House approved it by a substantial 278-to-140 vote, western Republicans opposed it vehemently. Western Republican senators may follow suit, although the Bush administration supports the legislation.

Besides the western Republicans, Sen. Dianne Feinstein (D-Calif.) has said she will offer an amendment to expand the NLCS system to 32 million acres. She will try to add the entire California Desert Conservation Area (CDCA) to the bill and make it a unit of the NLCS. Some four million acres of the CDCA are already in the system but Feinstein would add another six million acres. That could complicate things when an omnibus bill reaches the House.

The Senate Energy Committee staff could complete an omnibus bill as early as next month, said the Democratic staff member. It will take time. For one thing, the Senate will take a Memorial Day break next week. For another thing the committee staff must do the paperwork to write an omnibus bill, such as grouping individual bills into separate major titles, such as national heritage area bills, national park bills, national forest bills, etc.

Not included in S 2739 - but candidates for the next omnibus bill - are these committee-approved national heritage areas (NHAs): a Quinebaug and Shetucket Rivers Valley National Heritage Corridor in Massachusetts and Connecticut; a Freedom's Way NHA in Massa-

chusetts and New Hampshire; a Sangre de Cristo NHA in Colorado; a South Park NHA in Colorado; Chattahoochee Trace National Heritage Corridor in Georgia and Alabama; a Mississippi Hills NHA; a Mississippi Delta NHA; and a Baltimore NHA.

The Senate committee has not approved House-passed bills to designate a Muscle Shoals NHA in Alabama and a Santa Cruz Valley NHA in Arizona.

The Senate committee approved May 7 noteworthy bills to establish the Paterson Great Falls National Historical Park in the State of New Jersey (House passed Oct. 22, 2007); to authorize the Preserve America Program and Save America's Treasures Program (hearing held April 24 on House bill); and to designate wilderness in the Rocky Mountain National Park and adjust the boundaries of the Arapaho National Recreation Area of the Arapaho National Forest in Colorado (hearing held Nov. 13, 2007, on House bill.)

Offsets still a problem for NPS Challenge bill in House

The full House won't address a National Park Service Centennial Challenge bill (HR 3094) until next month at the earliest.

When it does House leaders will face the same major obstacle that has bedeviled the legislation for a year - finding a budget offset to pay the \$100 million per year freight.

When the House Natural Resources Committee May 7 approved the bill, it left unresolved the identification of an offset. It did include a placeholder from \$30 million per year in Land and Water Conservation Fund contract authority.

But Congress still must come up with \$100 million per year in guaranteed money - outside the appropriations process - to finance matching partnership grants.

Confirmed a committee staff member

this week, "As stated at the mark-up of HR 3094, we currently only have \$30 million for the bill and are still searching for ways to achieve \$100 million. This search will take some time."

Supporters of the legislation in Congress and among interest groups have recommended a broad array of possible offsets and, in the end, they expect a package of items will be needed. Most proposals have some built-in deficiency, such as guaranteed opposition from offended interests.

Supporters are now evaluating a possible new offset based on the sale of an America The Beautiful Passport in Europe. The proponents would peg the passport at 80 Euros and apply the difference - about \$45 - to the Centennial Challenge program.

"We would sell the passport in a slightly fancier package and provide additional benefits, such as access to a website with most languages available," said Derrick Crandall, president of the American Recreation Coalition. "We think we could sell one million of them and produce \$45 million."

Other recommended offsets include \$90 million from Outer Continental Shelf oil and gas revenues that exceed anticipated revenues and \$10 million from special postage stamps. Both of those are written into a counterpart Senate bill (S 2817) introduced by Sen. Ken Salazar (D-Colo.) He is still waiting for a Congressional Budget Office to "score" the offshore proposal under Congressional budget rules.

House Natural Resources Committee Democrats first considered unspecified fees on users of federal lands. That did not go over well with commodity users of the public lands.

Other recommendations considered by the committee include a two percent levy on the state share of federal oil and gas leasing royalties, cancellation of an ultra-deepwater offshore oil and gas research program and a levy on each application for permit to drill for oil and gas on federal land. Those propos-

als did not go over well with western Congressmen.

House Natural Resources Committee Republicans have also recommended authorization of oil and gas drilling on the coastal plain of the Arctic National Wildlife Refuge, with some royalties going to the Centennial Challenge. And they have suggested allocation of revenues from timber salvage sales. Both of those proposals are unacceptable to committee Democrats.

As for the substance of HR 3094, the House committee-passed bill approximates the Senate bill (S 2817.) That is, it would broadly define partnerships that could participate in projects, set limits on how much money could be allocated to specific activities such as capital improvements (with a 30 percent cap on construction), authorize multi-park and national projects, encourage recreation use in parks within limits, authorize use of the money for land acquisition, allow concessioners to serve as partners, and insure that trails are eligible for Challenge money.

Salazar and four cosponsors introduced the Senate bill (S 2817) April 3. Salazar and company are not expected to wait for the House to complete HR 3094 and refer it to the Senate before acting, but nothing has been scheduled yet. Cosponsors include Sens. Susan Collins (R-Me.), Max Baucus (D-Mont), Norm Coleman (R-Minn.) and John Tester (D-Mont.)

The Bush administration came up with the idea of the Challenge program, led by Secretary of Interior Dirk Kempthorne. 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.

EPA said near air rule that could sully Class I areas

Proposed new clean air regulations could open the way for construction of power plants near national parks and wilderness areas, EPA and Park Service scientists warn.

The proposed regulations - the administration is supposedly on the verge of making them final - would change the formula for measuring pollution over Class I federal areas, i.e. national parks and large wilderness areas.

Under existing rules EPA and NPS measure spikes in pollution to assess peak period damage. The EPA proposal would average the amount of pollution produced by power plants over a year, thus eliminating spikes.

EPA's Region 10 faulted the proposed regs of May 8, 2007, "Because of this fundamental misunderstanding of the permit process and the lack of understanding of how variances work, this rulemaking misses the mark on the appropriate solution to the issue of increment consumption for sources with variances."

Said NPS in comment on the proposed rule, "The protection of short term (prevention of significant deterioration) increments cannot be assured using annual average emission rates."

The National Park Conservation Association (NPCA) jumped on the dispute last week and published a report charging the proposed rule could allow additional air pollution over 10 national parks from coal-fired power plants.

NPCA said the 10 are: Shenandoah (Va.), Great Smoky Mountains (Tenn./N.C.), Mammoth Cave (Ky.), Theodore Roosevelt (N.D.), Mesa Verde (Co.), Capitol Reef (Utah), Zion (Utah), Great Basin (Nev.), Wind Cave (S.D.), and Badlands (S.D.)

In proposing the rule EPA said the new formula would reduce workloads and

expenses for power plant operators and state and local governments. "Over the 3-year period covered by the ICR, we estimate an average annual reduction in burden for all industry entities that would be affected by the proposed rule," EPA said in its proposal last year. "For the same reasons, we also expect the proposed rule to reduce burdens for State and local authorities reviewing permits when fully implemented."

In the Clean Air Act Amendments of 1977 Congress directed EPA to eliminate haze over national parks larger than 6,000 acres, wilderness areas larger than 5,000 acres, national memorial parks larger than 5,000 acres and international parks. There are more than 158 such areas, including 48 national parks, 21 national wildlife refuges and 88 wilderness areas managed by the Forest Service.

The proposed EPA regulation of May 8, 2007, addressed just pollutants produced by electricity-producing power plants powered by fossil fuels of a significant size that burn fossil fuels, i.e. coal. NPCA identified 28 proposed coal-fired power plants that are within a 300-kilometer air shed around national parks.

NPCA in its report said the proposed EPA method of measuring would allow power plants to produce spikes of pollutants. "A facility looking to locate near a class I area could average the hourly and daily emissions of all area pollution sources over the course of a year," said the NPCA report, "thus hiding pollution spikes that can cause real harm in class I areas or even exceed the short-term increment limits."

Congress begins work on bill to bar boat waste permits

A Senate committee and a House committee this month passed legislation (S 2766, HR 5949) that would head off an impending federal order that all recreational boats obtain water discharge permits, beginning October 1.

The legislation is designed to

overcome a court order that requires a permit for 13 million recreation vessels in the country beginning in October. The bill says simply that no permit is needed for the discharge of gray water, bilge water, engine oil, etc, "if the discharge is from a recreational vessel."

Sen. Barbara Boxer (D-Calif.) in the Senate and Reps. Steven C. LaTourette (R-Ohio) and Candice Miller (R-Mich.) in the House are the lead sponsors.

The House Transportation Committee approved HR 5949 May 15 and the Senate Environment and Public Works Committee approved S 2766 May 21. The measures are identical.

Said LaTourette on House committee passage, "Nobody in their right mind thinks Congress intended for recreational boaters to have pollution permits, and we must put a stop to this baffling, renegade court ruling." LaTourette said the fine for boats that did not have a permit could amount to \$32,500 per day.

Said committee chairman James Oberstar (D-Minn.), "The relevant provision in the Clean Water Act was never intended to be interpreted to include recreational boats, and we must correct the court's decision before it undoes decades of reasonable, rational practices by the EPA."

The U.S. District Court in Northern California issued the permit mandate in a Sept. 18, 2006, decision. It told EPA that under the Clean Water Act (CWA) the agency must require a permit for the discharge of water for all vessels. EPA had issued regulations in May 1973 that exempted "discharges incidental to the normal operation of a vessel." The court vacated that exemption.

EPA subsequently on June 21, 2007, notified the public that it would require permits after September 2008 and would develop a "permitting framework," i.e. identify the price of permits and a method for 13 million owners of recreational boats to obtain permits.

Fifteen sport fishing and environmental groups brought the original lawsuit against EPA's 1973 regulation because they were concerned about the spread of non-native species via wastewater. They argued that the CWA does not provide an exemption from the requirement.

Judge Susan Illston agreed. She also rejected EPA's argument that permitting 13 million recreation vessels would be burdensome. "The Court is confident, however, that EPA has both the expertise and discretion to find an adequate solution to the problem at hand," she said.

"Moreover," the judge held, "EPA, the industry, and the regulatory agencies all have more than two years to prepare for any behavioral change that results from EPA's action. The Court believes this is a sufficient amount of time to soften the suddenness of the regulatory change."

Recreational voters countered that the judge erroneously wrapped recreational vehicles into a regulation targeted at larger ships that expel ballast water.

Lawsuit would block PWCs in Gulf Islands, Picture Rocks

Two national environmental groups filed a lawsuit May 15 that seeks to forbid personal watercraft use (PWC) in Gulf Islands National Seashore and Pictured Rocks National Lakeshore.

The lawsuit, filed by the Friends of the Earth and The Wilderness Society, says NPS violated its own management policies and a legal settlement agreement.

Above and beyond the legal objections, the environmentalists charged that, for political reasons, then Secretary of Interior Gail Norton ordered NPS to allow PWC use in Gulf Islands and Pictured Rocks, even though NPS opposed it.

"It was a completely political

decision by Norton," said Kristen Brengel, a staff member with The Wilderness Society. "She only reversed a couple of parks. Both Gulf Islands and Pictured Rocks were going to prohibit the use and she ordered them to allow it."

The lawsuit says the Gulf Islands decision of May 4, 2006, violates the National Park Service Organic Act of 1916. "By issuing a Final Rule permitting Jetski use at Gulf Islands, despite the agency's earlier findings that Jetski use 'is not compatible with the goals and objected for the management of Gulf Islands' and pose(s) an unacceptable threat to park resources and values,' the Park Service is violating the Park Service Organic Act, . . ." says the lawsuit.

The suit says the Pictured Rock decision of Oct. 27, 2006, also violates the Park Service Management Policies. "This decision was () made over the objections of most commenters, without adequate site-specific analysis, and in contravention of the Park Service's statutory mandate to preserve the 'superb environmental quality' of our National Parks," says the suit.

The litigants ask the judge to block PWC use in the park units and to require NPS to write a full-blown EIS. NPS prepared environmental analyses before issuing the regulations

The legal settlement in 2001 concluded a lawsuit brought by the Bluewater Network (a subsidiary of Friends of the Earth) that sought to forbid PWC use in 21 park units. After the 2001 agreement NPS prepared environmental analyses for 10 units and approved limited use in them.

In May 2000 the Clinton administration had published a rule that immediately barred PWCs in all units. The rule said that 21 units could consider PWC use in the future. Five NPS units immediately discontinued the practice. Subsequently, NPS prepared environmental analyses for 15 other units.

Brengel said the environmentalists

did not bring suit against PWC use in the other park units where it is allowed because the Bush administration didn't intrude politically in decisions approving the use.

The latest lawsuit was filed in U.S. District Court for the District of Columbia and was assigned to Judge Gladys Kessler. The suit is cited as *Bluewater Network et al. v. Dirk Kempthorne, Case 1:08-cv-00841 of May 15, 2008.*

Notes

Utah county loses RS 2477 lawsuit.

A federal judge May 16 ruled that Kane County, Utah, could not designate 39 roads across federal land as RS 2477 rights-of-way under its jurisdiction. The county had posted signs on the roads that cross the Grand Staircase-Escalante National Monument to encourage public access. But U.S. District Court Judge Tena Campbell in central Utah said that the Supremacy Clause of the U.S. Constitution trumps any assertions Kane County made under the 1866 RS 2477 law and the Federal Land Policy and Management Act of 1976. The latter law said that local governments have the right to manage any improved roads that they maintained prior to 1976. The instant lawsuit to block those claims was brought by the Southern Utah Wilderness Association and The Wilderness Society. Judge Campbell held that Kane County's assertions have yet to be verified by a court. "Consequently," she said, "the County's actions, unsupported by any valid existing right under R.S. 2477, are preempted by the Supremacy Clause because they create an obstacle to the accomplishment and execution of Congress's land management objectives, as carried out by (the Bureau of Land Management) and NPS." The Kane County assertions are considered a major test case that could set a precedent for literally thousands of other such claims, in Utah and around the country.

House approves land disposal bill.

The National Trust for Historic Preservation is eyeing with some trepidation a bill (HR 5787) that would encourage the

sale of excess federal property. The House debated the measure May 19 and approved it by unanimous consent May 21. The legislation would allow agencies to retain revenues from the sale of surplus property and to use that money to administer additional land sales. The trust worries that the provision would encourage agencies to sell federal properties, including historic structures, "without the proper stewardship considerations intact." However, the Congressional Budget Office (CBO) in a report on the bill anticipates the legislation would have little impact on land sales. The office said, "CBO estimates that offsetting receipts earned from additional sales under the legislation would total about \$35 million over the 2009-2018 period, additional spending would total an estimated \$20 million." CBO also noted that the Park Service could still review surplus lands for possible transfer to communities for park and rec purposes before any sales. Said CBO, "In addition, any new properties that would be made available for disposal under the bill would still have to be evaluated for possible public benefit conveyances - for shelter for the homeless, or for educational or recreational uses - before those properties could be offered for sale. Consequently, CBO expects that the number of properties sold for cash under this bill would be relatively small." The House Oversight and Government Affairs Committee approved the bill May 7. The measure is sponsored chiefly by Rep. Dennis Moore (D-Kan.)

Park advocates attack Bighorn

plan. Two groups of National Park System supporters wrote NPS Director Mary Bomar this week to protest a planned visitor center for the Little Bighorn Battlefield National Monument in Montana. The groups, the Public Employees for Environmental Responsibility (PEER) and the Coalition of National Park Service Retirees (CNPSR), said the visitor center would intrude on the battlefield site. Said Bill Wade, Executive Council Chair of the CNPSR, "Director Bomar, we strongly urge you to suspend construction pending your analysis of the FONSI by a cultural resource specialist on your own staff, who can provide you with

an assessment of its adequacy to justify the project."

Valley Forge veto asked. The Coalition of National Park Service Retirees (CNPSR) is asking Secretary of Interior Dirk Kempthorne to intervene to halt the construction of a resort on 78 acres within the Valley Forge National Historical Park. In March the coalition complained NPS and Interior Department leaders had not backed the superintendent of the park in objecting to the project. Although Kempthorne and NPS officials have subsequently objected, the coalition is asking for stronger medicine. CNPSR said May 15 it has sent a letter to Kempthorne requesting that he use his authority under the 1916 Organic Act to prevent impairment of the park. The coalition said the proponent of the resort, American Revolution Center, has exerted "intense political pressure." The president of the American Revolution Center, Thomas M. Daly, describes the project as a museum cum conference center. The Park Service retirees' coalition says the American Revolution Center will include a hotel, tavern and restaurant. The project was approved Sept. 6, 2007, by the Lower Providence Township Board of Supervisors by a 3-to-2 vote.

Corps reviews Everglades regs.

The Corps of Engineers is conducting a mandatory, five-year review of its regulations that govern an \$8 billion Everglades restoration program. By law the Corps must seek public comment on the efficacy of its regulations and consider revisions to it every five years. So on May 20 the Corps solicited public opinion on its regulations of Nov. 12, 2003, that implement the Comprehensive Everglades Restoration Project. Comment by August 18 to: *U.S. Army Corps of Engineers, ATTN: Stu Appelbaum, P.O. Box 4970, Jacksonville, FL 32232-0019*, or E-mail to: *ProRegs@usace.army.mil*.

NPS advisors to meet in July.

The National Park System Advisory Board will meet July 21-22 in Washington, D.C. and will be addressed by Secretary of Interior Dirk Kempthorne and NPS Director Mary Bomar. A meeting notice says the board "may consider" 17 proposed new

National Historic Landmarks and three minor amendments to three existing landmarks.

Kempthorne to get Coleman award.

The American Recreation Coalition (ARC) will present the 20th Sheldon Coleman Great Outdoors Award to Secretary of Interior Dirk Kempthorne. The award will be presented June 10 at the featured event of Great Outdoors Week 2008. ARC, an alliance of the recreation industry and recreation users, has since 1989 presented the award to an individual whose "personal efforts have contributed substantially to enhancing outdoor experiences in America." The award is named for Sheldon Coleman, chairman of the Coleman Company and champion of outdoor recreation. Among other things Kempthorne has spearheaded a campaign to upgrade the National Park System, called the NPS Centennial Initiative.

BLM retirees fault Utah County

bill. An association of Bureau of Land Management retirees is objecting to a bill (S 2834) that would both authorize land sales and protect broad swaths of public land in Washington County, Utah. The retirees wrote bill author Sen. Robert F. Bennett (R-Utah) May 9 to protest land sale provisions. Specifically, the Public Lands Foundation said the proposed transfer of revenues from the sale of Bureau of Land Management property to Washington County contravenes the Federal Land Policy and Management Act of 1976 (FLPMA.) "This would run counter to existing law and public land policy," said the foundation. "(FLPMA) Sec. 102 (a)(1)) states very clearly that public lands shall 'be retained in Federal ownership' except where disposal will serve the national interest." The bill authorizes the sale of 9,000 acres of public lands. The Bennett bill would also designate 264,000 acres of wilderness, designate two national conservation areas and designate 166 miles of the Virgin River as part of the National Wild and Scenic Rivers System. The Department of Interior generally praised the legislation April 22 in a Senate Energy Committee hearing.

Boxscore of Legislation

LEGISLATION

STATUS

COMMENT

Appropriations 2009

No bills yet

President Bush submitted his budget recommendations Feb. 4.

President would decrease spending for most park and rec programs, except NPS.

Congressional Budget 2009

H Con Res 312 (Spratt)
S Con Res 70 (Conrad)

Conference committee approved May 20.

Would increase natural resources spending but mostly for Hurricane Katrina.

Appropriations 2008 (Interior)

HR 2643 (Dicks)

President Bush signed into law Dec. 26 as PL 110-161

Increases park and rec spending across-the-board, despite veto threat.

Appropriations 2008 (Energy & Water)

HR 2641 (Visclosky)

President Bush signed into law Dec. 26 as PL 110-161

Increases Corp of Engineers and Bureau of Reclamation spending.

Appropriations 2008 (Transportation)

HR 3074 (Olver)

President Bush signed into law Dec. 26 as PL 110-161

Provides full funding for park are rec programs, as called for by SAFGTEA-LU.

NPS Centennial Challenge

S 1253 (Bingaman)
HR 2959 (Rod Bishop)
HR 3094 (Rahall)
S 2817 (Salazar)

House committee approved HR 3094 May 7. Senate hearing Aug. 2, 2007.

S 1253 and HR 2959 would establish \$2 billion program to help the parks.

NPS tax assistance

HR 1731 (Baird)

Baird introduced March 28, 2007.

Would authorize NPS improvement fund financed by income tax check-off.

FLREA repeal

S 2438 (Baucus)

Baucus introduced December 10.

Would repeal most of 2004 federal agency recreation fee law.

Heritage areas national

S 278 (Thomas)
HR 1483 (Regula)

Senate committee approved July 25, 2007. House approved Oct. 25, 2007.

Would establish national standards for new NHA designations. HR 1483 Would designate six new NHAs.

Farm bill

HR 2419 (Peterson)

President Bush vetoed May 21. House overrode veto May 21.

Would authorize major conservation programs for five years, including new Open Fields program.

Conservation tax credits

S 469 (Baucus)
HR 1576 (Thompson)

Senate committee approved Sept. 20, 2007. Thompson introduced March 19, 2007.

Would make semi-permanent conservation tax credits Congress approved last year.

Wildlife conservation grants

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.

American Discovery Trail/National Discovery Trails

HR 74 (Bartlett)

Bartlett introduced Jan. 4, 2007.

Would designate an American Discovery Trail and discovery trail system.

Trail acquisition authority

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.

Trail expansion authority

S 580 (Hatch)

Senate committee approved June 26, 2007.

Would authorize route variations for four national historic trails.

Arizona trail

S 1304 McCain
HR 2297 (Giffords)

Senate hearing Sept. 11, 2007. Giffords introduced May 14, 2007.

Would designate 807-mile trail from bottom to top of Arizona.