

Federal Parks & Recreation

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NPS visitation finally gets a boost; reasons assessed

After a decade of decline visitation to the National Park System is up substantially nationwide this year. With a few exceptions.

Explanations for the up-tick range from cheaper gas to less expensive recreation choices in a tough economy to better marketing by the Park Service to fee-free days.

Whatever the reason, for the year through July NPS nationally has hosted five million more visitors than last year, at a percentage increase of 2.66 percent. And that's with some brutal weather in the northeastern United States that led to large decreases in visitation in Acadia National Park in Maine (down by more than 75,000) and Boston National Historical Park (down by more than 110,000.)

Some attributed the increases to fee-free weekends in June and July and the buzz those announcements caused. But to the counselor to the National Park Hospitality Association, Derrick Crandall, the publicity created by fee-free days may have had as much impact as the fee-free weekends themselves.

"As I've repeatedly said, I'm not sure fee-free days was the right marketing tool," said Crandall. "But it did stir up media interest and welcome interest among the American people. It wasn't just the fee-free days. The publicity reminded the American public what a great value the national parks are."

NPS held its first fee-free weekend June 20-21, its second fee-free weekend July 18-19 and the next is scheduled for this weekend, August 15-16.

Kathy Kupper, a Park Service public affairs specialist, said in an E-mail that fee-free days in June probably had a beneficial effect. "It is hard to quantify the effect that entrance fee free days have had nationwide but it looks as if about half of the parks had a least a slight increase on the entrance fee free days in June," she said.

Crandall gave this example of the side benefits to the fee-free weekends: In its fee-free publicity materials the Park Service frequently mentioned that concessioners in the parks were providing incentives to visitors and referred the public to a hospitality association website. "We had 320,000 hits at our website in June compared to 5,000 in a typical month," said Crandall.

NPS's Kupper said, "One of the main reasons the NPS wanted to have fee-free days was to remind people in these tough economic times that our national parks are fun and affordable places to visit, whether for a day or a week."

The Park Service is due for another boost next month when the Public Broadcasting System begins airing a series on the national parks put together by noted filmmaker Ken Burns. The six-episode, 12-hour series is scheduled to begin September 27.

"The PBS audience is skewed very heavily to people who already visit the national parks," said Crandall. "But, just like the fee-free days, I think the attention will remind more American people that the parks exist and will increase their interest."

Some parks, such as Yellowstone, are posting all-time records. Yellowstone set a record for July with 900,515 visitors, compared to the previous high in July 1995 of 847,000 visitors. The park said June had also set an all-time record.

For the year, Yellowstone said in a press release, "The park may be on a pace to break the annual visitation record of 3.15 million set in 2007." In total, according to the NPS visitation website, Yellowstone has hosted

2,632,458 visitors through July, compared to 2,454,517 visitors last year at this time. That's an increase of 177,941.

Not all federal land management agencies are doing as well. The Forest Service reported last month that visitation in the national forests has declined by 18 percent in the last eight years from 214,200,000 visitors in 2001 to 175,624,000 in 2008.

The service said July 23 in a new report the decline was felt in all nine regions of the National Forest System, with Alaska declining by 74 percent, the Northeast by 42 percent and the Pacific Northwest by 37 percent. Critics of national forest entrance fees, such as the Western Slope No-Fee Coalition, immediately blamed new fees for the decrease.

Sen. Max Baucus (D-Mont.) has introduced legislation (S 868) that would repeal the entrance fee law for the Forest Service and the Bureau of Land Management, but the bill would not affect Park Service entrance fees.

For Forest Service visitation numbers see chart at: http://www.westernslopenofee.org/pdfuploads/NVUM_Visitacion_Change_2001_to_2008.pdf. National Park Service visitation information is available online at <http://www.nature.nps.gov/stats/park.cfm>.

McCain, Coburn take highway recreation spending to task

Influential Republican Sen. John McCain (R-Ariz.) last month opened fire on recreation projects financed by the Highway Trust Fund.

McCain is perturbed by a Government Accountability Office (GAO) analysis that said \$78 billion of Highway Trust money in the last five years has been used for purposes other than construction of roads and bridges.

Said McCain, "GAO's analysis only confirms that Congress is frivolously

spending the Highway Trust Fund for pet projects like walkways and bicycle paths, at the expense of our nation's roads and bridges. Now Congress wants to bail out the Trust Fund by saddling future generations with even more debt. Doing so is irresponsible."

McCain and his colleague Sen. Tom Coburn (R-Okla.), a long-time critic of providing federal aid to park and rec programs, singled out trails in particular for criticism. They said in a press release:

"More than \$2 billion has been obligated for 5,547 bike paths and pedestrian walkways, including \$878,000 for a pedestrian and bicycle bridge for a Minnesota town of 847. An additional \$2 million in stimulus funds will pay for a bike lane along a deteriorating road in Pennsylvania, where exasperated local officials say the road is so bad they may be forced to drive on the bike path instead."

That McCain has joined Coburn in his criticism of outdoor programs does not augur well for park and rec programs, if and when Congress writes a new law to replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) But it's not likely Congress can put together a new law by September 30 when SAFETEA-LU expires because the Senate has not even begun laying the foundation for a new bill.

The House, however, may at least take a stab at writing a \$500 billion, six-year law to replace SAFETEA in September under the lead of House Transportation Committee Chairman James Oberstar (D-Minn.)

"Mr. Oberstar has said many times he wants to bring a bill to the floor in September," said an aide to the chairman this week. Indeed Oberstar told Minnesota Public Radio last week he would mark up a bill in committee the week of September 8. The House subcommittee on Highways and Transits drafted a version of a bill June 24, but the subcommittee did not fill in the amounts of money for each program.

Meantime, President Obama signed into law (PL 111-46) August 7 legislation that transfers \$7 billion to the Highway Trust Fund to keep SAFETEA-LU programs in money through September. The fund has run short because the American people are driving fewer miles than SAFETEA anticipated, leaving the program short of cash. The House approved the legislation July 29 and the Senate July 30.

But PL 111-46 only takes care of September. The House and Senate disagree about what to do next. Oberstar has repeatedly said Congress should move immediately to write a multi-year law. But the Obama administration and Senate leaders, playing for time, instead are recommending an 18-month extension of SAFETEA-LU.

Ranking Senate Environment and Public Works (EPW) Committee Republican James Inhofe (Okla.) offered this rationale for not writing a full-blown new law and for extending SAFETEA-LU instead: "There is simply no way that Congress will be able to pass a reauthorization of the highway bill before the program expires at the end of September. There are simply too many big questions left that must be answered, including how we are going to pay for it."

He added, "A better approach is to pass a longer-term extension. I am pleased to be working closely with Senator Boxer and the Obama administration on a long term extension and believe we will succeed in passing an extension as soon as we return in September." That legislation is expected to call for an

Notice: Publishing Schedule

Dear Subscriber:

We are taking a brief break in our publishing schedule during the annual Congressional August recess. The next issue of Federal Parks & Recreation will be published on September 11. All offices will be open throughout August. We will resume a regular biweekly publishing schedule in September. If important news breaks we will send you a bulletin.

18-month extension. Boxer is EPW committee chairman Barbara Boxer (D-Calif.)

While the House and Senate battle over the extension and the shortfall, they are at the same time attempting to move a fiscal 2010 appropriations bill. The House July 23 approved its version of a bill (HR 3288) with \$41.1 billion for highway programs. The Senate Appropriations Committee approved its version of HR 3288 July 30 with \$42.5 billion for highway programs. Neither the House bill nor the Senate committee bill attempts to identify money to keep SAFETEA-LU, or an extension of SAFETEA-LU, solvent in fiscal 2010.

If McCain and Coburn are hostile to outdoor programs in SAFETEA-LU, then Oberstar is equally supportive of the programs. His subcommittee-approved draft of a new unnumbered bill, the Surface Transportation Authorization Act of 2009, would extend for six years such outdoor programs as transportation enhancements (still at 10 percent of total allocations for the Surface Transportation program), recreational trails, scenic byways, federal and Indian land roads, and Safe Routes to School. All the programs except enhancements would receive individual allocations of unspecified amounts.

An aide to Oberstar told *FPR* those programs will probably be in good standing when the committee plugs in the numbers. "I don't think there will be any major changes there," he said.

In addition the subcommittee bill contains a new concept that could boost outdoor programs - "livability." It is backed by both President Obama and Oberstar. The bill would create a new Office of Livability that would oversee transportation enhancements, recreational trails, scenic byways, Safe Routes to School and a new U.S. bicycle route system.

The bike-route program would provide grants to states and Indian tribes (80 percent federal money) to establish a national system. The money would be used for construction (at least half of all expenditures), planning, mapping, signage and promotional materials. The

bike route system is Section 1203 (k.)

The GAO analysis is available at Coburn.senate.gov. The analysis is titled, *Highway Trust Fund Expenditures on Purposes Other than Construction and Maintenance of Highways and Bridges during Fiscal Years 2004-2008*.

Senate fails to confirm Jarvis before August recess

The Senate Energy Committee August 4 approved the nomination of Jon Jarvis to head the Park Service, but the nomination didn't make it to the Senate floor before Congress recessed August 7 until September 8.

Because he has not been confirmed yet, Jarvis will be unable to participate as Park Service director in a Park Service Leadership Council meeting set for August 18-20 in Dayton, Ohio. Senior headquarters officials and regional directors usually attend such meetings and the event has been billed as an opportunity for Jarvis to put his mark on Park Service policy.

Jarvis will be able to participate in the meeting as director of the West Region of the Park Service in the discussion of issues that affect only the west region, said Dave Barna, director of Public Affairs for NPS. But Jarvis won't be able to discuss national issues, even if they affect the West Region, Barna said.

"It's unfortunate," said Barna. "This would have been a good time for him to meet with the leadership and set down his agenda. Now he won't be able to do that."

It is not believed any senator has placed a "hold" against Jarvis's nomination in the Senate, yet. But two western Republicans did vote against him in committee - Sen. John Barrasso (Wyo.) and James E. Risch (Idaho.), raising the possibility of a hold.

Barrasso in particular objects to the Interior Department's proposal to reduce snowmobile use in Yellowstone National Park this coming winter and to

Jarvis's responses on the subject during energy committee confirmation hearings.

When Jarvis was reluctant during a July 28 hearing to commit to a position on the issue until planning was completed, Barrasso snapped, "Planning for snowmobiles is an absolute answer, but that is not what everybody in Wyoming is looking for."

The Senate August 7 did approve two key Interior Department positions before leaving for a month's vacation - Robert Abbey as director of the Bureau of Land Management and Wilma Lewis as assistant secretary of Interior for Land and Minerals Management.

Although Sens. John McCain (R-Ariz.) and Jon Kyl (R-Ariz.) had threatened the nominations of Abbey and Lewis because of a dispute over a copper mine, they did not hold up the nominations. McCain and Kyl have sponsored legislation (S 409) that would authorize a land exchange that would open the way for expansion of the mining operation. The Bush administration repeatedly endorsed the proposal but the Obama administration has not taken a position yet.

In addition the Senate July 31 approved the nomination of Sam Hamilton to be the director of the Fish and Wildlife Service (FWS.)

An important vacancy sign is still hanging out at the Department of Agriculture for an under secretary to set policy for the Forest Service. The administration's first nominee for the position, Homer Lee Wilkes, withdrew his name June 8.

The Forest Service July 5 did get a new chief when former Northern Regional Forester Tom Tidwell took over. He replaced Gail Kimbell. The Forest Service chief does not require Senate confirmation.

When the Senate returns in September Jarvis's nomination is not guaranteed. Three western Republican senators - Lisa Murkowski (R-Alaska), Robert Bennett (R-Utah) and Barrasso - raked him over the coals at the confirmation hearing. Murkowski addressed guns in

national parks, Bennett complained that NPS has interfered with oil and gas leasing on public lands in Utah adjacent to national parks, and Barrasso objected to the snowmobiles regulations. However, Murkowski and Bennett didn't vote against Jarvis in committee.

Ranking Republican Murkowski pressed Jarvis on rumors she heard that the Park Service is reluctant to implement a new law that authorizes concealed guns in national park units where state law allows weapons in state park units.

Bennett complained that NPS has complained about oil and gas leasing on public lands in Utah adjacent to national parks. He said the NPS complaints had no legal effect and constituted the establishment of buffer zones.

DoI appropriations bill will have to wait until September

The Senate failed to take up a fiscal year 2010 Interior appropriations bill (HR 2996) before leaving on a month's vacation August 7, raising the possibility the bill won't be completed before the next fiscal year begins.

Congress is not scheduled to return to work until September 8 and fiscal 2010 starts barely three weeks later on October 1. The House approved its version of a bill June 26, the day after the Senate Appropriations Committee passed its version.

The Senate floor, as always, presents the greatest hurdle. Although the Interior bill is held up, the Senate is making progress on other appropriations measures with park and rec implications. For instance the Senate August 4 approved an Agriculture appropriations bill and on July 29 approved an Energy and Water appropriations bill. (See separate article page 9 on non-DoI money bills.)

Kristen Brengel, legislative director for the National Parks Conservation Association, said the press of Senate business more than anything has prevented Senate floor consideration of the Interior money bill. "I think it

was more a matter of scheduling than anything else," she said. "(Senate Majority Leader Harry) Reid (D-Nev.) made it clear that the nomination of (Sonia) Sotomayor to the Supreme Court was a drop-dead deadline."

Brengel sees no great obstacle in the path of the Interior bill. "The Senate is going through them one-by-one," she said. "My impression is there are no substantive reasons why Interior can't move. I think it will be one of the first to go when the Senate returns in September."

However, the lateness of the hour raises the possibility of an omnibus bill, which no one likes because the House and Senate wouldn't have an opportunity to work out the details in conference.

While the Senate Appropriations Committee and the full House are not far apart on the numbers in the Interior bill, there are some differences.

Most prominently the Senate committee would provide no money for a Park Service Centennial Challenge partnership program, in contrast to \$25 million approved by the House committee and \$25 million requested by the Obama administration.

In other differences between the two bodies the Senate committee would authorize elk hunting in Theodore Roosevelt National Park in North Dakota, and the House would not. The Senate committee would extend a ban on competitive sourcing by the Forest Service, and the House would not.

Money-wise, the Senate committee would spend significantly less for Save America and Preserve America grants administered by NPS than the House, but it would spend significantly more for recreation and preservation in NPS than the House.

Here is a comparison of the Senate committee version of an Interior money bill with the House, the administration and fiscal 2009:

* PARK SERVICE OPERATIONS: Senate

committee, \$2.261 billion; House, \$2.261 billion; administration request, \$2.266 billion; fiscal 2009 appropriation, \$2.132 billion;

* NPS CENTENNIAL CHALLENGE: Senate committee, no money; House, \$25 million; Obama administration, \$25 million; fiscal 2009, no money;

* NPS REC AND PRES: Senate committee, \$67.4 million; House, \$59.4 million; administration, \$53.9 million; fiscal 2009, \$59.7 million;

* NPS CONSTRUCTION: Senate committee, \$219.7 million; House, \$213.7 million; administration, \$206 million; fiscal 2009, \$233.2 million;

* FEDERAL LWCF: Senate committee, \$262 million; House, \$212.4 million; administration, \$199 million; fiscal 2009, \$160 million;

* STATE LWCF: Senate committee, \$35 million; House, \$40 million; administration, \$30 million; fiscal 2009, \$20 million;

* SAVE AMERICA'S TREASURES: Senate committee, \$20 million; House, \$30 million; administration, \$20 million; fiscal 2009, \$20 million;

* PRESERVE AMERICA: Senate committee, \$3.2 million; House, \$6 million; administration, \$3 million; fiscal 2009, no money;

* NATIONAL FOREST SYSTEM: Senate committee, \$1.556 billion; House, \$1.565 billion; administration, \$1.507 billion; fiscal 2009, \$1.510 billion;

* NATIONAL FORESTS RECREATION: Senate committee, \$290.1 million; House, \$292.6 million; administration, \$280.1 million; fiscal 2009, \$277.6 million;

* FOREST TRAILS: Senate committee, \$82.2 million; House, \$85.3 million; administration \$82.1 million; fiscal 2009, \$81.2 million;

* FOREST LEGACY: Senate committee \$55 million; House, \$100 million; administration, \$50 million; fiscal 2009, \$50 million;

* NATIONAL LANDSCAPE CONSERVATION SYSTEM: Senate committee, \$75 million; House, \$74 million; administration, \$72 million; fiscal 2009, \$67 million;

* NATIONAL WILDLIFE REFUGE SYSTEM: Senate committee, \$488.6 million; House, \$503 million; administration, \$483 million; fiscal 2009, \$468 million;

* BLM RECREATION MANAGEMENT: Senate committee, \$68.4 million; House, \$67.7 million; administration, \$67.7

million; fiscal 2009, \$63.7 million.

* FIRE FIGHTING FS: Senate committee, \$2.587 billion; House, \$2.652 billion; fiscal 2009, \$2.137 billion. The total for both the Senate committee and the House includes a contingency fund to fight emergency fires of \$282 million; and

* FIRE FIGHTING DoI: Senate committee, \$979.6 million; House, \$1.008 billion; fiscal 2009, \$856 million. The total includes a contingency fund to fight emergency fires of \$50 million.

Gateway communities, tribes to hold forum with feds

The Obama administration will have an opportunity to preview its outdoor policies September 15 when it cohosts a summit of federal officials, gateway communities, state officials and Native Americans.

The meeting, to be held at the Interior Department, is scheduled to hear from Secretary of Interior Ken Salazar as well as Secretary of Transportation Ray LaHood. The Western States Tourism Policy Council, the Southeastern Tourism Society and the American Indian Alaska Native Tourism Association are the principal hosts.

"This will be a policy forum designed to bring together the public and private sectors," said Bill Hardman, president of the Southeastern Tourism Society. "We want to get together on common issues. We hope to come up with strategic direction as we move forward in this next year."

The forum, *Stimulating Economic Vitality and Resource Conservation in Gateway and Tribal Communities*, will focus on strategies for gateway and native communities to "balance their need for growth and vitality with the conservation and protection of natural resources during a time of severe economic challenges," says a program.

Also expected to attend are such interested parties as the National Park Hospitality Association, the National Association of Gateway Communities, the

U.S. Travel Association, the National Association of Counties, and the National Parks Conservation Association. Kristin Hunt and John Hunt will facilitate a final plenary session to develop conclusions.

Hardman said the conferees will not be confined to issues involving the economic recession. "I think we are going to be able to go beyond the issue of tough times," he said. "There is so much we can accomplish to lay out strategies for the long-term."

Hardman said the meeting will "give state travel offices and local gateway communities an opportunity to talk about their mutual problems with land management agencies."

Federal officials will sit in on the various summit panels, including representatives of the Forest Service, the Department of Commerce, and the Advisory Council on Historic Preservation.

The Senate will decide if the administration's nominee for Park Service director Jon Jarvis will be able to attend. The Senate Energy Committee confirmed his nomination August 4 but the full Senate has not. If Jarvis were able to attend, he could share with the Park Service's partners his plans for the next four years. He may be able to participate in discussions of issues affecting just the western region of the Park Service, where he is still the regional director.

Sure to be a hot issue at the summit is an Obama administration strategy, if it has one, for boosting attendance at national parks. Gateway communities and national park concessioners have complained for the last decade about dwindling visitation. However, this year has seen a marked increase in visitation in the parks, perhaps because of the poor economy (*see related article page one.*)

The summit will follow by a month a key meeting of Park Service cadre. That Park Service Leadership Council meeting is set for August 18-20 in Day-

ton, Ohio, for senior headquarters officials and regional directors.

Labor asks Senate to lock in outdoor funds in climate bill

Twenty labor unions joined forces last month to ask the Senate to provide substantial revenues from climate control legislation for conservation, and, as important, to guarantee the money.

The House approved a climate control bill (HR 2454) June 26 that would provide significant money to conservation programs, but the House did not guarantee it. The House bill would subject the money to annual appropriations, an iffy proposition.

"A share, no less than that contained in the House version of the bill, of annual funding and *not subject to annual appropriations* should be used to protect and restore the natural environment, including fish, wildlife and their habitat," the unions told Senate leaders. (Our emphasis.)

The unions, including the AFL-CIO and the United Steelworkers of America, sent their letter to members of the Senate Environment and Public Works Committee and to Senate leaders from both parties.

The unions often work with conservation groups that support hunting and fishing, such as the Theodore Roosevelt Conservation Partnership.

The unions described this link between climate change and hunting and fishing: "As fish and wildlife habitat, abundance and distribution shift in response to a changing climate, patterns of recreational activities will shift as well. We can only imagine how a widespread national decline in hunting and fishing opportunities will affect the annual \$70 billion conservation revenue generated by hunters and anglers."

The Senate Environment and Public Works (EPW) Committee has been wrestling for months with climate control legislation. Last month chairman Barbara Boxer

(D-Calif.) put off mark-up of a bill until September. And Senate Majority Leader Harry Reid (D-Nev.) has postponed a deadline for final committee action from early August to September 28.

But ranking EPW committee Republican James Inhofe (Okla.) has boldly predicted the legislation will not survive. He said the close House vote (219-to-212, with a significant 44 House Democrats opposed) "spells doom" for the bill in the Senate.

The great obstacle in the Senate, as always, is the 60 votes needed to overcome a filibuster threat. Last year on June 6, 2008, a predecessor bill similar to the House measure was rejected when it received only 48 votes, with 36 opposed.

The key park and rec provision in the House bill would establish a Natural Resources Climate Change Adaptation Fund. The National Wildlife Federation estimates the fund would receive an average of \$2.6 billion per year from fees paid by companies that produce carbon pollution.

The version the House approved June 26 made a major change in the bill as passed by the House Energy Committee May 21: It would subject to annual appropriations all allocations to federal programs from the fund. That is, in part, the issue addressed by the labor unions.

Federal allocations, if appropriators felt like putting up the money, would be allocated thusly: 27.6 percent to the Department of the Interior for endangered species, bird, and Fish and Wildlife Service programs, wildlife refuges, and the Bureau of Reclamation; 8.1 percent to Interior for cooperative grant programs; and 4.9 percent to Interior for tribal programs.

In addition the fund would allocate 19.5 percent to the Land and Water Conservation Fund; 5 percent to the Forest Service; 12.2 percent to EPA; 8.1 percent to the Army Corps of Engineers; and 11.5 percent to National Oceans and Atmospheric Administration.

Wetlands bill readied in House; opposition gears up

As opponents prepare to attack, House Democrats may next month begin writing legislation that would require wetlands protection permits for most water bodies.

No bill has been introduced yet, but a predecessor bill last year was sponsored by more than 150 House Democrats and Republicans.

The House Transportation Committee staff and members are laying the groundwork for introduction of legislation during an August recess, a committee staff member said this week. "We'll be looking at that," she said. "I know they are working on it."

Critics such as the property rights group the American Land Rights Association (ALRA) took credit for killing a predecessor bill in the House Transportation Committee last year. Rep. James Oberstar (D-Minn.) was the lead sponsor of last year's bill and is chairman of the committee.

Said ALRA in a recent alert to its members, "Because of your letters, phone calls, faxes and e-mails, (Oberstar) failed to get his draft bill out of Committee. You can have the same success now if you rise up and make sure your Congressman . . . hears from you and everyone you know about how bad the Clean Water Restoration Act is."

Meanwhile, the Senate has not yet scheduled floor action for a companion bill (S 787) approved by the Senate Environment and Public Works Committee June 18.

The Senate left on an August vacation August 7 and the House took the month off beginning July 31.

ALRA urged its members to step up the pressure during the recess. "You need to contact your Senators NOW to find out when they will be back in your state over the August-September recess," it said. "Plan to go to one or more of his or her meetings to fire questions

about the Clean Water Restoration Act (S 787) and urge a NO vote."

Supporters of the legislation, such as Ducks Unlimited, argue that the legislation is needed to reverse a June 2006 Rapanos Supreme Court decision. The court left no doubt that only water bodies related to navigable waters should be regulated. The legislation would effectively reverse the Rapanos decision and require permits from the Corps of Engineers and EPA under Section 404 of the Clean Water Act.

But ALRA argues that the cure is worse than the disease. "The Real Goal of the Clean Water Restoration Act (S787) is to give Corps and EPA Control over your water and all your watersheds," the association said. "That means National Land Use Controls as well as control over all your water and land. That's because all land is in a watershed. The proposed Clean Water Restoration Act. . . will give the Corps and EPA jurisdiction and control over your property and water."

The path to the Senate committee vote was prepared in part by an Obama administration call in May for action on wetlands legislation. Five top Obama administration aides May 20 called for action.

S 787 is simple. It says that the Corps of Engineers, working with EPA, must approve Section 404 permits under the Clean Water Act for all projects on waters of the United States. Those waters are defined in S 787 as "all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries, including lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, natural ponds, and all impoundments of the foregoing

Congress moving non-DoI money bills at a fairly good pace

The Senate August 4 approved a fiscal year 2010 Department of Agriculture appropriations bill (S 1406) that

restores much conservation spending the Obama administration sought to cut.

The USDA bill is one of three major non-Interior outdoor spending bills that are making progress in Congress this year. The others are an Energy and Water bill and a Transportation bill.

The House in July approved the Agriculture, Energy and Water and Transportation bills. The Senate has now approved the Agriculture and Energy and Water bills. And the Senate Appropriations Committee has approved a Transportation bill.

In the agriculture bill the administration recommended a total of \$600 million in reductions from spending levels authorized by a new farm law. The Senate restored about all the conservation money except for the Environmental Quality Incentive Program, reducing it by \$250 million.

Given the relatively early Senate action on the Agriculture, Transportation, and Energy and Water bills, Congress in September may be able to conference the measures by themselves and send the individual bills to the White House before fiscal 2010 begins October 1. If not, the bills will likely be swept into a dreaded omnibus bill, dreaded because conferees wouldn't have the opportunity to work out the details. Here are summaries of non-Interior spending bills:

AGRICULTURE: HR 2997, S 1406. The House approved its version of HR 2997 July 9 and the Senate approved S 1406 August 4. Both the House and Senate rejected some - but not all - spending reductions proposed by the Obama administration for conservation programs.

The Obama administration recommended a total of \$600 million in reductions from spending levels included in a new farm law for these conservation programs: Agricultural Management Assistance Program, Environmental Quality Incentives Program, Farmland Protection Program, Healthy Forest Reserve Program, Wetlands Reserve Program and Wildlife Habitat Incentives Program.

The House restored about all the conservation money except it cut the Environmental Quality Incentive Program by \$270 million. The Senate reduced it by \$250 million.

ENERGY AND WATER: HR 3183, S 1436. The House approved its bill July 16 and the Senate approved its bill July 29. For the Corps of Engineers the House bill roughly meets a fiscal 2009 spending level of \$5.4 billion, with \$5.5 billion. The Senate approved \$5.4 billion. However, both the House and the Senate would increase spending for the key operations and maintenance line item by \$300 million and \$248 million respectively.

As for an Everglades restoration program, the Senate rejected an Obama administration request for \$47 million for two initial major construction projects that are key parts of the multi-billion dollar Comprehensive Everglades Restoration Project. The projects are known as Site One and Indian River Lagoon-South.

In total for the Everglades in the Energy and Water bill the Obama administration requested \$214.4 million. The Senate approved \$163.4 million and the House approved \$210.2 million.

TRANSPORTATION: HR 3288. The House approved its bill July 23 with a survival appropriation of \$41.1 million for highway programs. The Senate Appropriations Committee approved its version of HR 3288 July 30 with \$42.5 billion for highway programs.

However, the Highway Trust Fund, which pays for highway programs, is \$7.5 billion short and the measure does not resolve the shortage. Subcommittee on Transportation Appropriations Chairman Rep. John Olver (D-Mass.) said the subcommittee was not responsible for making up a huge deficit in the Highway Trust Fund. (*See related article page 2.*)

Appeals panel halts Bush roadless rule; Colorado acts

A federal appeals court August 5 blocked implementation of a Bush admin-

istration national forest roadless area rule that allows states to petition for their own rules.

The decision by the Ninth U.S. Circuit Court of Appeals effectively upholds a 2001 Clinton administration rule that restricts road construction nationally in roadless areas.

While the Ninth Circuit decision throws out the Bush State Petitions Rule, it does not affect an Idaho-specific rule of Oct. 16, 2008. However, it may apply to forests in Colorado because a proposed Colorado-specific rule has not yet replaced the 2001 Clinton rule.

To further confuse things, the Forest Service processed the Idaho rule, and is processing the proposed Colorado rule, under the Administrative Procedures Act, and not under the State Petitions Rule.

In a related development the State of Colorado ran into heavy criticism August 3 after it recommended a new set of rules to govern roadless national forest land within the state.

An alliance of hunters and fishermen faulted the proposal for allowing road construction in power-line corridors and in water projects, for allowing coal mining to continue and for allowing expanded timber cutting.

"After reviewing the state's recommendations, we remain concerned that the draft Colorado roadless rule would fail to sustain the state's backcountry hunting and fishing traditions," said Joel Webster, associate director of campaigns for the Theodore Roosevelt Conservation Partnership Center for Western Lands. "Sportsmen will settle for nothing less than a top-quality Colorado roadless rule, and the state's proposal falls short."

For the moment the Ninth Circuit decision is clear in backing a U.S. District Court judge's opinion that the Bush rule failed because it did not assess the rule's impact on the environment in general and on endangered spe-

cies in particular. U.S. District Judge Elizabeth Laporte in the Northern California District issued her decision in 2006.

"The Forest Service's use of a categorical exemption to repeal the nationwide protections of the Roadless Rule and to invite States to pursue varying rules for roadless area management was unreasonable," said the three-judge panel in a decision written by Judge Robert R. Beezer. "It was likewise unreasonable for the Forest Service to assert that the environment, listed species, and their critical habitats would be unaffected by this regulatory change."

In a further complication a federal judge in Wyoming has upheld the Bush rule and placed an injunction against the Clinton rule. That Aug. 13, 2008, decision from Judge Clarence Brimmer, which he reaffirmed June 16, has been appealed to the Tenth U.S. Circuit Court of Appeals.

Because the U.S. District Court in California had blocked the Bush rule and the U.S. District Court in Wyoming had blocked the Clinton rule, management of roadless areas had been pretty much relegated to land management plans. However, Secretary of Agriculture Tom Vilsack May 28 issued a directive that gives him authority to review all proposed projects in 49 million acres of roadless areas for the next year.

Said Earthjustice attorney Kristen Boyles after the Ninth Circuit ruling, "We're not out of the woods yet. This decision halts the Bush administration assault on roadless areas, but the Obama administration should now take the next steps necessary to make protection permanent."

In the Colorado-specific situation Gov. Bill Ritter (D) ordered his Department of Natural Resources to prepare the new proposal after sportsmen, the recreation industry and environmentalists complained about a Bush administration proposed Colorado rule of July 25, 2008. It was prepared at the request of Ritter's predecessor Bill Owens (R.)

The Forest Service last month agreed to a delay while the state prepared new recommendations for the more than 4 million acres of roadless national forest in Colorado. The state proposal, signed by Mike King, deputy director of the Colorado Department of Natural Resources, now goes out for a 60-day comment period.

King acknowledged the existence of a national rule that governs most forests. Colorado is seeking an exception to that rule and the Forest Service has already completed a separate rule for national forest land in Idaho.

Said King, "Colorado recognizes that the state rule will be considered in the context of the ongoing national discussion about protecting roadless areas. Colorado also feels that the Colorado rule will ultimately provide a strong, durable conservation framework that is consistent with the Obama administration's policy goals and is tailored to address the unique conditions in Colorado."

Wider application sought. In still another roadless area development the Center for Biological Diversity is asking the Obama administration to extend Vilsack's May 28 directive that protects roadless areas designated prior to 2001 to roadless areas designated after 2001.

The directive now addresses just roadless areas in existence prior to 2001 when the Clinton administration issued its famous rule protecting 58.5 million acres of forest.

To bolster its request the center July 28 issued a report that identifies five newly-authorized timber sales in the White Mountain National Forest in New Hampshire. All five sales are within roadless areas identified in a 2005 forest plan, thus are not restricted by Vilsack's directive.

Notes

Burr boosts Hatteras OHVs, again. Sen. Richard Burr (R-N.C.) introduced legislation (S 1557) August 3 that would authorize increased off-highway vehicle

(OHV) use in Cape Hatteras National Seashore. The bill would effectively restore a Park Service Interim Management Strategy of June 13, 2007, that a court agreement superseded. That agreement, signed off on by U.S. District Court Judge Terrence Boyle in North Carolina April 30, 2008, essentially forbids OHV use at night during the peak summer and shoulder seasons. And it bars OHV access within breeding zones. The decree would last until NPS completed a travel management plan. Environmental groups including the Defenders of Wildlife brought the court contest against the 2007 NPS strategy. The agreement settled the lawsuit and superseded the NPS strategy. Burr holds an important outdoor policy position in the Senate as ranking Republican on the subcommittee on National Parks. But he introduced the same bill in the last Congress with even stronger Republican representation and it went nowhere. Rep. Walter Jones (R-N.C.) introduced a House version of the bill (HR 718) in January.

Utah exchange may help outdoors.

The Senate approved without opposition August 5 legislation (HR 1275) that orders the exchange of 46,000 acres of environmentally-sensitive Utah state lands for 36,000 acres of federal land. The federal lands in Grand and Uintah counties hold potential for oil and gas development. The state lands extend along or near the Colorado River corridor. The office of the lead sponsor of the legislation, Sen. Bob Bennett (R-Utah), said the former state lands include "view sheds for the Arches National Park, Kokopelli and Slickrock biking trails and wilderness study areas." Once President Obama signs the bill (the entire Utah delegation supports it), the Utah School and Institutional Trust Land Administration and the Bureau of Land Management will hire independent appraisers to value the lands and the minerals. The trust land administration manages the state lands.

Lu Young dies. The wife of Rep. Don Young (R-Alaska), Lu Young, died the weekend of August 1-2 at the family's Great Falls, Va., home. She was 67 and Young's office believes she died of natural causes. Rep. Young has been one

of the most influential Congressmen on outdoors policy over the last 40 years. He has served alternately as chairman and ranking minority member of the House Natural Resources Committee. Young also chaired the House Transportation Committee in 2005 where he was a chief architect of the five-year surface transportation law called the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) Young sometimes said the LU in SAFETEA-LU really stood for Lu Young, a Gwich'in Athabascan native from Fort Yukon, Alaska. Young is under investigation in political scandals, but he has not indicated if he will retire.

OHVers endorse GAO study. The powered recreation industry in general supports a new Government Accountability Office (GAO) study that describes attempts by federal land management agencies to cope with increased off-highway vehicle (OHV) use. The study, prepared for House subcommittee on National Parks chairman Raúl Grijalva (R-Ariz.), faulted somewhat the OHV planning the Forest Service and the Bureau of Land Management (BLM) are now doing. GAO said the Forest Service could set tighter time frames for carrying out improvements and BLM could communicate better with the public. Said Larry Smith, executive director of Americans for Responsible Recreational Access, the study "confirms what we have been saying and advocating for many years." Among other things he said, "Those problems that do exist could be corrected with better signage and education." Greg Mumm, executive director of the BlueRibbon Coalition of the GAO study, said, "This is an imperfect analysis, but it is far from the manifesto for closure anticipated by the anti-access lobby." The study, *FEDERAL LANDS: Enhanced Planning Could Assist Agencies in Managing Increased Use of Off-Highway Vehicles*, is available at <http://www.gao.gov/Products/GAO-09-509>.

Farr Proposes Pinnacles "park." Rep. Sam Farr (D-Calif.) introduced legislation July 31 that would designate Pinnacles National Monument in central California as Pinnacles National Park. The monument contains a number of unique species and contains 14,500 acres of

Congressional wilderness. The monument was designated by seven Presidential proclamations and one law (the wilderness designation.)

T. Roosevelt elk hunt proposed. The Park Service August 10 said it intends to use Park Service staff and "qualified volunteers" to shoot elk and reduce their population in Theodore Roosevelt National Park in North Dakota. The NPS proposal, included in a final EIS, differs somewhat from a proposal from Sen. Byron Dorgan (D-N.D.) to allow volunteer hunters to kill elk and keep the meat. The Park Service proposal would donate the meat. The Dorgan plan has run into opposition from the National Parks Conservation Association, which says Dorgan would interfere with the Park Service management of the park. Dorgan's plan is included in a Senate Appropriations Committee version of a fiscal year 2010 Interior appropriations (HR 2996); the House-passed version of the bill does not address the issue. NPS still must complete a record of decision before implementing the EIS proposal. The EIS is available at: <http://parkplanning.gov/HRO>.

Peace park review planned. At the request of the World Heritage Center the United States and Canada will conduct a study of the threats coal mining and oil and gas development pose to the Waterton-Glacier International Peace Park in Montana and Alberta, Canada. Secretary of Interior Ken Salazar and Montana Sens. Max Baucus (D) and Jon Tester (D) made the joint announcement August 11. The study will be conducted by the International Union for the Conservation of Nature and the World Heritage Center from September 20 to 26. The World Heritage Committee, part of the United Nation's Educational, Scientific and Cultural Organizations (UNESCO), recommended the review. The committee is considering whether to place the park on its list of World Heritage Sites in danger. Conservative Republicans have long opposed the involvement of the World Heritage Committee in the protection of American sites. The International Peace Park incorporates Glacier National Park in Montana and Waterton Lakes National Park in Alberta.

Boxscore of Legislation

LEGISLATION

STATUS

COMMENT

Appropriations fiscal 2010 (Interior)

HR 2996 (Dicks)

House approved June 26. Senate Committee approved June 25.

Would provide broad increases for park and rec programs.

Appropriations fiscal 2010 (Energy and water)

HR 3183 (Visclosky)
S 1436 (Dorgan)

House approved July 16. Senate committee approved July 29.

Would roughly maintain FY 2009 levels. Senate omits Everglades projects.

Appropriations fiscal 2010 (Agriculture)

HR 2997 (DeLauro)

House approved July 9. Senate approved August 4.

Would restore some conservation money, but would leave EQIP short.

Appropriations fiscal 2010 (Transportation)

HR 3288 (Olver)

House approved July 23. Senate committee approved July 30.

Would not make up Highway Trust Fund shortfall.

Appropriations fiscal 2009 emergency

HR 2346 (Obey)

President Obama signed into law June 24 as PL 111-32.

Will provide FS and DoI with \$250 million for emergency fire assistance.

Congressional Budget 2010

H Con Res 85 (Spratt)
S Con Res 13 (Conrad)

House approved April 2. Senate approved April 2.

Would allow for increased natural resources spending.

Appropriations Stimulus

HR 1 (Obey)

President Obama signed into law Feb. 17 as PL 111-5.

Allocates some \$4 billion to federal land management agencies to help revive the economy.

Appropriations 2009 (DoI, FS, Corps, Transportation, etc.)

HR 1105 (Obey)

President Obama signed into law March 11 as PL 111-8.

Provides modest increases for most park and rec programs.

Omnibus Lands Bill

S 22 (Bingaman)
HR 146 (Holt)

President signed into law March 30 as PL 111-11.

Includes 160+ individual bills, including NLCS, new national parks.

National Landscape Conservation System

HR 404 (Grijalva)
S 22 (previous item)

Grijalva introduced Jan. 9. Included in omnibus (above.)

Gives NLCS official designation by Congress.

Grand Canyon withdrawal

HR 644 (Grijalva)

House subcommittee hearing July 21.

Would withdraw 1 million acres of federal land near Grand Canyon NP to prevent uranium mining.

Surface Transportation

HR 1329 (Blumenauer)
S 575 (Carper)
S 1036 (Rockefeller)
Unnumbered (Oberstar)

Blumenauer introduced March 5. Carper introduced March 11. Rockefeller introduced May 12. House subcommittee approved Oberstar bill June 24.

Blumenauer would establish a piece of a surface transportation law with climate change money. Rockefeller would establish broad goals for law. Oberstar would extend outdoor programs for six years.

FLREA (rec fee law) repeal

S 868 (Baucus)

Baucus introduced April 22.

Would repeal the comprehensive federal rec fee law.

Fire suppression

HR 1404 (Rahall)
S 561 (Bingaman)

House approved March 24. Senate hearing July 21.

Would establish an emergency fire-fighting fund to limit borrowing from line programs.

Ski area uses

S 607 (M. Udall)

Udall introduced March 17.

Would specify that ski resorts on national forest land may allow non-skiing recreation uses.

Weapons in parks

HR 1684 (Hastings)
S 816 (Crapo)
HR 627 (Maloney)

President Obama signed into law May 22 as part of credit card law (PL 111-24.)

Directs Interior to allow concealed weapons in national parks, refuges.