

# Federal Parks & Recreation

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## Buzz varies, but FY 07 budget is sure to be austere

It's a common assumption among park and rec leaders that the Bush administration will recommend more than across-the-board spending cuts in a fiscal year 2007 budget request February 6.

It's also a common assumption the administration will ask Congress to eliminate spending for individual programs, such as the state side of the Land and Water Conservation Fund (LWCF).

So, as always, program advocates will turn to Congress for help. "All indications are that the budget is going to be very austere on the discretionary side," one lobbyist told us. "But, despite what the administration does, we have friends on the Hill."

There may be another, more controversial, source of money - partnerships between private companies and federal land management agencies. At a Partners Outdoors conference in Phoenix January 8-11 federal land managers cited the growing importance of partnerships with the private sector and volunteers.

For instance Steve Stockton, deputy director of Civil Works for the Corps of Engineers, said half of Corps lake sites are already managed by nonfederal entities. "The Corps is looking for ways to remove barriers and is committed to creating partnerships," he said, "and we realize that partnerships must flow in two directions. We want to know how our expertise and experience can help you meet your needs."

Scott Silver, a staff member with Wild Wilderness, has long objected to the substitution of private money from federal lands partners for straight appropriations. "My concern is that it brings consumerism to a setting where

consumerism has not been, to a large extent," he said. "It provides partners with the inside track. Contrary to what the advocates say that the partners money or increase fee money will be supplemental, they are supplemental to an overall declining budget."

Even if partnerships with businesses do help agencies, it probably won't be enough to take the pressure off demands for appropriations.

The reductions in fiscal 2007 could be heavy. "All federal agency officials are saying the same thing - the President's fiscal 2007 budget request will show a drop in proposed spending," said Derrick Crandall, president of the American Recreation Coalition, who hosted the Partners Outdoors conference.

"It will either reduce spending for about all programs or zero out spending for specific programs, as for the state side of LWCF (Land and Water Conservation Fund). Rivers and trails assistance will also take a hit. Recreation trails in the Forest Service can expect not just a flat request but heading down. It's not a happy situation. Overall we're fairly pessimistic."

But, said Crandall, he doesn't anticipate Congress will follow the President's lead. "I don't think Congress in an election year is going to actually reduce spending," he said. "The administration is positioning itself by squeezing spending but I don't see Congress, particularly the House where all members are up for re-election, reducing spending. That's our saving grace."

One senior Interior Department official told *FPR*, "Generally, we hear it's going to be bad on funding, either flat or cuts. I know Interior appealed some cuts to (the Office of Management and Budget in December.)"

Not everyone is ready to jump overboard. "I have heard everything from a 10-to-five percent reduction to level spending for Interior," said Sarah Neimeyer, lead budget staff member for The Wilderness Society. "At this point

I'm going to hold my fire until the budget is actually delivered. I really have heard everything from senior folks."

The Outdoor Industry of America (OIA), an increasingly influential player in the appropriations process, will be in there pitching, said Myrna Johnson, OIA vice president for government affairs. "We're going to work on the management of rec lands by agencies and programs that bring recreation closer to the people, such as the state LWCF. Recreation is very important to the western economy now and to the health of the American people."

As always, the appropriations battle will begin the first Monday of February, this year on the 6<sup>th</sup>, when the Bush administration submits its fiscal 2007 appropriations request/recommendation to Congress.

And, as always, Congress will take the second step when it writes a fiscal 2007 Congressional budget. That budget, scheduled for completion by mid-April, will determine how much domestic discretionary money appropriations committees will have to work with. Appropriations committee leaders will then establish caps for individual appropriations bills.

Finally, as always, using the caps, Congressional appropriators will write the details of individual appropriations bills.

Here's how the fiscal 2006 Interior and related agencies spending bill worked out: The Administration requested \$25.7 billion but Congress appropriated \$26.2 billion, or \$500 million more than the request. In fiscal 2005 Congress had appropriated \$27 billion for the Interior bill, or \$800 million more than Congress appropriated in fiscal 2006.

Subsequently, after the 2005 hurricanes ravaged the Gulf Coast, President Bush on Oct. 28, 2005, asked Congress to rescind \$17 billion in fiscal 2006 spending to provide money for hurricane recovery operations. Of that \$788 million would come from Interior approps.

Instead, Congress passed legislation (PL 109-148 of Dec. 30, 2005) that imposes a simple, one percent across-the-board rescission of fiscal year 2006 appropriations. The money will help Gulf states recover from recent hurricanes.

To expand on the partnership notion the American Recreation Coalition and its allies are preparing a new edition of a 2002 report called *Toolbox for the Great Outdoors*. The 2002 report recommended 20 sources of revenues for federal land management agencies outside the appropriations process. The new report, to be called *Toolbox for the Great Outdoors II*, will contain double the number of recommendations.

"We asked our partners at the conference to consider the different drawers in a draft of the new *Toolbox*," said Dorothy Weinstein, communications director at the American Recreation Coalition. "It's still in draft format." Weinstein said the authors are aiming for a June launch of the new edition. She said more than 100 participants at the conference offered input.

Here are some specific program appropriations Congress approved for fiscal 2006 (PL 109-54 of Aug. 2, 2005), compared to a fiscal 2005 money law and to Bush administration requests:

\* FED SIDE OF LWCF: \$115 million, or \$101 million less than a fiscal 2005 appropriation of \$216 million and \$41 million less than a Bush administration recommendation of \$156.2 million. The House had recommended no new acquisitions.

For individual agencies the conferees approved (fiscal 2005 in parenthesis): BLM, \$8.7 million (\$11.1 million); the Forest Service, \$42.5 million (\$62.3 million); Park Service, \$34.9 million (\$55.1 million); and the Fish and Wildlife Service, \$28.4 million (\$37 million.)

\* STATE SIDE OF LWCF: \$30 million, or \$61.2 million less than a fiscal 2005 appropriation of \$91.2 million and \$28.5 million more than a Bush administration recommendation of \$1.5 million. The

House had recommended no new grants.

\* STATE AND TRIBAL WILDLIFE GRANTS: \$68.5 million, or just about the same as a fiscal 2005 appropriation of \$69 million and \$5.5 million less than a Bush administration recommendation of \$74 million.

\* UPAR: no money. The fiscal 2005 appropriation bill and the administration agreed on no money.

\* HISTORIC PRESERVATION: \$73.3 million, or \$1.6 million more than a fiscal 2005 appropriation of \$71.7 million and \$7.1 million more than a Bush administration recommendation of \$66.2 million.

\* SAVE AMERICA'S TREASURES (comes from the Historic Preservation line item): \$30 million, or the same as a fiscal 2005 appropriation of \$30 million and \$15 million more than a Bush administration recommendation of \$15 million.

\* NEW PRESERVE AMERICA GRANTS (comes from Save America's Treasures allocation): \$5 million, or \$5 million more than a fiscal 2005 appropriation of no money and \$7.5 million less than a Bush administration recommendation of \$12.5 million.

\* FOREST LEGACY: \$57.4 million, or \$300,000 more than a fiscal 2005 appropriation of \$57.1 million and \$22.6 million less than a Bush administration recommendation of \$80 million.

\* NPS OPERATIONS: \$1.744 billion, or \$64 million more than a fiscal 2005 appropriation of \$1.684 billion and \$10 million more than a Bush administration recommendation of \$1.734 billion.

\* NPS OPERATIONS MAINTENANCE: \$594.7 million, or \$12 million more than a fiscal 2005 appropriation of \$582.7 million and \$1 million less than a Bush administration recommendation of \$595.6 million.

\* NPS CONSTRUCTION: \$301 million, or \$52 million less than a fiscal 2005 appropriation of \$353 million and \$23.4 million less than a Bush administration recommendation of \$324.4 million.

\* NPS RECREATION AND PRESERVATION: \$55 million, or a decrease of \$6 million from a fiscal 2005 appropriation of \$61 million and \$18.2 million more than a Bush administration recommendation of \$36.8 million.

\* NPS HERITAGE AREAS (comes from previous Rec and Pres account): \$13.5

million, or \$1 million less than a fiscal 2005 appropriation of \$14.5 million and \$8.6 million more than an administration recommendation of \$4.9 million.

\* FOREST SERVICE RECREATION:

\$265.2 million, or \$7.9 million more than a fiscal 2005 appropriation of \$257.3 million and \$7.9 million more than a Bush administration recommendation of \$257.3 million.

\* FOREST SERVICE TRAILS: \$72.5 million, or \$3.4 million less than a fiscal 2005 appropriation of \$75.7 million and \$8.7 million more than a Bush administration recommendation of \$63.8 million.

\* FWS REFUGE MANAGEMENT: \$393 million, an increase of \$12 million over the fiscal 2005 appropriation of \$381 million and \$1 million less than a Bush administration recommendation of \$394 million.

\* BLM RECREATION MANAGEMENT: \$66.1 million, or \$5.5 million more than a fiscal 2005 appropriation of \$60.6 million and \$1.5 million more than a Bush administration recommendation of \$64.6 million.

\* FIRE FIGHTING FOREST SERVICE: \$1.779 billion, or \$320 million less than a fiscal 2005 appropriation of \$2.099 billion. (The decrease from fiscal 2005 doesn't count an extra \$500 million that Congress added for one-time emergency spending.)

\* FIRE FIGHTING INTERIOR: \$762 million, or \$69 million less than a fiscal 2005 appropriation of \$831 million. (The decrease doesn't count the extra \$500 million in fiscal 2005 for one-time emergencies.)

## **Hunting grounds at risk in wetlands suit in top court**

The Supreme Court will hear next month a lawsuit that could have a major impact on duck breeding and hunting grounds in the United States.

The suit, brought by a developer in Michigan, argues that the Corps of Engineers authority to regulate projects in wetlands extends only to navigable waters. The defendants worry that if the court agreed, millions of acres of nonnavigable wetlands could be harmed by landowners.

Hunting interests argue that Section 404 of the Clean Water Act extends to non-navigable tributaries that flow into navigable waterways, such as streams that lead into bays.

At issue, said Scott Yaich, director of conservation programs for Ducks Unlimited, are two phrases in Section 404 of the Clean Water Act - "navigable waters" and "waters of the United States." "The act uses the two phrases almost interchangeably, which we think clinches the intent of Congress," he said. "It wouldn't make sense to regulate wetlands if you couldn't go beyond waters that are literally navigable."

But the Pacific Legal Foundation, attorney for the developer, argued that Congress did not intend to extend Section 404 reviews beyond navigable waters. "This virtually boundless jurisdictional standard provides no meaningful measure of federal Clean Water Act authority and is a disservice to both the regulated public and the enforcing agencies," argued the foundation in a brief filed with the Supreme Court.

The facts of the case are not in dispute. Between 1988 and 1997 developer John Rapanos performed extensive land clearing work on three tracts totaling 705 acres he owned in Michigan without a Section 404 permit. In February 1994 the federal government brought suit against Rapanos charging he violated the Clean Water Act by failing to obtain a permit.

Each of the three tracts cleared by Rapanos contain wetlands that do not constitute navigable waters. But the wetlands do flow into navigable waters. In one instance the government said wetlands flow into the Hoppler Creek, which flows into the navigable Kawkawlin River, which flows into Saginaw Bay, which flows into Lake Huron.

The U.S. District Court for the Eastern District of Michigan, and the Sixth U.S. Circuit Court of Appeals on July 26, 2004, agreed with the federal government. Rapanos then appealed to the Supreme Court and the Supreme Court said it would.

Although the litigation began in the Clinton administration the Bush administration is arguing against the homebuilder and is siding with conservationists. In its brief to the Supreme Court the Justice Department linked the definitions of the phrases "waters of the United States" and "navigable waters" as used in the Clean Water Act to demonstrate Congress meant to regulate all wetlands.

Said the government in this round-about sentence, "Once it is accepted that Congress can protect intrastate waters (including wetlands) that do not themselves satisfy traditional standards of navigability, based on the danger that discharges into those waters may impair the quality of traditional navigable waters downstream, there is no principled reason to conclude that the scope of Congress's constitutional authority turns on whether the link to traditional navigable waters in a particular case is 'direct' or 'indirect.'"

Yaich of Ducks Unlimited said that conservationists understand that 50 million acres of wetlands do not contain navigable waters and are at risk in the Rapanos case. Those 50 million acres constitute half the remaining wetlands in the country, he said.

For back-up information go to:  
<http://www.eswr.com/1105/rapanos/>.

## **Gibbons may use budget mining package as starting point**

Congressional advocates of hard rock mining law changes that could affect national park and rec lands have not yet identified a strategy for writing legislation this year.

But the principal advocate, Rep. Jim Gibbons (R-Nev.), will likely use a package of failed mining law revisions from last year's Congressional budget as a foundation. "It will certainly serve as a good starting point," a top Gibbons aide told us.

In addition the aide said Gibbons puts high priority on reviving a "direct sales" provision. Critics say the di-

rect land sales provision could open the way for the sale and development of old mining claims that constituted pre-existing rights in and around national parks and federal recreation areas.

Gibbons, chairman of the House subcommittee on Energy and Minerals, last fall put together comprehensive mining law legislation as part of a budget reconciliation bill (S 1932). The Gibbons proposal, eventually dropped in the face of concerns from Republicans as well as Democratic westerners, would have authorized the sale of mined land in the course of rewriting the 1872 Mining Law.

Gibbons may be distracted this year because he is seeking the Republican nomination for governor of Nevada. On the other side of the Hill, Sen. Larry Craig (R-Idaho) has no such distraction and last month he also promised to attempt to revive mining legislation this year.

Craig has not laid out his plans yet, said an aide to the senator, but he does have "concerns" about the wording of Gibbons's mine land sale provisions.

For now, said the Craig staff member, "(Craig) wants to consult with House and Senate members on what is doable this year. There are some things that he would like to accomplish but he has not made a decision on what is doable."

Environmentalists and their Congressional allies anticipate a major legislative push on the mine law from Gibbons, Craig and, perhaps, Senate Minority Leader Harry Reid (D-Nev.) "We're preparing for any eventuality," said Lauren Pagel, legislative coordinator for the Earthworks environmental group, "whether they try to move it as a stand-alone bill or try to attach it to an Interior appropriations bill or to the budget again."

The Gibbons staff member said her boss has not decided on a single strategy. "He's looking at all options - stand-alone or appropriations or the budget," said the staff member.

The hard rock mining industry, as represented by the Northwest Mining Association (NWMA), believes the Gibbons language would be a good place to start this year. But Laura Skaer, executive director of NWMA, was concerned about misinterpretations of the Gibbons land sale provision. "The language is capable of being interpreted to mean it applies to lots of land," she said. "That is not the intent. The intent was to help small communities develop." Besides, said Skaer, like Craig her members are more interested in other provisions of the Gibbons package.

Skaer, however, is not optimistic that Congress will move any mining legislation this year. "It is an election year," she said. "The mining law is one of those subjects that tend to roll to the back burner in an election year."

Gibbons, working in tandem with House Resources Committee Chairman Richard Pombo (R-Calif.), persuaded the House November 18 to approve the mining law package as part of the budget reconciliation bill (S 1932). However, western House and Senate members from both parties said the package had not been thoroughly assessed in hearings. They were particularly concerned about the mining land sale provision. So Gibbons and Pombo agreed to pull the provisions from S 1932 and begin anew this year.

The ranking Democrat on Pombo's committee, Rep, Nick Joe Rahall (D-W.Va.), has introduced quite different legislation (HR 3968) to revise the mining law that is supported by environmentalists. HR 3968 contains no land sale provision. It would forbid the location of mining claims in wilderness study areas, areas of critical environmental concern, wild and scenic rivers, 58.5 million acres of roadless national forest as described in a 2001 rule issued by the Clinton administration, and within 10 miles of a National Conservation System Unit.

## **NPS proposes increase in cruise ships in Glacier Bay**

The Park Service reopened an old battle January 19 when it formally pro-

posed increasing the number of cruise ships in Glacier Bay National Park by 10 percent.

The increase in ships would also increase the potential visitation in the park by as much as 23 percent because new ships entering the park are significantly larger. NPS proposed increasing the cap on cruise ships in the summer season by 14 from 139 to 153 in 2007.

Teri Shore, clean vessels campaign director for the Bluewater Network environmental group, said, "We don't have a cap on the number we'd recommend. But I'd say the fewer the better. Cruise ships are getting bigger and bigger with more and more people. We'd prefer to see a reduction."

Glacier Bay Superintendent Tomie Lee said the proposal is well-grounded in science. "We look forward to having more guests enjoy the incredible beauty of Glacier Bay," said Lee. "This decision is based on sound science and on the outstanding work of the Glacier Bay Science Advisory Board."

The NPS advisory board was not as sanguine about the impacts of an increase in cruise ships as Superintendent Lee. "The Science Advisory Board evaluated existing research and concluded that an increase in seasonal use days for cruise ships in Glacier Bay could potentially affect aspects of the Park's physical, marine biological and sociocultural environments," the board said in a Sept. 30, 2005, report to NPS. "However, insufficient scientific information exists to definitively conclude the nature, magnitude or significance of effects."

The advisory board report is available at [http://data2.itc.nps.gov/parks/glba/ppdocuments/Science\\_Advisory\\_Board\\_Report\\_2005.pdf](http://data2.itc.nps.gov/parks/glba/ppdocuments/Science_Advisory_Board_Report_2005.pdf).

Although NPS said January 19 the increase in cruise ships was just a proposal, it also suggested the deal was done. The park said "that more visitors would be able to experience Glacier Bay thanks to the utilization of larger ships in 2006 and an increase of 14 cruise ship entries in 2007."

During the 1990s conservations fought a running battle with the Clinton administration Interior Department over the number of ships in Glacier Bay. The National Parks Conservation Association brought suit demanding that NPS prepare an EIS and won.

Pursuant to that litigation NPS completed an EIS in October 2003, followed by a Record of Decision. As part of the deal NPS created a Science Advisory Board to assess the impact of additional ships on both the physical environment of the bay and on socio-cultural factors. The board is made up of representatives from NPS, the Fish and Wildlife Service, the Navy, the Alaska Department of Fish and Game, the Alaska Department of Environmental Conservation, N.O.A.A. Fisheries, and the Forest Service.

Conservationists are concerned about the full gamut of possible environmental impacts of additional ships in Glacier Bay. "Our primary concern is air pollution from ship engines, as well as damage to whales and marine life and potential discharges (of waste)," said Shore.

The preferred alternative in the 2003 EIS anticipated a baseline of 139 cruise ships in Glacier Bay, up from 107 in 1985 during June, July and August. The EIS also anticipated an increase to a maximum of 184 ships during the summer season over time (with a cap of two per day). In the shoulder season of May and September NPS established a quota of 92 ships, with a possible increase to 122 ships. NPS didn't mention the shoulder season cap in its January 19 proposal.

NPS said 341,356 visitors came to Glacier Bay on cruise ships in 2005, up about one percent from 2004.

In the National Parks Conservation Association litigation the Ninth U.S. Circuit Court of Appeals ruled that, in addition to preparing an EIS, NPS had to roll back its summer limit on cruise ships from 139 to 107. However, Sen. Ted Stevens (R-Alaska), then chairman of the Senate Appropriations Committee, intervened and inserted a rider in a fiscal year 2002 Interior appropriations

bill that froze the limit on cruise ships at 139. The bill was enacted on Nov. 5, 2001, as PL 107-63.

*Comment on the January 19 NPS proposal by February 21 to: Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, AK 99826 or FAX to (907) 697-2654.*

## **Rec activists gear up for SAFETEA-LU program cuts**

Advocates of outdoor programs financed by a giant new surface transportation law are trying to limit the damage from Congressional take-backs from the overall program of some \$4 billion.

The take-backs, or rescissions, direct the states to remove the \$4 billion from fiscal year 2006 and prior funds. The Federal Highway Administration (FHWA) has ordered states to identify the first \$2 billion in rescissions by tomorrow (January 28).

FHWA says it is still working on a schedule for the remaining \$2 billion. "The details, including schedules for implementing the (newer) rescissions are still being worked out," an FHWA spokeswoman told us.

So advocates of such programs as transportation enhancements and recreational trails will have to lobby the states to minimize damage.

One thing is clear - the rescissions are going to hurt. "Whether the rescissions are applied across-the-board or come from recreational trails or from transportation enhancements I believe we're in trouble," said Derrick Crandall, president of the American Recreation Coalition.

Marianne Fowler, senior vice president of policy for the Rails-to-Trails Conservancy, said, "We are reviewing the numbers to see what the actual impact might be. We are talking with the state departments of transportation to decide how to minimize the impact on those programs that support trails."

The \$4 billion in rescissions isn't the only worry for program advocates. By law the federal government can't allocate more money from the surface transportation program than the Highway Trust Fund amasses from gasoline taxes.

That, in turn, may impose a new cap on spending, called an obligation limitation, that further lowers spending on recreation programs financed by a new highway law called the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

The Treasury Department is expected to tell the Department of Transportation shortly what the fiscal 2006 obligation limitation is. Between the obligation limitation and the SAFETEA-LU rescissions, "We won't see spending in fiscal 2006 at the level envisioned by SAFETEA-LU," said Crandall. "It's clear it will be below that. How much below isn't clear."

In the final days of the 2005 legislative session Congress imposed three separate rescissions on highway spending under SAFETEA-LU. Combined, the rescissions would extract more than \$4 billion from surface transportation programs, or almost seven percent of the \$60 billion of SAFETEA-LU money still on the table, according to analyses provided to *FPR* by Congressional appropriators.

The rescissions would affect individual programs differently. For instance, a one percent, across-the-board emergency rescission of all federal programs attached to a fiscal 2006 Department of Defense appropriations law (PL 109-148 of December 30) would affect every program. It would rescind just over \$400 million from the \$40.7 billion SAFETEA-LU allocated for fiscal 2006.

A second, \$1,143,000,000 rescission attached to the Defense spending bill would apply just to SAFETEA-LU. It would take money away from formula programs, including transportation enhancements and recreational trails. However, it would not affect such nonformula spending as scenic byways, federal land

highways and set-asides for priority projects, also known as pork, a Republican appropriations committee staff member told us.

A third, \$2 billion rescission of SAFETEA-LU money in a fiscal year 2006 Transportation appropriations law (PL 109-115 of Nov. 30, 2005) would operate much like the \$1,143,000,000 rescission attached to the Defense spending law. That is, it would not affect such programs as scenic byways, federal land highways and set-asides for priority projects. FHWA has directed states to identify by tomorrow (January 28) the programs that will give back money under the first rescission.

Transportation enhancements, for one, could be exposed to a substantial rescission, depending on the whims of the states, because it is considered a formula program.

Ever since SAFETEA-LU was enacted (PL 109-59 of Aug. 10, 2005) critics have attacked it for wasteful spending, particularly some \$14.8 billion in earmarked special projects. SAFETEA-LU set aside \$286.5 billion over six years from the Highway Trust Fund for various transportation programs. Park and rec programs would receive at least \$2 billion per year.

But rather than revising the SAFETEA-LU law itself by taking money from individual programs, Congress approved the three rescissions. Now states must decide which programs to remove money from.

In a December 28 Notice to the field FHWA said the first \$2 billion rescission from the Transportation appropriations bill would apply evenly to each state. "The rescission is being applied proportionately to States based upon the fiscal year (FY) 2006 apportionments to the State for the core apportioned programs excluding the Highway Safety Improvement Program," says the Notice.

Then the Notice advises states that they may also give back old money they received before fiscal 2006. "The



rescissions may be taken from any unobligated funds apportioned under chapter 1 of title 23, including apportionment categories authorized prior to the Transportation Efficiency Act of the 21st Century," it says.

By definition large states will lose the most money under the initial rescission, led by California with \$187.5 million, Texas with \$158.7 million and New York with \$166.3 million.

Congress completed SAFETEA-LU last summer after years of struggle, primarily over total spending. The House and the Bush administration recommended \$284 billion over six years, but the Senate demanded \$295 billion. They compromised on \$286.5 billion.

In fiscal 2006 SAFETEA-LU will allocate these amounts of money, before rescissions are deducted:

- Enhancements, \$627 million.
- Recreational Trails, \$70 million.
- Scenic Byways, \$30 million.
- National park roads, \$195 million.
- Federal land roads, \$280 million.
- Indian roads, \$330 million.
- Refuge roads, \$29 million.
- Safe routes to school, \$100 million.
- Wallop-Breaux, \$100 million-plus increase.
- Mass Transit in Parks, \$22 million.

## **BLM preps defense to charges it is moving slowly on OHVs**

The Bureau of Land Management (BLM) is preparing a response to 44 Congressmen who charged last month the bureau is moving too slowly to designate off-highway vehicle (OHV) routes across public lands.

While the bureau is not ready to defend itself publicly yet, a representative of powered recreation users who is in close touch with BLM offices said the agency is working conscientiously on the job.

"I think the planning regs are being adhered to," said Brian Hawthorne,

public lands director of the Blue Ribbon Coalition. "This is the top priority for every BLM planning office. It is being done *tout suite*."

The 44 House members wrote Secretary of Interior Gale Norton six weeks ago demanding that the bureau get moving on the designation of OHV routes. The members, led by Reps. Mark Udall (D-Colo.) and Rush Holt (D-N.J.), complained that BLM has completed route designations on only five percent of its land.

"The original ORV deficiencies continue to persist today, as few resource management plans have designated ORV route systems," said the House members, using the ORV acronym favored by environmentalists rather than the OHV acronym favored by land managers. "In specific, route designations have been completed on just 13,600,000 acres or little more than 5 percent of BLM lands."

BLM ratcheted up the priority it gives OHV management on Jan. 19, 2001, when it completed a National Management Strategy. While the strategy didn't direct the field to make any specific management changes, it did highlight the importance of sound environmental management of OHV use.

More recently, on Oct. 1, 2003, BLM issued an instruction memorandum to the field that tells field offices to incorporate a travel management policy into their resource management plans (RMPs). The guidance says, "Road and trail access (and OHV management) guidance will be incorporated into every RMP to ensure public and resource needs are met. At a minimum, each RMP will divide planning areas into OHV area designations that are open, limited or closed. The RMP will include a map of area designations."

But, said Udall and company, BLM has made little progress over the last six years. The Congressmen asked the Interior Department to account for expenditures and describe how BLM will complete the task.

In their letter to Secretary

Norton the House members asked her to identify how BLM will "Account for funding received thus far to institute ORV route designations that minimize impacts to natural resources and minimize conflicts with other users."

The Congressmen also asked BLM to identify additional funding needed to designate trails.

In BLM's behalf the bureau is not just writing those plans to designate ORV routes. The plans are also designed to make way for more energy development, among other things.

BLM officials in Denver are drafting a response to the 44 Congressmen, a BLM spokeswoman told *FPR* this week. "We probably won't be able to get you an answer until the Denver office completes a draft and gets it approved by the director," she said.

The Forest Service November 2 announced a counterpart new OHV policy for the designation of authorized roads and trails. The Forest Service policy does not set a deadline for field offices to comply.

Environmentalists had asked the agency to establish a two-year deadline for field offices to complete designation of trails and roads for OHVs. But Chief Dale Bosworth said he anticipates that each forest will complete designations within four years.

By itself the new Forest Service does not designate any road or trail open or closed. That will be done by each forest or grassland using guidance provided by the rule. The Forest Service said each forest will consult closely with communities.

Hawthorne agrees with Bosworth in arguing that firm deadlines would open a legal Pandora's Box. "If you do that statutorily in our opinion it would be dangerous," he said. "If the budget was real tight or we had a bad fire season and the designations weren't completed on time, there would be litigation. Our group does not want to see designation done outside the planning process by a judge."

## States react to FS roadless rule on case-by-case basis

Governors with roadless national forest lands within their borders are not always reacting to a Bush administration roadless rule by political party.

That is, while most Democratic governors indicate they will ask the Forest Service to apply a Clinton administration rule that would largely bar road construction and timber sales in roadless areas, some would not.

Similarly, while most Republican governors are gearing up to petition the Forest Service for a roadless regulation tailored to their states under the Bush rule, some may not.

The Forest Service said last week that four or five states have already indicated they will pursue the Bush rule and recommend tailored management of national forests within their states. They include Arizona (Democratic governor), Colorado, Idaho, Montana (Democratic governor) and, probably, California. California is an odd case because the attorney general has filed a lawsuit against the Bush rule, but Gov. Arnold Schwarzenegger (R) is expected to work with the Forest Service.

Likewise the service said Oregon and New Mexico are resisting the Bush rule. They joined the California attorney general in a lawsuit.

The Forest Service believes more states will participate in due course. "We expect more states to submit petitions as time goes along," said a Forest Service spokesman. "They are waiting to see how it goes for the other states."

Powered outdoor recreation advocates who use the trails recommend that governors participate in the Bush administration petition process, even if they want to limit road construction in roadless areas. Referring to New Mexico Gov. Bill Richardson (D), Brian Hawthorne, public lands director of the Blue Ribbon Coalition, said, "If Richardson wants roadless areas managed

a certain way, the Bush rule gives him a way to do it. Frankly, I think he should put up or shut up."

In one of the more publicized recent actions involving roadless forests former Virginia Gov. Mark Warner (D) last month petitioned the Department of Agriculture to apply the Clinton administration rule to 380,000 acres of national forest in the state. Gov. Timothy Kaine (D) was sworn in to replace Warner January 14, but Kaine will presumably not reverse the Warner petition.

Warner said, "In order to secure protection for Virginia's roadless areas, I am submitting the attached petition, pursuant to the May 2005 (Bush) rule, for full roadless area protection in accordance with the 2001 Roadless Areas Conservation Rule."

Meanwhile, Under Secretary of Agriculture Mark Rey and the Forest Service December 15 hosted an inaugural meeting of a Roadless Area Conservation National Advisory Committee. The committee is expected to meet again next month.

According to the minutes of the meeting Rey strongly advocated state submission of area-specific roadless recommendations. Neither a national rulemaking nor land use planning by the Forest Service "has been entirely successful," the minutes quoted Rey. "To be successful, there must be substantial site specific consideration and analysis for them to be precise enough so courts don't find them wanting," Rey said, according to the minutes. "We want to marry political closure with site specific information."

Members of the committee include: Darin Bird, representing state-elected officials; Robert Cope, representing locally-elected officials; Adena Cook and Geraldine Link, representing developed recreation organizations; Jeff Eisenberg, James Riley, and Gregory Schaefer, representing commercial interest organizations; Denny Scott representing organized labor organizations; and Paul Hansen, Dale Harris, Todd Schulke, Howard Vaughan, and Chris Wood

representing environmental organizations.

Idaho Gov. Dirk Kempthorne (R) has been among the most aggressive governors in supporting the Bush administration rule and has said he will pursue the petition process. To help Kempthorne out the Forest Service December 20 made available \$150,000 to the State of Idaho for developing a petition.

## **EPA seeks applicants for \$10 million in beach rec grants**

EPA asked states and Indian tribes earlier this month to apply for almost \$10 million in grants to monitor beach water quality. If all 35 eligible states and territories apply, the grants will range from a low of \$150,000 for Alaska to a high of \$528,410 for Florida.

The money is to be used by state and local health and environmental protection agencies to monitor bacteria levels in water near the nation's beaches. When bacteria levels are too high, the agencies post warnings or close beaches.

This is the sixth year that EPA will distribute the money under the Beaches Environmental Assessment and Coastal Health (BEACH) Act of Oct. 10, 2000. Congress usually appropriates about \$10 million for the grants. For the upcoming fiscal 2006 grants EPA anticipates allocating \$9,853,100.

EPA and the states and territories developed a three-part formula for deciding who receives how much money based on (1) length of beach season, (2) miles of shoreline and (3) beach use.

The length of a season is logical because warm weather states must monitor the water over longer periods to protect the public than cool weather states. Thus, Alaska's beach season is less than three months long, whereas the Florida season lasts all year. Similarly, it is logical to base the grants on miles of beach and the number of beach users.

Applicants must also meet other

standards, such as prioritizing the use of the grant money based on the risk to human health. In addition a state must provide a list of coastal waters that it will monitor.

If a state does not participate, local governments may apply directly to EPA for the grant money. If a state and its local governments don't participate, the money is prorated among other states and territories.

Indian tribes may apply for a separate \$50,000 pot of money if they have coastal waters adjacent to beaches. An EPA fact sheet says, "EPA expects to apportion these funds evenly among all eligible tribes that apply."

EPA posted a notice of availability of grant money in the January 11 *Federal Register*. States and territories must submit applications to EPA by April 11. Indian tribes must notify EPA of their interest by March 13. Applications are to be submitted to EPA's regional grant coordinators, who are listed in the *Federal Register* notice. EPA usually awards the grants in May.

For more information go to: <http://www.epa.gov/waterscience/beaches>. EPA provides criteria for the grants at the website: <http://www.epa.gov/waterscience/beaches/grants>.

Here are the projected state-by-state allocations, if all qualified entities apply:

|                |           |
|----------------|-----------|
| Alabama        | \$262,170 |
| Alaska         | \$150,000 |
| American Samoa | \$302,140 |
| California     | \$516,960 |
| Connecticut    | \$223,370 |
| Delaware       | \$210,750 |
| Florida        | \$528,410 |
| Georgia        | \$286,200 |
| Guam           | \$302,600 |
| Hawaii         | \$323,020 |
| Illinois       | \$242,940 |
| Indiana        | \$205,800 |
| Louisiana      | \$322,010 |
| Maine          | \$254,730 |
| Maryland       | \$269,250 |
| Massachusetts  | \$254,440 |
| Michigan       | \$278,450 |

|                   |           |
|-------------------|-----------|
| Minnesota         | \$204,270 |
| Mississippi       | \$257,510 |
| New Hampshire     | \$204,530 |
| New Jersey        | \$277,730 |
| New York          | \$348,740 |
| North Carolina    | \$302,480 |
| Northern Marianas | \$303,330 |
| Ohio              | \$223,650 |
| Oregon            | \$228,780 |
| Pennsylvania      | \$222,530 |
| Puerto Rico       | \$328,450 |
| Rhode Island      | \$212,640 |
| South Carolina    | \$296,660 |
| Texas             | \$382,890 |
| Virgin Islands    | \$303,180 |
| Virginia          | \$276,900 |
| Washington        | \$270,320 |
| Wisconsin         | \$225,270 |

## Notes

**Grand Canyon flight EIS in the works.** The Federal Aviation Administration (FAA) and the Park Service announced January 25 they will write an EIS to cover actions to limit noise from tour aircraft over Grand Canyon National Park. Once the EIS is completed FAA and NPS will implement policies designed to "provide for the substantial restoration of the natural quiet" in the park. In May 2000 the agencies issued one major rule to limit noise in the park as Congress had ordered. But that rule did not cover route changes in the east end of the park and did not cover other safety issues. Now the agencies say they are ready to begin work on the final piece of regulations. To that end on January 25 they solicited scoping comments from the public on an EIS. Submit comments by April 25 to: *Docket Management System, Doc No. FAA-2005-23402, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, S.W., Washington, DC 20590-0001.*

**Urban parks website established.** Two urban parks groups have begun a new website that provides guidance on urban and historic parks. The website makes available information on everything from management of parks to alternative fund raising possibilities. The website, <http://www.parkspractices.org>, was established by the City Parks Alliance and the National Association for Olmsted Parks. The website arrives on the scene

just as the Bush administration is ratcheting up its opposition to partnership funding for state and local park and recreation programs. That is, the Bush administration in fiscal year 2006 recommended the elimination of the state side of the Land and Water Conservation Fund and the Urban Parks and Recreation Recovery program. The fiscal 2007 administration budget, due on the streets February 6, is expected to follow that lead. The City Parks Alliance and the National Association for Olmsted Parks became partners in 2004 and share offices in Washington, D.C. The phone for City Parks Alliance is 202-223-9111 (website [www.cityparksalliance.org](http://www.cityparksalliance.org)) and the phone for Olmsted parks is 202-223-9113 (website [www.olmsted.org](http://www.olmsted.org).)

#### **Spanish Trail plan EIS readied.**

The Park Service and the Bureau of Land Management (BLM) announced January 18 that they will prepare an EIS and management plan for the Old Spanish National Historic Trail through New Mexico, Colorado, Arizona, Utah, Nevada and California. Among other things the plan will attempt to reconcile existing uses along the way, such as off-highway vehicles and energy development, with protection of trail resources, the agencies said. For now the agencies are asking for public comment on the scope of the EIS. The 2,700-mile trail, from Santa Fe, N.M., to Los Angeles, Calif., received its heaviest use from 1829 through 1848. Subsequently, travelers, traders and others used parallel routes. The agencies said 50 Indian Nations are interested in the trail. Comment by May 18 to: Sarah Schlanger, Bureau of Land Management, New Mexico State Office, P.O. Box 27115, 1474 Rodeo Road, Santa Fe, NM 87505 (e-mail [Sarah.Schlanger@blm.gov](mailto:Sarah.Schlanger@blm.gov)) or to Aaron Mahr, National Park Service, P.O. Box 728, Santa Fe, NM 87504. For more information go to the website <http://www.nps.gov/olsp>.

**Montana ski resort seeks expansion.** The Forest Service is asking for public comments on a proposal to double the size of the Missoula Snowbowl Ski and Summer Resort north of Missoula, Mont. The service said it will use the comments in writing an EIS. Like many

of the nation's major ski resorts, the slopes for the Missoula Snowbowl are located on national forest land. The new proposal would double the Missoula Snowbowl's use of Lolo National Forest land from 1,138 acres to 2,226 acres. Ski runs would increase from 240 acres to 406. Three buildings would be constructed. The company anticipates summer mountain biking and hiking in the expansion area. Comment by February 15 to: Stephanie Lauer, PBS&J, 1120 Cedar Street, Missoula, MT 59802 or by E-mail to [slauer@pbsj.com](mailto:slauer@pbsj.com).

#### **Enviros hit House NEPA revisions.**

Four national conservation groups are attacking a House Resources Committee task force report that recommends revisions to the National Environmental Policy Act (NEPA). The groups, including American Rivers and the National Environmental Trust, said that the recommendations would "significantly weaken" NEPA. Among the recommendations of the draft report prepared by Republican staff that the environmentalists fault are mandatory time lines for completing NEPA documents. After the task force takes public comments the full House Resources Committee will write a final report. Rep. Cathy McMorris (R-Wash.) chairs the task force. Comment by February 6 by E-mail to [nepataskforce@mail.house.gov](mailto:nepataskforce@mail.house.gov). The regular Congressional mail is extraordinarily slow because of security measures but comments may be mailed to: NEPA Draft Report Comments, c/o NEPA Task Force, Committee on Resources, 1324 Longworth House Office Building, Washington, D.C. 20515.

#### **Evans to head Senate Energy staff.**

Bruce Evans, chief Republican staff member on the Senate subcommittee on Interior Appropriations, will become the chief Republican staff member on the Senate Energy Committee. Evans served on the Interior subcommittee for more than a decade. Before that he worked for former Republican senators Slade Gorton (Wash.) and Frank Murkowski (Alaska). Evans will replace Alex Flint "after a transition period," the committee said. Are we allowed to inject a personal note? Evans is one of the good guys on the Hill.

## Boxscore of legislation

| <u>LEGISLATION</u>  | <u>STATUS</u>  | <u>COMMENT</u>  |
|---|--|---|
| <b>Congressional Budget Resolution FY 2006</b><br>H Con Res 95 (Nussle)                                     | House and Senate gave final approval April 28, 2005.   | Recommended cut in natural resource spending of more than \$2 billion.  |
| <b>Congressional Budget Reconciliation FY 2006</b><br>HR 4241 (Nussle)<br>S 1932 (Gregg)                    | House approved conference bill Dec. 18, 2005, but Senate modified conference bill slightly Dec. 21, 2005.                                | Would reduce spending and produce new revenues to help budget. Conferees dropped ANWR leasing, all hard rock mining in parks revisions. |
| <b>Emergency Appropriations FY 2006</b><br>HR 2863 (Young, Fla.)  | President Bush signed Dec. 30, 2005, as PL 109-148.  | Cuts all programs one percent and SAFETEA-LU by 4 percent. Rescinds few individual programs.  |
| <b>Appropriations 2006 (Interior Etc.)</b><br>HR 2361 (Taylor)  | President Bush signed into law Aug. 2, 2005, as PL 109-54.   | Keeps alive spending for most outdoor programs, if only barely. Ops okay.   |
| <b>Appropriations 2006 (Transportation)</b><br>HR 2419 (Hobson)   | President Bush signed into law Nov. 30, 2005, as PL 109-115.   | Reduces spending from SAFETEA by \$2 billion. States to decide.   |
| <b>Appropriations 2006 (Energy and Water)</b><br>HR 2419 (Hobson)   | President Bush signed into law Nov. 19, 2005, as PL 109-103.   | Increases spending for Corps of Engineers and Bureau of Reclamation.  |
| <b>Surface Transportation</b><br>HR 3 (Young)<br>S 732 (Inhofe)   | President Bush signed into law Aug. 10 as PL 109-59.   | Allocates as much as \$2 billion per year to park and rec programs. Includes modified Section 4(f) language, transit-in-parks, more.    |
| <b>Americans Outdoors Act</b><br>S 964 (Alexander)  | Introduction announced May 16, 2005.   | Would guarantee \$1.375 billion per year for conservation programs, including state LWCF.   |
| <b>Heritage area national</b><br>S 243 (Thomas)<br>HR 760 (Hefley)<br>HR 888 (Regula)<br>S 1721 (Voinovich) | Senate okayed July 26, 2005.<br>Hefley introduced Feb. 10, 2005.<br>Regula introduced Feb. 17, 2005.<br>Voinovich put in Sept. 19, 2005. | Hefley and Thomas would establish standards to give order to area designations. Regula, Voinovich would hike spending for 9 areas.      |
| <b>Clean Air Act</b><br>S 131 (Inhofe)<br>S 150 (Jeffords)  | Senate committee rejected S 131 March 10, 2005.  | Inhofe introduced administration Clear Skies bill. Jeffords introduced competing bill.  |
| <b>Rim of the Valley (SMMNRA)</b><br>S 153 (Feinstein)<br>HR 355 (Schiff)                                   | Senate approved July 26, 2005.<br>Schiff introduced Jan. 25, 2005.   | Would authorize a study of a major expansion of SMMNRA.   |
| <b>Delaware national park</b><br>S 1627 (Carper)<br>HR 3866 (Castle)  | Senate approved Nov. 16, 2005.<br>Castle put in Sept. 22, 2005.  | Would authorize a study of a national park on Delaware coast.   |
| <b>NPS tax assistance</b><br>HR 1124 (Souder)<br>S 886 (McCain)   | Souder introduced March 3, 2005.<br>McCain introduced April 21, 2005.  | Both would establish NPS fund from income tax contributions.  |
| <b>Transit-in-the-parks</b><br>S 890 (Sarbanes)<br>HR 3 (Young)   | Sarbanes put in April 22, 2005.<br>Is included in surface transportation law.  | Sarbanes would establish \$90M per year program. Highway law Provides \$95 million total.   |
| <b>Yosemite Schools</b><br>S 136 (Feinstein)<br>HR 353 (Radanovich)   | President Bush signed into law Dec. 20, 2005, as PL 109-131.   | Would authorize use of Yosemite park money for schools outside park.  |