

Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Celina Richardson

Volume 27 Number 23, December 4, 2009

In this issue. . .

Bill to extend FLTFA law boosted.

Administration endorses measure to expand land sale/acquisition law to include tracts approved for sale by new BLM plans. Post-2000 plans now excluded Page 1

DoT forecasts 30% SAFETEA drop.

Unless Congress moves to restore prior year money, states will shortly face drastic cuts. House, Senate still gridlocked Page 3

NPS wants a piece of science money.

Nears policy that would require companies to agree to share revenues from park research. Green groups don't march as one .. Page 4

Global warming in cold storage.

Senate delays action until next spring. Barrasso faults DoI for new policy before new law .. Page 5

Agencies see stimulus progress.

But Rep. Hastings questions some FS, DoI allocations. About one-third of \$4B already used .. Page 7

Wyoming files snowmobile suit.

But won't try to block rule this winter. NPCA seeks role ... Page 8

New WRDA may hold Everglades hope.

Florida legislators will attempt to include CERP in bill Page 9

FLREA critics talking to House.

About sponsoring repeal bill. Early talks are stalled Page 11

Notes Page 12

Conference calendar Page 13

Congress considers expanding FLTFA land acquisition law

The Obama administration endorsed legislation (HR 3339) last month that would expansion of a law that allows the sale of federal land for the purpose of acquisition of conservation land.

The existing law only allows the Bureau of Land Management (BLM) to sell lands cleared for disposition by land management plans completed prior to 2000. HR 3339 would authorize BLM to also sell lands cleared by post-2000 land use plans.

The money is used to acquire conservation lands for four agencies, including the Park Service. The law, the Federal Land Transaction Facilitation Act (FLTFA) of 2000, has produced more than \$100 million for the government this decade.

BLM Director Robert V. Abbey said he was in "strong support" of the bill. "By extending the FLTFA, the Congress will allow the BLM to continue a rational process of land disposal that is anchored in public participation and sound land use planning, while providing for land acquisitions to augment and strengthen our Nation's treasured landscapes," he told the House subcommittee on National Parks, Forest and Public Lands at a November 17 hearing.

Most of the money from sales is used to acquire private property in or near federal lands managed by NPS, BLM, the Forest Service, and the Fish and Wildlife Service.

HR 3339, introduced by Rep. Martin Heinrich (D-N.M.), would change FLTFA by allowing BLM to sell land cleared by all land use plans completed after 2000, as well as those completed before 2000. Senate Energy Committee Chairman Jeff

Bingaman (D-N.M.) introduced a counterpart bill (S 1787) October 14.

Abbey gave the subcommittee this status report of BLM land management plans: "The BLM currently oversees the public lands through 172 Resource Management Plans (RMPs). Since 2000, the BLM has completed 67 new RMPs, 18 major amendments to existing RMPs, and numerous smaller land use plan amendments. Additionally, the BLM is currently involved in planning efforts on 35 new RMPs, all of which the agency expects to complete within the next three years."

In addition to the expanded sale authority, HR 3339 would extend FLTFA indefinitely. The act is due to expire on July 24, 2010.

Heinrich told the subcommittee, "In my home state of New Mexico, FLTFA has funded critical acquisitions like the Elk Springs Area of Critical Environmental Concern and La Cienega Area of Critical Environmental Concern. Because of FLTFA, these areas will be protected for future generations of New Mexicans."

Conservation groups such as the National Wildlife Federation strongly endorsed the bill. "In a time of increased budget pressures, FLTFA provides an excellent way to use the sale of BLM land to generate funds to acquire high priority land for conservation, outdoor recreation and historic preservation," said Kent Salazar, a federation board director for the Southwest. "FLTFA complements private, state and other federal funding sources, helping leverage the purchase of these critical lands."

(Note: FLTFA is a separate law from the Southern Nevada Public Land Management Act of 1998, which has produced billions of dollars from the sale of public land near Las Vegas. Those revenues are also used for federal, state and local conservation purposes, but only in Nevada.)

According to the Government Accountability Office (GAO), BLM under FLTFA had through August raised \$113.4 million by selling off 29,400 acres. Most of the revenues, \$88 million, came

from Nevada sales. Of the \$113.4 million the secretaries of Agriculture and Interior had as of November approved the expenditure of \$66.8 million for conservation land acquisition.

In testimony provided to the subcommittee GAO warned that the land acquisition process is often so slow that agencies lose out on potential deals. For example, GAO said, "Officials at two field offices estimated the acquisition process took about 2-1/2 to 3 years. BLM officials from the Wyoming State Office and the Las Cruces, New Mexico, Field Office said that, with this length of time, BLM must either identify a very committed seller willing to wait to complete an acquisition or obtain the assistance of a third party in completing an acquisition."

GAO said that, although land values are slumping now, in good times landowners may choose to sell their lands on the open market, if federal agencies act too slowly. "Identification of a willing seller can be problematic because, among other things, the seller might have higher expectations of the property's value," said GAO.

The GAO report, *Federal Land Management: Challenges to Implementing the Federal Land Transaction Facilitation Act*, is available at <http://www.gao.gov/cgi-bin/getrpt?GAO-10-259T>.

* LAND SALES ANNOUNCED: By an uncanny coincidence the Interior Department and the Department of Agriculture on November 16 - one day before the House subcommittee hearing - said they will attempt to acquire seven parcels of inholdings in the West under FLTFA.

The seven acquisitions total 5,026 acres and are expected to cost \$11.7 million. The largest is a 4,573-acre parcel within the Canyons of the Ancients National Monument in Colorado managed by the National Park Service.

An announcement of the proposed purchases said the Canyons of the Ancients parcel "accounts for about 25 percent of the private lands inside the Monument and contains 25 documented sites of cultural importance."

DoT says states to soon face 30 percent SAFETEA decline

The Department of Transportation warned Congress late last month that continued simple extensions of an expired surface transportation law will soon cost states 30 percent of their transportation money.

That's because simple extensions would not make up for an \$8.7 billion rescission, or take-back, of unspent prior year money.

As a result, said Roy Kienitz, under secretary of Transportation for Policy, "If we have continued extensions of the continuing resolutions as we are doing now the authority to spend would move forward but the new contracting authority given out would be about 30 percent below last year's level. Most states have not felt that decline yet but at some point they will."

Sen. George Voinovich (R-Ohio) said that Nevada and Illinois are already suffering reductions.

Kienitz testified November 18 before the Senate Environment and Public Works (EPW) Committee. The panel's members hope to approve a six-month extension of the surface transportation law. The leaders intend to offset the rescission in the extension to head off the 30 percent decline.

But some Republican senators and some Democratic House leaders are adamantly opposed to a short-term solution, for different reasons.

The House Democratic leaders, including House Transportation Committee James Oberstar (D-Minn.), insist that Congress immediately write a six-year surface transportation law to replace the existing Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) It expired at the end of September.

Oberstar and his allies, including House Speaker Nancy Pelosi (D-Calif.), say a new surface transportation law would be a perfect job stimulus program.

A few unnamed Republican senators are resisting Senate consideration of the six-month extension because they oppose the \$7 billion or \$8 billion budget hit a revocation of the rescission would entail.

EPW Committee Chairman Barbara Boxer (D-Calif.) is eager for a cloture vote to head off a threatened filibuster of the six-month extension. "We've put out the word that it's time to get a vote on the Senate floor," she said, adding, "I can assure you we will get far more than the 60 votes (needed to break a threatened filibuster.)"

The implications for recreation are the same as they are for all surface transportation programs - a 30 percent reduction in the upcoming year. Kienitz said the 30 percent cut would hit states at different times and said most wouldn't be affected until spring.

Despite the rescission, the Highway Trust Fund that puts up the money for SAFETEA-LU programs is not only enjoying a surplus but a surplus that should hold into August, said Kienitz. That's due to, one, a \$7 billion addition to the fund Congress approved out of general revenues this summer (PL 111-46 of August 11) and, two, a stimulus law (PL 111-5 of February 17) that put up \$47 billion for surface transportation programs out of general revenues.

While the stimulus included \$47 billion for surface transportation, Kienitz said states thus far were not using the money to replace existing programs but were spending it on new supplemental initiatives, as Congress had intended.

Although the Highway Trust Fund is solvent for now, the \$7 billion supplement "is not a long-term solution," said Kienitz. Voinovich, who is not running for reelection next year, said the only solution is the politically unpopular - if not impossible - increase in the gasoline tax.

Voinovich put that recommendation in a letter to President Obama November 13, calling for a long-term extension of the highway bill coupled with a 10 cents

per gallon increase in the gasoline tax. "For the past year, I have worked with a number of transportation and industry groups including the Chamber of Commerce, the National Association of Manufacturers, and the International Union of Operating Engineers, who have all pushed for a short term extension and a reauthorization bill, and have stepped forward to pay a 10 cent increase in the federal gas tax that would be indexed for each year of the reauthorization bill," he wrote Obama.

After Voinovich finished reading the entire letter at the November 18 EPW hearing, Boxer quickly noted, "I don't have the votes in committee for a gas tax increase, let alone on the Senate floor."

Here's where the legislative impasse stands:

THE EXTENSION: Congress has approved a simple, three-month extension that doesn't address the \$7.8 billion rescission (PL 111-88 of October 30.) It will expire December 18.

HOUSE: The House subcommittee on Highways and Transits June 24 approved a \$500 billion, six year surface transportation bill (unnumbered), but without spending numbers for individual programs. The bill would, however, reauthorize all the traditional park and rec programs such 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. House Transportation Committee Oberstar wants the House and Senate to take up the bill immediately.

SENATE: The Senate Environment and Public Works Committee approved a bill (S 1498) that would extend SAFETEA-LU for 18 months until March 31, 2011. But Boxer said the committee is "willing to move off the 18 months" and accept a six-month extension, with money to offset the rescission.

ADMINISTRATION: The administration is still calling for an 18-month extension.

NPS seeks a piece of science research in all park units

The Park Service November 23 gave notice that it intends to issue a new policy shortly that would allow NPS to share in the benefits of scientific research conducted in park units.

In a final EIS NPS said it would ask scientists to enter agreements with NPS before conducting research on NPS lands and waters. The EIS, and a record of decision when it is issued, will settle a legal dispute over whether the parks are entitled to the proceeds from scientific research.

Environmental groups are split on the issue with an alliance of five associations opposing any commercial bioprospecting research on the national parks. They see the research as a step toward privatization of the national parks.

But the National Parks Conservation Association (NPCA) endorsed, with conditions, the Park Service's preferred alternative in the EIS. NPCA's conditions include a recommendation that details of agreements be made public as much as legally possible and that revenues be used for conservation purposes.

How much money is involved is not clear. In the EIS NPS said a single Cooperative Research and Development Agreement (CRADA) could yield as little as no money to \$24,000 per year but in the long term "could yield more than \$1 million" per year.

At issue is the amount of compensation, if any, that research companies conducting scientific experiments on national park land should pay to NPS from revenues generated by research. This is separate from an occupancy fee.

Congress in the National Parks Omnibus Management Act of 1998 authorized NPS to write benefits-sharing agreements with scientific companies.

After NPS wrote such an agreement with Diversa Corporation in Yellowstone National Park five environmental groups

filed a lawsuit in 1998 objecting to the agreement. The groups included the Edmunds Institute, Alliance for the Wild Rockies and Wilderness Watch, among others. The agreement authorized the Park Service to share in Diversa's revenues from research involving biological samples of microbes taken from the park.

U.S. District Court Judge Royce Lamberth agreed with the plaintiffs on March 24, 1999, that NPS should prepare a programmatic EIS. On November 23 NPS announced that it had completed the EIS.

In the EIS NPS said that more than 200 parks host research operations now under permits issued from existing authorities. The preferred EIS would establish clear rules of the game for all sides.

If NPS followed the recommendation in the EIS, it would have all researchers holding permits with NPS negotiate benefit-sharing agreements with park units. The EIS does not say what terms and conditions should be in the agreements.

It would require allocation of revenues from research to conservation spending. "All benefits received by the NPS under any type of benefits-sharing agreement would be dedicated to the conservation of resources protected and managed by the NPS," says the EIS. "In general, CRADA benefits must be used for scientific purposes."

But the Edmunds Institute and other environmental plaintiffs disagree with the preferred alternative. In comments submitted to NPS they said, "Commercial bioprospecting in general undermines the basic mission, purpose and spirit of the National Parks. Were commercial bioprospecting to be disallowed, as NPS itself points out in the DEIS, the amount of research likely to be foregone is less than one half of one percent of all research in the National Park System."

NPCA's position, as delineated in a Winter 2007 NPCA magazine, aligned with the NPS proposal, under some conditions. Said the article, "NPCA is con-

fident that the Park Service's plan won't impact park resources and the visitor experience, but is concerned that the current draft proposes to keep the details of these arrangements unavailable to the public."

The Diversa Corporation has been taken over by the Verenum Corporation of Cambridge, Mass. Verenum describes itself as "a leader in the development and the commercialization of cellulosic ethanol, an environmentally-friendly and renewable transportation fuel, as well as higher performance specialty enzymes for applications within the biofuels, industrial, and animal nutrition and health markets."

Global warming bill put in cold storage until spring

Senate Majority Leader Harry Reid (D-Nev.) put out the word just before Thanksgiving that climate change legislation won't reach the Senate floor until spring.

The legislation holds the potential to greatly revise federal and state land management policy, as well as to provide billions of dollars per year to do so.

"With what's going on with health care legislation it's highly unlikely that climate legislation can come up before spring," a Senate Energy Committee staff member told us.

The lead Senate action on climate change came on November 5 when the Senate Environment and Public Works (EPW) Committee approved a comprehensive bill (S 1733) that could have profound consequences for management of the nation's parks and recreation areas. The House approved a counterpart bill (HR 2454) June 26.

Reid's oft-stated game plan is to bring a version of S 1733 to the Senate floor along with climate-related legislation from other committees. Reid and Senate Democratic leaders earlier this fall said they intended to act on S 1733 and related bills by the end of this

year. But last week that schedule was extended, beyond the winter and into the spring. That in turn raises the strong possibility the legislation will become entangled in 2010 election campaigns, and stall again in the Senate.

Meanwhile, Sen. John Barrasso (R-Wyo.) continues to question sharply Interior Department justifications for injecting climate change considerations into agency decisions before Congress passes climate change legislation.

In Secretarial Order #3280 of September 14 Secretary of Interior Ken Salazar directed land management agencies to consider climate change in all land management decisions.

Barrasso, chairman of the (all-Republican) Western Congressional Caucus, worried at a Senate Energy Committee hearing November 18 about the impact of Salazar's order on users of federal lands. "It could potentially put into question all present and future agreements related to oil and gas development and renewable energy, recreational uses of the land, grazing, and hunting on public or private property," said Barrasso.

Kit Batten, science advisor to Secretary of Interior Ken Salazar, responded by noting that the department has vast responsibilities to manage 20 percent of the nation's lands and millions of acres of ocean.

"As a result all of those land management decisions we need to be considering climate change as a driving force in making decisions about how to best protect those resources. . .," she said. "In so doing, recognizing that climate change is such a challenge for all managers both public and private, we are including the consideration of climate change in making decisions about managing our resources."

Barrasso responded, "You said climate change would be a driving force. People are concerned about agreements that are already in place and what's going to happen to them retroactively."

Batten tried again, saying, "There

is nothing in the secretarial order that addresses any existing agreements."

The Western Congressional Caucus first objected to the Secretarial Order in an October 28 letter. One of the caucus's main concerns then and now was the setting of a new policy before Congress completed climate change legislation.

The caucus complained, "By bypassing the congressional approval process, the Department of Interior has unilaterally created a new set of restrictive regulations and mandates that will allow special interest groups with narrowly focused agendas to dictate current and future activities on federal lands - all in the name of 'climate change.'"

Signing the original Western Congressional Caucus letter, in addition to Barrasso, were Sens. Mike Enzi (R-Wyo.), Orrin Hatch (R-Utah), David Vitter (R-La.) and John Thune (R-S.D.) and Reps. Doug Lamborn (R-Colo.), Don Young (R-Alaska), Cynthia Lummis (R-Wyo.), Michael Conaway (R-Texas), Paul Broun (R-Ga.), Jason Chaffetz (R-Utah), Tom McClintock (R-Calif.), Denny Rehberg (R-Mont.), Wally Herger (R-Calif.) and Dean Heller (R-Nev.)

The secretarial order is at <http://www.doi.gov/climatechange>.

WHAT THE LEGISLATION WOULD DO: The Senate committee bill, S 1733, and the House bill, HR 2454, would make major changes in the management of conservation programs on federal and state lands by revising fundamentally management priorities on those lands. The bills would have every federal agency or department complete a plan to comply with standards in the legislation. States would have to take similar actions.

The bills would establish a Natural Resources Climate Change Adaptation Fund that would provide billions of dollars to protect natural resources. In a major difference from the House bill S 1733 would guarantee money in the fund. The House would subject distribution of the money to appropriators in annual spending bills.

In addition S 1733 and HR 2454 are targets for riders to guarantee \$900 million per year for the Land and Water Conservation Fund. Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) and Senate Finance Committee Chairman Max Baucus (D-Mont.) recently introduced a bill (S 1933) to do that. An aide to Bingaman said the legislation stands the best chance of enactment if it were added to some other must-do bill, such as the climate legislation.

DoI, FS see stimulus gains; Rep. Hastings is skeptical

The Interior Department and the Forest Service have obligated almost one-third of the more than \$4 billion in economic stimulus money that came their way in February.

Through mid-October Secretary of Interior Ken Salazar said his department had obligated \$865 million of the \$3 billion it has to spend. And through September 30 the Forest Service had obligated \$339 million of the \$1.15 billion it has to spend.

But Rep. Doc Hastings (R-Wash.) continues to pepper the Department of Interior and the Department of Agriculture with questions, essentially saying, "Prove it."

For instance, Hastings last month wrote Secretary of Agriculture Tom Vilsack requesting a complete list of 2,700 projects the Forest Service has approved or intends to approve.

Hastings, ranking Republican on the House Natural Resources Committee, said, "Since Recovery.gov promises that 'taxpayer dollars spent under the Recovery Act will be subject to unprecedented transparency and accountability,' I hope that you will provide more informative and specific answers. . ."

Meanwhile, Congressional Democrats this week began debating the advisability of writing a new stimulus bill, given an unemployment rate north of 10 percent. Some representatives, such as Rep. Bobby Rush (D-Ill.), reportedly

support quick enactment of a \$500 billion surface transportation bill, using left-over Stimulus 1 money and left-over bank bailout money to pay for it.

As for the old stimulus law, Hastings also asked Vilsack why \$2.3 million in Forest Service Capital Improvement and Maintenance money was distributed to Connecticut, Delaware, Massachusetts and Rhode Island when the West is faced with "immense" fire threats.

In earlier correspondence Vilsack had told Hastings that money was used by the four states "for hazardous fuels reduction work on State and private land in each State, again because these programs of work ranked highest using the aforementioned scoring criteria."

On November 4 Hastings came back at Vilsack seeking greater detail. "Please explain with specificity how the funding projects for Connecticut, Delaware, Massachusetts, Maryland, and the District of Columbia (all of which contain no National Forest lands) ranked higher than projects in states with National Forests," he said.

Hastings clearly was fishing for political mischief in the choice of the eastern state projects. He queried Vilsack, "You stated that project selections were reviewed by the Office of Management and Budget and the Office of the Vice President. Were these reviews conducted during the selection process or were these offices presented with the list of selected projects for review? What modifications, if any, to the list resulted from their review?"

In an earlier August 14 letter to Vilsack and Salazar Hastings had asked for details on how the two departments were spending the \$4.1 billion they received from the economic stimulus law (PL 111-5 of February 17.)

Vilsack responded October 19, "The overriding objective of the Forest Service's implementation of the ARRA (American Recovery and Reinvestment Act) is to provide jobs in the most economically distressed areas. We made sure to

first get money to States most in need. The secondary objective is to accomplish resource benefits by carrying out priority work that will reduce future operation and maintenance costs and wildlife risks."

Salazar responded in an October 30 letter (Hansen's staff said it arrived November 6) that explained how the department selected projects. "Each bureau followed defined selection criteria for categories of projects (e.g. deferred maintenance, habitat restoration, trails maintenance, etc.)," he said. "The bureaus documented their selection criteria and approach for managing their Recovery Act programs in their program plans which were reviewed in conjunction with the project lists."

Again, Hastings was not satisfied. His office told us: "While we appreciate Secretary Salazar's response, there are still many unanswered questions regarding the Interior Department's use of allocated stimulus money. For example, we have yet to receive a specific list of the proposed stimulus projects, nor detailed information on how many jobs will be created on a project-by-project basis as a direct result of the Department's stimulus spending." Salazar did direct Hastings to a full list of the projects at the website <http://recovery.doi.gov>.

Vilsack said the Forest Service anticipates the money it has already obligated will produce 20,000 jobs and the Interior Department estimated its obligated money will generate 9,388 "job years."

The ARRA includes these broad allocations:

- * FS construction, \$650 million
- * BLM construction, \$315 million
- * Wildfire prevention, \$515 million (\$250 million FS; \$250 million state and local; \$15 million DoI)
- * USGS modernization, \$140 million
- * FWS construction, \$165 million
- * Park Service construction/maintenance, \$735 million
- * Park Service roads (Federal highway money), \$170 million

* Historic preservation grants, \$15 million

* Surface transportation, \$47 billion.

Wyoming files lawsuit against Yellowstone snowmobile regs

Although the State of Wyoming filed a new lawsuit November 20 against a Park Service rule authorizing snowmobile use in Yellowstone National Park, it won't try to block the rule this winter.

Wyoming Attorney General Bruce A. Salzburg told Wyoming media November 24 that he would not ask the U.S. District Court in Wyoming for an injunction because outfitters are already planning to work with a 318 snowmobile per day cap.

In addition Salzburg said it would be difficult to prove harm from the interim regulation. As evidence, an average of 205 snowmobiles daily entered the park in 2008-09, well below the 318 cap.

In a related development the National Parks Conservation Association (NPCA) November 24 asked the court for permission to intervene in the State of Wyoming lawsuit. NPCA has been contesting Yellowstone snowmobile use for most of the last decade.

NPCA praised the Obama administration's rule as a "step in the right direction," but continues to maintain that snowmobiles have no place in the park, period.

"Yellowstone deserves the highest level of protection to ensure the preservation of its environment and wildlife," said Patricia Dowd, NPCA Yellowstone program manager. "Every major study conducted over the last decade demonstrates that visitors can enjoy Yellowstone if access is provided entirely by best-available-technology snowcoaches and the use of snowmobiles is phased out."

Wyoming Gov. Dave Freudenthal (D-Wyo.) disagrees. He insists the 318 snowmobile cap is too low. He says NPS

should use a flexible cap of as many as 720 snowmobiles per day that would allow peak numbers of visitors on Christmas, New Years Day and Presidents Day.

Freudenthal argues that the Park Service itself in its 2009 winter rule said that even a cap of 720 snowmobiles per day that was in effect in 2004 caused no impairment to park resources.

"The Park Service needs to balance its duty to protect Yellowstone against its obligation to help as much of the public enjoy the park as possible. They have failed to do that when their own research shows no harm from 700 snowmobiles and then they set the limit to 318," Freudenthal said.

Snowmobile users and the snowmobile industry charge that the Interior Department is playing politics. Said Jack Welch, special project consultant, to the BlueRibbon Coalition, "People will be turned away this winter. The reason is not because there is a biological or scientific reason to do so - it is because winter visitors are caught in a game of politics and 318 is a convenient number between 0 and 540."

NPS published the winter use rule November 20 that will establish a cap of 318 snowmobiles per day this winter, beginning December 15, and a cap of 78 snowcoaches per day. The rule will apply for the next two winters while NPS prepares a more permanent plan.

When the interim rule was first proposed environmentalists were resigned to it, although they prefer no snowmobiles in the park. Like the Wyoming Congressional delegation, snowmobile users were not as accepting. Both sides said they would concentrate on the more permanent plan.

The park said the final rule follows the recommendation of a finding of no significant environmental impacts that it published October 15. That is, the 318 snowmobile and 78 snowcoach caps. The park said the caps "represent an 8.2% increase in snowmobiles and a 123% increase in snowcoaches over the next two years compared to the 2007-2008

average of 294 snowmobiles and 35 snowcoaches per day."

The 318-snowmobile cap is down from the 720 snowmobiles per day allowed last winter under a Bush administration rule. The peak number of daily snowmobile visitors last winter was 426. An average of 205 snowmobiles daily entered the park in 2008-09.

Of interest the latest lawsuit was filed with U.S. District Judge Alan Johnson, not Judge Clarence Brimmer, both located in Wyoming. Brimmer has consistently favored snowmobilers in this litigation, most recently in 2007 when he reinstated a 2004 rule that allowed up to 720 machines per day in the park. That is the 720-machine rule that has been replaced by the 318-machine rule.

Floridians look to next WRDA bill for Everglades help

Congress is beginning to lay the groundwork for a massive new water resources bill that could provide serious money for an Everglades restoration program.

The House Transportation Committee kicked off the initiative last month by asking legislators to nominate projects to be included in a Water Resources Development Act (WRDA) of 2010. The deadline for the requests was yesterday (December 3.)

At an initial hearing November 18 members of the Florida Congressional delegation indicated they would request money for old and new projects under a Comprehensive Everglades Restoration Project (CERP.) It is an overarching \$7.8 billion federal-state initiative to revive the Everglades.

Rep. Ron Klein (D-Fla.) put in a plug for one initiative known as the Broward Water Preserve Area projects in southern Broward County and northern Dade County.

"The (Broward) projects are designed to improve Everglades water qual-

ity by enhancing the buffer between residential development and protected Everglades wetlands, capture and divert stormwater runoff, and reduce underground seepage," he said. "This project is shovel ready. All construction plans and specifications are complete, and all federal, state, and local permits have been issued."

Klein said other Florida House members would on their own submit requests for other Everglades projects. "I strongly urge this committee to consider this project, along with the other Everglades projects that Members of the Florida delegation will be submitting," he said, "so we can continue our historic commitment to restoring the River of Grass, and keep this unparalleled natural splendor a national treasure for generations to come."

Completion of CERP promises to be a long, hard slog. While Congress first gave direction to the then-estimated \$7.8 billion CERP in 2000, it must also (1) approve individual projects once feasibility studies are completed and (2) appropriate money to pay for the individual projects in annual money bills.

Congress demonstrated how difficult that two-step process can be when it approved the first two major CERP projects in a 2007 WRDA and then failed to fully fund them this fall in a fiscal year 2010 appropriations bill.

In the 2007 WRDA Congress authorized a \$1.365 billion Indian River Lagoon project, with half of the money - \$682.5 million - coming from the feds and half from the State of Florida. It also authorized a \$375 million Picayune Strand project with half the money - \$187.5 million - provided by the feds and half by Florida.

But in the fiscal 2010 Energy and Water spending bill (PL 11-85 of October 28) Congress removed most of the money the Obama administration had requested for the Indian River Lagoon, according to Rep. Tom Rooney (R-Fla.)

However, Sen. Bill Nelson (D-Fla.)

said the jumbo economic stimulus law (PL 111-5 of February 17) would provide some of the needed money.

In the end the fiscal 2010 appropriations bill provides \$34 million less than the Obama administration had requested for the Everglades. Although the administration asked for \$214 million, Congress provided \$180 million in the law.

The Obama administration this spring committed to protecting the Everglades and to redressing an imbalance in federal-state contributions to the restoration of the Everglades ecosystem, at least on paper.

Secretary of Interior Ken Salazar said the administration was seeking \$600 million to fund ongoing projects. Still, the Government Accountability Office said the state has spent six times as much as the federal government in what is supposed to be a 50-50 proposition. And the state has said it has spent \$2.4 billion.

The massive recovery project, originally expected to cost \$8 billion, has now grown to \$22.5 billion, according to the *Miami Herald*. So, assuming the federal share is a little over \$11 billion, Salazar's \$600 million over three years is but a down payment.

The state has been busy on a second front. It has agreed to acquire 72,500 acres of sugar farms between Lake Okeechobee, a main source of water for Everglades National Park, and the park.

Now the House Transportation Committee is beginning to prepare the first WRDA since 2007. The committee has not set a schedule for developing a bill, but it could take some time to hold hearings, mark-up legislation and, finally, persuade the Senate to take up a bill. Besides, the Senate is presently occupied with health care and climate legislation.

The Senate Environment and Public Works Committee, with lead responsibility for climate change legislation, has not begun to address a 2010 WRDA bill.

FLREA critics begin talks about repeal bill in House

Advocates of repeal of a comprehensive federal lands recreation fee law said that in October they came close to reaching a deal on introduction of a bill in the House.

But advocates of fee elimination such as the Western Slope No Fee Coalition said negotiations stalled when the House members insisted on major amendments to the existing law, rather than outright repeal.

Nonetheless, talks are expected to continue. "We're still going to work on language," said Kitty Benzar, president of the coalition.

One measure is already on the table in the Senate - a repeal bill from Sens. Max Baucus (D-Mont.), Jon Tester (D-Mont.) and Mike Crapo (R-Idaho.) They introduced their bill on April 22. No hearings have been held, but Baucus is in position to insert it in any big tax bill that comes before the Senate Finance Committee that he chairs.

After the controversial Federal Lands Recreation Enhancement Act (FLREA) was enacted in Dec. 8, 2004, as PL 108-447, critics such as the no fee coalition charged that federal agencies became too eager to make money from fees at the public's expense. Agencies retain 80 percent of fees.

The critics maintain that federal land management agencies - the Forest Service in particular - have gone overboard in collecting entrance fees to broad areas that include developed sites. The law authorizes entrance fees at developed sites but not in the larger areas, say the critics.

The Senate sponsors lost one key ally from 2008 but in the end gained when that ally - former Sen. Ken Salazar (D-Colo.) - became Secretary of Interior Ken Salazar. That, plus a new administration that does not reflexively support the existing law, was expected to give the legislation a boost this year.

At least that was the initial hope of the critics. But, said Benzar, "It hasn't made any difference so far. Under the new administration there is no indication that they are moving away from considering public lands as marketable commodities."

The Forest Service didn't earn any points with its critics December 1 when it proposed to eliminate a 50 percent discount in camping fees for holders of senior passes. The discount, which applies just to privately operated campgrounds in national forests, is presently 50 percent. About half of the campgrounds in the national forests are operated by private companies.

The Forest Service said it is proposing the discount because it the only federal land management agency that offers the discount. And the service said that its concessioners complained that the discount in noncompetitive against campgrounds on private land, the discount is non-negotiable and the growing number of senior citizens makes the discount unreasonable.

The Forest Service will take public comment on the proposal until February 1 by E-mail to <http://www.regulations.gov> or by mail to: U.S. Forest Service, Attn: Carolyn Holbrook, Recreation and Heritage Resources Staff, 1400 Independence Avenue, SW., Stop 1125, Washington, DC 20250-1125.

Benzar blamed FLREA for the Forest Service proposal because the previous fee law provided a 50 percent camping discount to seniors who held lifetime passes. FLREA removed that requirement.

She said until FLREA the federal government used discounts to honor senior citizens. I guess that's out the window now," she said. "No more special honors, no more special breaks. Pay up or stay home now applies to everyone."

As for the negotiations with the House, Benzar said she wouldn't divulge the names of possible sponsors and the points of contention in order not to compromise private negotiations. But her coalition was working with majority

staff on the House subcommittee on National Parks, Forests and Public Lands. She did say subcommittee chairman Raúl M. Grijalva (D-Ariz.) would not be an initial sponsor.

The FLREA repeal bill went nowhere in Congress last year although the Senate Energy Committee did schedule a hearing that was subsequently canceled.

The bill would leave in place only Park Service entrance fees (as established in a previous law before FLREA), with 80 percent of revenues still retained by collecting NPS units. In other areas the Baucus bill would:

- * eliminate collection of "standard amenity fees" at developed sites that the 2004 law authorized for the Forest Service, the Bureau of Land Management, and the Bureau of Reclamation,

- * eliminate retention of recreation fees by the agencies, other than the Park Service, and return use fees to the U.S. Treasury,

- * cap entrance fees charged by NPS at \$25 for a single visit by car, and \$12 by foot or bicycle,

- * eliminate an \$80 per year multi-agency American Passport and reinstate the old Golden Eagle and Golden Age Passports charged by the Park Service, and

- * increase the Golden Eagle passport fee from \$25 to \$65.

Notes

NPS may redo oil and gas regs.

The Park Service said last week it may issue new regulations that would require all oil and gas operations within the national parks to comply with existing agency regulations that are designed to protect park resources. It asked for public comment on developing a new rule. Under existing practice more than half of all oil and gas operations within the National Park System do not have to prepare a plan of operations or provide the feds with a bond. That's because NPS exempts from its regs all oil and gas projects adjacent to a park that don't require access through the park. That's 109 of the 693 operations within

the system. NPS also exempts operations that were grandfathered when the NPS regs went into effect in January 1979 because they were subject to state regulations. That's 255 operations. In rebonds NPS places a cap of \$200,000 per operator that must comply with its regulations. NPS said it is considering removal of that cap in favor of a "reasonable estimated cost." The \$200,000 cap applies to one operation per NPS unit. Therefore, if one operator has multiple wells in a park unit, the NPS can only require up to \$200,000 financial assurance from that one operator. Comment on the November 25 NPS announcement by January 25 to: <http://www.regulations.gov> with an identification of RIN 1024-AD78 or to *Department of the Interior; National Park Service; Attention: 9B Rulemaking Team, Geologic Resources Division, National Park Service, P.O. Box 25287, Denver, CO 80225-0287.*

'Livability' gets a caucus. Rep. Earl Blumenauer (D-Ore.) and 17 other House Democrats have formed a Livability Communities Task Force to work for livability legislation. The caucus intends to address a broad sweep of issues - housing, the environment and transportation as well as recreation. One bill the caucus lists for attention would authorize up to \$445 million per year for grants to local governments in a new urban park restoration program in the Department of Housing and Urban Development. The measure (HR 3734) was introduced by Rep. Albio Sires (D-N.J.) Blumenauer was a cosponsor. More broadly, the House subcommittee on Highways and Transits June 24 did approve a \$500 billion, six year surface transportation bill (unnumbered) that would establish a new Office of Livability in the Department of Transportation. The office would oversee such outdoor programs as 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 Livability Communities Task Force has its own website, www.blumenauer.house.gov/livablecommunities.

Dams still coming down. The American Rivers conservation group November 27 published a list of 58 dams in 16 states that have been removed this year or will be removed. "While some dams are beneficial to society, many have outlived their usefulness and continue to age and deteriorate as development both upstream and downstream of dams increases," said American Rivers. Those are the dams that conservationists are campaigning for removal. Communities have removed more than 700 dams nationally but more than 10,000 still are dangerous. American Rivers offered examples of the benefits of removal in its list of 58 removed dams. It cited a dilapidated Saucon Park Dam in Pennsylvania that was built for recreational use, but is now causing floods and stream bank erosion. The list of removed dams is at <http://www.americanrivers.org/assets/pdfs/dam-removal-docs/2009-dam-removals.pdf>.

NPS trail grants distributed. The Park Service said November 30 it has awarded a total of \$873,000 for 17 projects that link national trails with federal conservation lands. The grants are allocated under a Connect Trails to Park grant program established last year to commemorate the 40th anniversary of the National Trails System. The grants ranged from the unusual - a \$100,000 grant to expand a website for the Star-Spangled Banner National Historic Trail in Maryland and Virginia - to more predictable - a \$100,000 grant to complete compliance for a Wallkill River Bridge in Sussex, N.J., along the Appalachian National Scenic Trail. The smallest of the grants announced by NPS was for \$4,500 for volunteer interpretation at Nez Perce National Historical Park in Spaulding, Idaho.

Conference Calendar

DECEMBER

7-10. **America Outdoors** marketing and management conference in Reno, Nev.

Contact: <http://www.americaoutdoors.org/confluence.htm>.

16-17. **Western Governors' Association** winter meeting in San Diego. Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202-5114. (303) 623-9378. <http://www.westgov.org>.

JANUARY

6-9. **Archaeological Institute of America** annual meeting in Orange County, Calif. Contact: Archaeological Institute of America, 656 Beacon St., Boston, MA 02215-2006. (617) 353-9361. <http://www.archaeological.org>.

13-14. **National Ski Areas Association** eastern conference at Mount Snow, Vt. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

20-22. **U.S. Conference of Mayors** winter meeting in Washington, D.C. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

21-24. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.

FEBRUARY

1-4. **National Association of Conservation Districts** annual meeting in New Orleans. Contact: National Association of Conservation Districts, 509 Capitol Court, N.E., Washington, DC 20002. (202) 547-6233. <http://www.nacdnet.org>.

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

7-10. **Association of Partners for Public Lands** annual convention in San Diego. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.