

Federal Parks & Recreation

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Obama domestic freeze may not affect every outdoor program

President Obama said January 27 that he will ask Congress to freeze total discretionary domestic spending for the next three years, beginning this fall with fiscal year 2011.

Obama didn't propose a flat, across-the-board freeze for every program to reach a \$447 billion per year domestic spending level. He left room for increases for some departments and programs. Those increases would naturally be offset by decrease for other departments and programs.

"Starting in 2011, we are prepared to freeze government spending for three years," said Obama in presenting his annual State of the Union message to Congress. "Spending related to our national security, Medicare, Medicaid, and Social Security will not be affected. But all other discretionary government programs will."

The administration will release its fiscal 2011 budget request Monday (February 1) and that will go a long way toward determining the winners and losers in the upcoming budget wars.

The freeze would not affect a \$787 billion economic stimulus law (PL 111-5 of Feb. 17, 2009) or a new stimulus bill that Congress is now developing. (See related article page 5.)

If Congress follows Obama's lead and establish a flat new budget and flat new spending caps for appropriations bills, most outdoor programs would be definition receive little or no spending increases in fiscal 2011. The same freeze would hold true for the next three years of the Obama administration.

The freeze would apply to an Interior and related agencies appropriations

bill, an energy and water appropriations bill and a transportation appropriations bill.

Supporters of the Land and Water Conservation Fund (LWCF) hope their program will prove an exception to the freeze rule. Secretary of Interior Ken Salazar has said repeatedly over the last year that he wants to beef up the program, authorized at \$900 million per year but rarely appropriated up to that level, in combination with a Treasured Landscapes program.

Indeed in a January 14 speech to Interior Department employees Salazar said the administration will shortly roll out 18 partnership deals to help protect Treasured Landscapes around the country. "We will move forward with landscape conservation cooperatives around 18 eco-regions around the country," he said.

In the same speech Salazar warned more generally of "some tough times" in the upcoming budget.

Despite opposition from House and Senate Republicans, Congress in fiscal 2010 approved a 16 percent increase in an Interior and related agencies appropriations bill (\$32.24 billion) compared to fiscal 2009 (\$27.58 billion.) That's a \$4.66 billion hike.

For an Energy and Water appropriations bill Congress only approved a \$200 million increase, \$33.5 billion compared to \$33.3 billion in fiscal 2009. For a Transportation appropriations bill Congress approved a huge \$12.9 billion increase, to \$67.9 billion from \$55 billion. The fiscal 2010 increases for the appropriations bills do not include billions of dollars in stimulus money.

After money fight House okays Virgin Islands historic site

The House narrowly approved legislation (HR 3726) January 27 to designate a Castle Nugent National Historic Site in the Virgin Islands, after a major battle with Republican critics.

Supporters such as bill sponsor

Rep. Donna Christensen (D-V.I.) said Congress should act now because the owner of much of the 2,900 acres that would be included in the park is under great pressure to sell to developers.

But Republican critics said the bill should wait until the Park Service completed a study of the site, which could cost as much as \$50 million. And indeed the Park Service asked Congress to hold off on the legislation until its study is completed, perhaps this spring.

The House first considered the legislation January 20 under a Suspension of the Rules procedure that requires a three-fifths vote for passage. HR 3726 fell short with a vote of 241 for and 173 against. The House reconsidered the bill January 27 and approved it in a straight majority vote by 240-to-175.

Christensen laid out the case for action now: "The family which owns the majority of this property has been incredibly patient - the pressure to sell their land to developers has been overwhelming - and yet they have continued to try to do what they feel, and I agree, is best for all concerned."

"If we don't move forward, there's a real risk that when the study is formally transmitted to Congress, supporting the designation, the land will already have been sold and condominium owners will be the only people who ever get to visit the area," she said.

But Rep. Rob Bishop (R-Utah) asked for a delay in consideration of the bill. "Poor process produces poor policy. What we are arguing in this particular case is if we should allow the process to go through to its completion," he said. "There are questions that still have to be asked that yet have a quantified answer to them. Neighbors may be in support, but we want those things quantified, which should be part of the process that is there."

Bishop also complained about the price tag. "Most of us are aware of the estimated \$9 billion in maintenance backlog created currently with the National Park Service. Consequently, it

becomes very difficult to justify why additional land acquisition is advisable at this particular time. How do we explain to taxpayers that, while unemployment soars, their government is conspiring to buy beach-front property in the Caribbean?"

At stake here is not only the Castle Nugent site but a larger political battle between Republicans and Democrats over "noncontroversial" park and rec legislation that comes to the House floor under Suspension of the Rules. House Republicans have often opposed such legislation in this Congress, forcing formal votes.

But Christensen complained that the Republicans have in the past supported bills introduced by their side under Suspension of the Rules. "I'd just like to mention two examples," she said. "The legislation designating President Reagan's boyhood home in Illinois and the Oklahoma City Memorial were enacted without studies at all. Both were sponsored by Members from the other side of the aisle. So precedent has been set for bills to be acted on prior to the study being completed or even without studies."

But in asking for a delay Bishop has the Park Service on the Republican side. During testimony on the legislation on Nov. 17, 2009, Steve Whitesell, associate NPS director for Park Planning, Facilities, and Lands, said, "However, we would ask that the committee defer action on this legislation until the special resource study is completed, which is consistent with the Department's general policy on legislation establishing a new unit of the National Park System when a study is pending." Whitesell presented his testimony to the House subcommittee on National Parks.

The Castle Nugent site would consist of 2,900 acres of dry land and 8,600 acres of submerged land on the island of St. Croix in the U.S. Virgin Islands. Despite asking for a delay Whitesell gave the site a thumbs up.

"The NPS draft study has found that the site meets the NPS's criteria

for addition to the National Park System, and the proposal to designate it as part of the National Park System enjoys strong local support," he said.

Whitesell said the site would cost \$40 million to \$50 million to acquire and would require about \$750,000 per year to operate and maintain.

NPS retirees say Yellowstone biased toward snowmobilers

Park Service retirees are up in arms about Park Service statistics that show an average daily decrease in the number of snowcoaches entering Yellowstone National Park in December.

The retirees claim that the total number of snowcoaches and snowcoach visitors entering the park actually increased in December 2009 compared to December 2008. The retirees reach those numbers by counting the total number of visitors, not the daily average.

As a result, concluded the Coalition of National Park Service Retirees in a January 14 letter to Yellowstone Superintendent Suzanne Lewis, the Park Service is intentionally skewing statistics.

"(I)t is the regretful, considered conclusion of the Coalition of National Park Service Retirees that Yellowstone's management has pursued a two-year campaign to discredit and devalue snowcoaches - at times misreporting, either willfully or because of sloppy analysis, scientific data to assert, contrary to years of analysis, that the impacts of snowcoaches are 'equal' to those of snowmobiles," said the letter signed by Bill Wade, chair of the executive council of the retiree group.

The retirees said that they were appealing the park's actions by submitting a copy of the Lewis letter to NPS Director Jon Jarvis.

While Lewis is in charge of Yellowstone, the man in the middle and out-front is Yellowstone spokesman Al Nash. He issues press releases and answers media inquiries.

Nash told *FPR* that he will consider a revision to a January 8 press release on snowcoach and snowmobile use numbers. The release describes average numbers of snowmobile visits, peak snowmobile visits, averages numbers of snowcoach visits and peak day snowcoach visits.

"If in the future a review of available data calls for another correction, one will be made," he said. In a separate communication he said, "Winter figures have proven to be more challenging to gather and report than summer numbers, in that to-date we've chosen not only to capture daily gate entries, but have attempted to quantify the total number of recreational snowmobiles and snowcoaches in use in the park each day."

The battle over snowmobile use in Yellowstone has been going on for more than a decade. NPS published a final rule Nov. 20, 2009, that established a cap of 318 snowmobiles per day this winter, beginning December 15, and a cap of 78 snowcoaches per day. The plan is to also next winter while NPS prepares a more permanent plan.

The new Obama administration rule authorizes fewer snowmobiles than did the most recent Bush administration rule. It authorized 720 snowmobiles per day.

Although the Obama rule authorized far more snowmobiles than environmentalists would prefer - they would like to eliminate the use altogether, the environmentalists chose not to go to court.

Wyoming Gov. Dave Freudenthal (D-Wyo.) did go to court because he recommended a higher peak number, preferably 720 per day. However, the Wyoming lawsuit did not seek an injunction to block the 318-snowmobile cap for this winter because guides and visitors had already laid out their plans

This latest brouhaha began after the park January 5 issued a press release on snowmobile and snowcoach use in December. The park then modified its numbers in a January 8 release. The

January 8 release said the average number of snowmobiles in the park last month was 190 per day compared to 233 the previous year and 365 the year before that. The average number of snowcoach trips in December 2009 was 36 per day compared to 39 in December 2008 and 45 the year before, NPS said.

But the Park Service retirees said the snowcoach data was misleading because it didn't acknowledge that the total number of snowcoach visitors to the park actually increased last month.

The retirees told Lewis, "Failing to disclose visitation data that show the public's increasing choice of snowcoaches as the preferred means of accessing Yellowstone continues the Park's apparent campaign to perpetuate snowmobile use, notwithstanding all evidence to the contrary."

Bipartisan FS cabins bill would establish flat fees

Ranking House Natural Resources Committee Republican Doc Hastings (Wash.) intends to introduce sweeping legislation that would establish flat fees for cabin owners in national forests. Hastings was expected to act as early as late this week.

Hastings is to be joined in introducing the bill by a senior committee Democrat, Rep. Jim Costa (D-Calif.), making the measure bipartisan.

Under existing Forest Service practice fees can shoot up dramatically when new appraisals of the value of the cabins are performed. There are 14,000 cabins in the national forests that are privately owned. The owners pay the Forest Service a yearly fee to retain use of their lots.

"This legislation will provide a sensible, long-term solution that will keep these cabins affordable and accessible to Americans, while still providing fair compensation to the federal Treasury for the use of the land," said Hastings, on announcing he will introduce the bill.

Without the legislation Hastings said the owners "may be forced to tear down their cabins because they can't afford the fees."

Hastings and Costa intend to send out a "Dear Colleague" letter to other House members seeking more cosponsors, said Aubrey King, Washington representative of the National Forest Homeowners Association.

Congress passed a cabin fee law in 2000 that was supposed to limit huge spikes in fees paid by cabin owners by establishing a variable cabin fee appraisal process. But Hastings said unforeseen difficulties with the appraisal process have led to continued spikes in fees. He cited a *USA Today* article that said for one family fees jumped from \$1,677 in 2008 to \$10,000 now. The family has owned the cabin for 40 years.

To prevent those spikes Hastings and Costa would establish five levels of flat fees based on the value of cabins. Tier one would pay \$500, tier two \$1,000, tier three \$2,000, tier 4 \$3,000 and tier 5 \$4,000. The legislation would also establish a flat transfer fee of \$1,000 plus five percent for sales between \$250,000 and \$500,000 and 10 percent on sales of more than \$500,000.

The National Forest Homeowners Association praised the legislation. "In the past few years, sharply escalating fees have threatened too many with the loss of cabins that have been in their facilities for generations," said association president Geoffrey Anderson. "The Cabin Fee Act of 2010 will preserve a program that for nearly a century has provided outdoors recreation for thousands of American families."

King said the homeowners have been discussing the legislation with the Forest Service but the agency has not taken a position on it.

Obama uses State of Union address to push stimulus

President Obama January 27 called on Congress to pass a second economic

stimulus bill based on a House-passed measure that contains more than \$1 billion for outdoor-related programs.

In a State of the Union Speech to Congress Obama said the legislation is needed to attack a stubborn, double-digit unemployment rate.

"The House has passed a jobs bill," Obama said. "As the first order of business this year, I urge the Senate to do the same. People are out of work. They are hurting. They need our help. And I want a jobs bill on my desk without delay."

That Obama used the world stage of a State of the Union speech should give the proposal a little better chance of enactment.

Surface transportation projects, including trails and federal agency roads, form an integral portion of a stimulus bill (HR 2847) the House approved Dec. 16, 2009. (See related article page 8.)

Senate Democratic leaders led by Senate Majority Whip Richard Durbin (D-Ill.) reportedly sketched out this week a Senate bill that is more modest than the \$174 billion in the House-passed bill. The Senate would allocate \$80 billion for stimulus projects with a slice of that for infrastructure, which is where federal land management agencies enter the picture.

Senate Democrats have said repeatedly that infrastructure will be one of their three top priorities, along with tax breaks to stimulate small business and energy efficiency.

Congressional Republicans are not nearly as eager as Obama to move a second economic stimulus bill. They contend that an initial \$787 billion economic stimulus law that went into effect a year ago (PL 111-5 of Feb. 17, 2009) has produced few if any jobs.

And most Republicans have thus far opposed a new stimulus law. In fact they persuaded large numbers of House Democrats to defect and vote against the House bill. The vote was 217-to-212.

The Obama administration kicked off the drive for a new stimulus bill in December by recommending an infusion of about \$50 billion for infrastructure programs.

Secretary of Transportation Ray LaHood urged that transportation be included in any economic-recovery package in a January 21 speech to the U.S. Conference of Mayors.

LaHood said he has heard critics say the initial climate bill is not producing jobs. His response? "The stories that say the stimulus hasn't created jobs are baloney."

The House stimulus bill would appropriate \$27.5 billion for highway infrastructure programs, many of which would involve trails and parks. The highway money would set aside \$550 million for Indian and federal roads as follows: Indian Reservation Roads, \$310 million; NPS roads, \$170 million; Forest Highways, \$60 million; and Refuge Roads, \$10 million.

For land management activities that involve "term employment" the bill would appropriate \$50 million for the Park Service, \$40 million for the Forest Service, \$30 million for the Fish and Wildlife Service, and \$20 million for the Bureau of Land Management.

In addition the bill would appropriate for hazardous fuels reduction projects \$35 million for the Forest Service and \$20 million to the Interior Department.

Finally, the bill would appropriate \$75 million for State and Private Forestry "term employment" projects overseen by the Forest Service. That's \$270 million total for federal land management agencies, not counting roads.

AmeriCorps and the National Service Trust would receive a separate \$200 million from the legislation. For water resource projects the Corps of Engineers would receive \$715 million. The bill would appropriate \$100 million to the Bureau of Reclamation for clean water initiatives.

Both the new House and Senate stimulus bills would theoretically be paid for by remaining balances in a \$700 billion bank bailout program. By some estimates the fund contains as much as \$200 billion, with repayments from banks coming in regularly.

FAA, NPS to try something new to write air tour plans

The Federal Aviation Administration (FAA) and the Park Service intend to test a little different procedure when they write a new air tour plan for Death Valley National Park.

Instead of a traditional procedure under a National Parks Air Tour Management Act of 2000 (PL 106-181 April 5, 2000), the agencies will use an Aviation Rulemaking Committee (ARC) process. FAA has used the ARC process a number of times over the years to write rules, but not for air tour operations. The agencies requested public advice on the new approach January 19 in the *Federal Register*.

"This new process may be more expeditious," said Karen Trevino, manager of the Park Service natural sounds program. "This will be tantamount to a negotiated rule-making. We will consult with stakeholders as we go along rather than periodic consultation at specific points."

Although FAA's ARC authority allows it to sometimes categorically exclude environmental reviews, FAA and NPS intend to prepare an environmental assessment (EA) for the Death Valley plan, said Trevino. "The Park Service was not comfortable with the ARC process at first," she said. "So we are doing a full NEPA alongside the ARC process."

FAA and the Park Service still have not resolved a decade-old impasse over comprehensive air tour regulations that are supposed to guide the preparation of individual park plans.

FAA and NPS say they have failed to complete the regulations for a number of reasons, including the distraction of the 911 terrorist attacks, lack of fund-

ing, and disagreements between NPS and FAA.

Does the new approach using the FAA ARC process suggest that the agencies are near an agreement on an overall strategy? "I wouldn't call it a breakthrough," said Trevino. "We have temporarily found a way to work around the regs that allows us to go forward. I would be less than honest if I did not say serious challenges remain. Both agencies feel very strongly about issues."

To oversimplify NPS has traditionally been more concerned about maintaining quiet in parks than FAA and FAA has been more concerned about aviation safety and the aviation industry.

Trevino said FAA and the Park Service are already developing air tour plans for a number of other parks under the conventional procedures authorized by the 2000 plan. That is, rather than consulting with stakeholders as they go along, the agencies will seek public comment at specific points in the process.

Trevino said plans are being written for Haleakala National Park and Hawaii Volcanoes National Park National Park in Hawaii, Badlands National Park in South Dakota, and Mount Rushmore National Monument in South Dakota. She said launches of a number of other park plans are in the works.

Meanwhile, Congress is ever so slowly writing legislation that would allow NPS and FAA to approve overflights of parks even if parks have not completed air tour management plans. As an alternative to the plans the bill would allow NPS and FAA to write agreements with commercial air tour operators. That general provision is included in bills approved by the House (HR 915) May 21, 2009, and the Senate Commerce Committee (S 1451) Sept. 29, 2009.

In addition the House bill would exempt parks that hosted fewer than 50 overflights per year from preparing an overflight plan. The Senate committee bill doesn't mention such an exemption.

Congress wrote the 2000 law to guide the FAA and NPS in coping with ever-larger numbers of air tours over the national parks, and in reaction to high-profile accidents. FAA says it has received applications to fly over more than 100 national parks and six tribal lands from 91 different air tour operators.

The act exempted Grand Canyon National Park and parks in the state of Alaska because a Grand Canyon Act of 1987 guides them. The 2000 act also prohibits air tours over Rocky Mountain National Park.

Chances of Senate climate bill dim; lesser action maybe

The political tide may have already turned against enactment of a sweeping climate change bill this year, at least that is what some Democrats and Republicans are saying.

A lead Senate critic of climate change legislation, Sen. James Inhofe (R-Okla.), is circulating comments from Senate Democrats that indicate they have no stomach for a bruising floor battle.

Those Democrats, such as Sen. Mary Landrieu (D-La.), said they have spent enough political capital in moving a health care bill through the Senate, particularly with elections coming up this year.

Landrieu told *Politico* that she is asking Senate Democratic leaders to stop working on a climate change bill now. "I am communicating that in every way I know how," she said. *Politico* said a half-dozen other Senate Democrats have asked Senate Democratic leaders to back off on a sweeping cap-and-trade bill.

That does not mean Congress will not take some actions on climate change this year. For instance the Senate Energy Committee did approve a bipartisan climate change/energy bill (S 949) June 17 by a substantial 15-to-8 margin. At the time Senate Democratic leaders anticipated combining S 949 with a lead climate change bill (S 1733) passed by

the Senate Environment and Public Works (EPW) Committee.

One influential Democratic senator, Byron Dorgan (D-N.D.), said last week the Senate should go with the energy committee bill and forego the EPW committee bill.

"I think it is more likely for us to turn to something that is bipartisan and will address the country's energy interest and begin to address specific policies on climate change," said Dorgan, a senior member of the energy committee who is not running for reelection in 2010.

The energy committee bill addresses primarily renewal energy programs and contains few provisions that directly affect park and rec programs.

Senate Majority Leader Harry Reid (D-Nev.) said a fortnight ago the Senate would consider climate change legislation this year if he can line up 60 votes for it. At a speech to the Geothermal Energy Finance Forum 2010 in New York January 14 Reid said that Sens. Joe Lieberman (I-Conn.), John Kerry (D-Mass.) and Lindsey Graham (R-S.C.) are working on a compromise bill.

And President Obama urged the Senate to act in a January 27 State of the Union Address. "I am grateful to the House for passing such a bill last year," he said. "This year, I am eager to help advance the bipartisan effort in the Senate. I know there have been questions about whether we can afford such changes in a tough economy; and I know that there are those who disagree with the overwhelming scientific evidence on climate change."

In addition to the possible addition/substitution of S 1733, EPW's HR 2454 is a target 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.

Unlike the energy committee bill the Senate EPW bill would establish

major park and recreation policy revisions. The Senate committee bill, S 1733, and a House-passed bill, HR 2454, would make substantial changes in the management of conservation programs on federal like 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.

Obama prods Congress on roads projects in new stimulus bill

If Congress follows the lead of the House, it will not only include money for surface transportation projects in a new economic stimulus bill, but it will also extend the current surface transportation law through the end of the year.

The chances of the Senate following suit were enhanced slightly January 27 when President Obama in his State of the Union address demanded a big new stimulus law.

Although Obama didn't mention surface transportation projects per se in his speech, Secretary of Transportation Ray LaHood reportedly met with Senate Majority Whip Richard Durbin (D-Ill.) January 21 to urge that transportation be included in any economic-recovery package.

Earlier that day LaHood told the U.S. Conference of Mayors in a major speech, "We're urging swift passage, with ample funds, for highways, transit, aviation and rail, including Amtrack."

In his speech Obama mentioned surface transportation projects, but only tangentially. "We can put Americans to work today building the infrastructure of tomorrow," he said. "From

the first railroads to the Interstate Highway System, our nation has always been built to compete."

Senate Democratic leaders under the direction of Senate Majority Whip Richard Durbin (D-Ill.) reportedly sketched out this week a Senate stimulus bill with less money than the \$174 billion in a House-passed bill. The Senate leaders would allocate \$80 billion for stimulus projects with a slice of that for infrastructure, which is where transportation money is found.

The House is way ahead of the Senate. It approved its \$174 billion economic stimulus bill (HR 2847) Dec. 16, 2009, that affects surface transportation programs, and by inference recreation programs, in three ways.

First, HR 2847 includes \$37.3 billion for transportation programs, including \$27.5 billion for highways and \$8.4 billion for transit. Projects would receive 100 percent federal money, instead of the traditional 80-20 federal-local split, just as an initial \$787 billion economic stimulus law (PL 111-5 of Feb. 17, 2009) does.

The highway money would set aside \$550 million for Indian and federal roads as follows: Indian Reservation Roads, \$310 million; NPS roads, \$170 million; Forest Highways, \$60 million; and Refuge Roads, \$10 million.

Second, HR 2847 would authorize all surface transportation programs through September. That would theoretically give Congress time to write a new five- or six-year surface transportation law to replace the old SAFETEA-LU law (the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.) Congress has extended SAFETEA-LU temporarily until the end of February.

However, House and Senate Democrats and Republicans have shown little appetite for writing a \$500 billion, multi-year spending bill at a time when President Obama is calling for flat domestic spending for the next three years.

Third, HR 2847 includes an extra \$10.7 billion to make old SAFETEA-LU spending levels whole through this fiscal year by compensation from past rescissions of unspent SAFETEA-LU money.

If Congress does attempt to write a new multi-year law, the House Transportation Committee has just such a measure ready to go. The committee's subcommittee on Highways and Transits approved an unnumbered six-year surface transportation bill June 24, 2009, that would authorize spending \$500 billion.

The subcommittee bill would reauthorize all the traditional park and rec programs such as transportation enhancements, recreational trails, scenic byways, federal and Indian land roads, and Safe Routes to School.

FS concessioners say fees aren't charged willy-nilly

Concessioners that operate on the national forests are taking exception to an article in the last issue of *FPR* that focused on critics of fees that concessioners charge.

In that article we quoted a critic of Forest Service day-use fee policy as saying that the service allows private concessioners who operate day-use sites to charge fees that the Forest Service might not charge if it operated the sites.

"The FS claims it can enter into a contract with a private concessionaire to charge fees for anything and everything, free of the requirements, prohibitions, or public participation that would be required if the FS were charging the fee directly," said Western Slope No-Fee Coalition President Kitty Benzar.

The National Forest Recreation Association counters that "fees at day-use areas may not be instituted unless there are a required number of services or facilities offered at the site."

Further, the association says concessioner operation of day sites provides important benefits to the For-

est Service. "The Forest Service not only does not have to perform the work themselves - but they receive a percentage of the revenue that is collected at these sites as part of the formal agreement with the concessionaire. That should make taxpayers happy. . . The government doesn't have to do the work - and someone else pays them a fee for doing all the work."

But fee critic Benzar says notes that the money collected by concessioners does not go back into the area where it is collected. "When the Forest Service operates day use sites they are obligated to return 80 percent of the revenues to the that site. Concessioners aren't."

Warren Meyer, president of Recreation Resource Management, told us, "My criticism of those who think day-use areas are cheap to run and should be free, those areas are actually money losers for us but they are even bigger money losers for the Forest Service."

The Forest Service says basic agency policy is to require the same fees whether provided by the agency or by the Forest Service.

"As a matter of policy, the Forest Service uses the same criteria to determine whether a fee may be charged for a particular site in both the concession campground and agency managed developed site programs," said the service in comments submitted by Joe Walsh of the agency press office.

But there are exceptions. "It is important to note, however, the Forest Service has concession permits that predate enactment of FLREA," the service said. "These permits have continued to operate under the original terms and conditions. Additionally, FLREA contains an exception for fees charged by third parties (Sec. 6813 (e))." FLREA is the Federal Lands Recreation Enhancement Act (PL 108-447 of Dec. 8, 2004,) the underlying fee law.

Meyer, whose company manages more than 175 facilities in national forests, national parks and state parks, said,

"Every fee we charge has to be approved by the Forest Service. Typically, there is a lot of pressure from competition for us to keep fees low, but we can't add any charge without approval of the Forest Service."

The disagreement about fees surfaced after the Forest Service Dec. 1, 2009, proposed revisions in campground and day-use fee policy. In a campground controversy the Forest Service recommended the elimination of a 50 percent discount in camping fees for holders of senior passes. The proposed new discount would be lowered to 10 percent. About half of all national forest campgrounds are operated by concessioners. Total campground revenue now ranges about \$35 million per year.

Fee critics want the discount continued. But the concessioners view the proposal as a trade-off - slightly higher fees for seniors to prevent higher fees for everyone else, including youngsters.

A significant new player jumped into the debate last week to the applause of fee critics. The American Association of Retired People (AARP) carried an article on the proposal in its January 25 *AARP Bulletin* about the possible implications of higher fees for seniors visiting national forests.

Three western senators have introduced legislation (S 868) that would repeal FLREA. The repeal bill was introduced by Sens. Max Baucus (D-Mont.), Jon Tester (D-Mont.) and Mike Crapo (R-Idaho.) on April 22. No hearings have been held on it, but Baucus is in position to insert it in any big tax bill that comes before the Senate Finance Committee that he chairs.

Another big omnibus bill is possible later in the year

The House and Senate may put together another omnibus natural resources bill this year that would be made up of dozens of individual bills.

The House Natural Resources Committee and Senate Energy Committee have

not begun identifying which committee-passed bills to put in the package, but are eyeing the possibility of another omnibus, according to committee staff members.

"(Y)es, the Senate is expected to eventually take up another omnibus public lands package," a Senate Energy Committee staff member said. "That will happen sometime before the end of this Congress (i.e., end of this year)."

The package might begin with 31 natural resources bills the Senate committee approved last month. The package could also include a couple of dozen bills the committee has held hearings on but has not yet passed, said the committee staff member. He said "the pool of potential bills that can be added to this package is indeed deep."

The staff member defended the omnibus bill strategy that House Republicans in particular object to. "These carefully constructed packages typically contain an equal mix of Democratic bills, Republican bills and bills with bipartisan sponsorship," he said. "Because of time constraints, and because of objections that have increasingly been voiced, that's the only way to get these bills passed in the Senate anymore."

Most of the Senate committee-passed bills are so-called dogs and cats but these more substantial bills are in the package:

- * HR 1694 would authorize the acquisition of Revolutionary War and War of 1812 battlefields under the American Battlefield Protection Program,

- * HR 1376 would establish a Waco Mammoth National Monument in Texas,

- * HR 2330 would authorize a study of the possibility of designating Camp Hale in Colorado as a Park Service unit,

- * HR 3113 would authorize a study of a segment of the Elk River in West Virginia as a wild and scenic river, and

- * S 1369 would designate segments of the Molalla River in Oregon as wild and scenic.

The Senate package is not without

controversy. One hotly-disputed bill (S 409) would transfer 2,406 acres of federal land in Arizona to Resolution Copper company for a major copper mine. In return the Forest Service would receive recreation lands in the area.

The Obama administration withdrew its objections to S 409 when Arizona's senators agreed to the preparation of an EIS before the exchange goes through - and not after the exchange as the original bill would have authorized. The Senate committee then approved the bill without objection.

The House will be a different story. There Rep. Raúl Grijalva (D-Ariz.) faulted the Senate committee for not investigating Resolution's parent company Rio Tinto more closely before approving the bill. He said the company has polluted sites in other countries. Grijalva is in position to block the legislation as chairman of the House subcommittee on National Parks, Forests and Public Lands.

The Resolution exchange legislation does enjoy support from the Democratic representative for the area where the mine is located, Rep. Ann Kirkpatrick (D-Ariz.) She and Rep. Jeff Flake (R-Ariz.) have introduced a counterpart House bill (HR 2509.) The *Arizona Republic* reported that Kirkpatrick's office praised the Senate compromise on an EIS.

The House Natural Resources Committee is still processing bills singly, said a spokeswoman. But of particular interest the House approved Dec. 16, 2009, a bill (HR 2476) that would authorize ski resorts on national forest land to allow non-skiing recreation uses.

Last spring Congress approved a mammoth omnibus bill (PL 111-11 of March 30, 2009) that included 160 individual bills. Among other things the legislation authorized three new national parks: a Paterson Great Falls National Historical Park in New Jersey; a William Jefferson Clinton Birthplace Home National Historic Site in Arkansas; and a River Raisin National Battlefield Park in Michigan.

In addition it added more than half a million acres of new wilderness for five national park units: Pictured Rocks National Lakeshore in Michigan, 11,700 acres; Joshua Tree National Park in California, 36,000 acres; Sequoia and Kings Canyon National Parks in California, 85,000 acres; Rocky Mountain National Park in Colorado, 249,000 acres; and Zion National Park in Utah, 124,000 acres.

Of note, the law gives Congressional certification to the 27 million-acre National Landscape Conservation System (NLCS) managed by the Bureau of Land Management (BLM.) According to BLM the NLCS contains 27 million acres, including 4.8 million acres of national monuments, 14 million areas of conservation areas, 1.4 million acres of "similar designations," 7.7 million acres of wilderness areas, 13.8 million acres of wilderness study areas, and one million acres of wild and scenic rivers.

Notes

Feds asked to close all caves.

The Center for Biological Diversity January 21 petitioned federal land management agencies to close all caves under their jurisdictions to prevent the spread of white-nose syndrome in bats. The syndrome - believed to be caused by a fungus - has killed more than 1 million bats in the last four years, primarily in the East. But the Center for Biological Diversity fears the disease will spread to huge bat populations in the South and Midwest within the next two years. In its petition the center asked the secretaries of Agriculture, Defense and Interior to bar people from all caves and mines with bat populations. "Our government needs to increase its response by an order of magnitude to offer any hope for bats in the eastern United States and to ensure that the disease does not spread across the country," said Mollie Matteson, a conservation advocate with the center. Bats devour billions of insects, thus warding off infestations.

PEER to NPS: Regulate all mining.

The Public Employees for Environmental Responsibility (PEER) environmental

group said January 21 the Park Service should regulate all subsurface mineral development within parks, not just oil and gas. NPS proposed sweeping new oil and gas development regulations Nov. 25, 2009, that would remove exemptions from NPS oversight for existing oil and gas operations and increase bonds. "Strengthening the park drilling rules is sorely needed and we applaud the Park Service's effort," said PEER Executive Director Jeff Ruch. "However, the same legal authority empowering the Park Service to regulate oil and gas operations also empowers the agency to regulate mineral extraction. As long as NPS is updating one set of rules it should also take care of the other." Holders of subsurface rights in parks, such as hard rock minerals, sand and gravel are allowed to develop those resources subject to a variety of individual NPS regulations. However, PEER said NPS has no comprehensive rule to regulate mineral development.

Recreationists face off in court.

Motorized and nonmotorized recreationists are squaring off in court over a travel management plan for the Eldorado National Forest in California. The Center for Biological Diversity and other environmental groups filed suit Sept. 29, 2009, in the U.S. District Court in Eastern California last September against a record of decision of March 31, 2008. The environmentalists objected that the plan authorized off-highway vehicle (OHV) use that could harm plants and animals within the forest. It said the plan would keep open 1,847 vehicle miles. The plaintiffs said the plan would interfere with the use of "trails and other areas within the Eldorado National Forest - including the specific trails and adjacent areas at issue in this Complaint - for recreational and aesthetic pursuits, including, but not limited to, fishing, hiking, hunting, wildlife appreciation, nature observation, photography, aesthetic enjoyment, and spiritual rejuvenation." But the BlueRibbon Coalition and other representatives of powered recreation use contend the travel management plan actually favors human-powered users to the detriment of OHV users by reducing miles available to OHVs. "This travel plan eliminated a

significant amount of historical access, and we are far from thrilled by it, but have elected to focus our energy working with the Forest on forward-looking management solutions," said Don Amador, western representative for the BlueRibbon Coalition.

Value of forests disputed. The Wilderness Society is taking exception to a new report that says the economic contributions of private forests are significantly greater than contributions of public land forests. The society says the report over-relies on revenues generated by wood products and doesn't fully consider such nonconsumptive uses as recreation. The report, prepared for the National Alliance of Forest Owners, says private forests in 29 states that were analyzed contribute \$359 per acre to state gross domestic products whereas non-private forests contribute \$277 per acre. Said David P. Tenny, president and CEO of the National Alliance of Forest Owners, "This study demonstrates the significant economic benefits these forests provide: family waged jobs, a strong tax base, and the economic foundation of the forest products industry." But a response to the Montana section of the report prepared by Joe Kerkvliet for The Wilderness Society says that hunting, fishing and wildlife watching alone contribute \$756 million per year to that state's economy, and that recreation contribution was not counted by the study. Indeed the study acknowledges, "Because complete and consistent data for recreation and tourism spending, hunting leases and real estate taxes is unavailable or cost-prohibitive to compile, the contributions made in these areas have not been quantified." The report, *The Economic Impact of Privately-Owned Forests*, is available at <http://nafoalliance.org/category/news/>.

Cape wind step taken. A final decision from Secretary of Interior Ken Salazar on a proposed mammoth Cape Wind energy project in Nantucket Sound off Massachusetts is not expected until spring. But the Minerals Management Service did take a step forward in the Interior Department's review January 25 by releasing an updated adverse effects analysis. The new analysis takes into account pleas of two Wampanoag Indian

tribes that oppose the project because they say the sound is sacred to them. Salazar and the Park Service entered the fray January 4 when NPS announced the entire Nantucket Sound was eligible for listing on the National Register of Historic Places. Salazar then met with the warring parties and directed them to reach an agreement by March 1. If the parties don't reach an agreement - and they haven't been able to in 10 years of fighting - Salazar said he would act. In that Salazar is an advocate of wind energy, some believe he will side with the developers of the proposed project, even though Massachusetts politicians who are usually his allies oppose it, including the Kennedy family. But even if Salazar sides with the developers the listing as a historic place would provide legal ammunition for the tribes to block the project. The wind farm would consist of 130 turbines on 24 square miles of the sound.

Jim Range receives major honor. Jim Range, a leading force in the creation of a national alliance of sportsmen, was given posthumously January 21 the 2010 Budweiser Conservationist of the Year Award. The award was presented at the 2010 Shooting, Hunting and Outdoor Trade Show. Budweiser established the award to recognize contributions to the outdoors lifestyle. The \$50,000 award will be given to the Theodore Roosevelt Conservation Partnership (TRCP), the sportsmen alliance Range was instrumental in establishing. Said John Neel Range, Jim's brother, who accepted the award, "On behalf of the family of Jim Range, we want to thank Budweiser and the National Fish and Wildlife Foundation for their recognition of Jim's efforts to preserve and protect the notion that all Americans will have access to America's natural resources for future generations for hunting and fishing." In addition to his work with TRCP, Range served on the boards of Trout Unlimited, Ducks Unlimited, the Wetlands America Trust, the Recreational Boating and Fishing Foundation, the American Sportfishing Association, the American Bird Conservancy, the Pacific Forest Trust, the Yellowstone Park Foundation and the Bonefish and Tarpon Trust. In his day job Range was an attorney.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations fiscal 2010 (Interior) HR 2996 (Dicks)	President Obama signed into law Oct. 30, 2009, as PL 111-88.	Provides broad increases for park and rec programs.
Appropriations fiscal 2010 (Energy and water) HR 3183 (Visclosky) S 1436 (Dorgan)	President Obama signed into law Oct. 28, 2009, as PL 111-85.	Roughly maintains FY 2009 levels, reduces Everglades money.
Appropriations fiscal 2010 (Agriculture) HR 2997 (DeLauro)	President Obama signed into law Oct. 21, 2009, as PL 111-80.	Restores some conservation money, but leaves EQIP short.
Appropriations fiscal 2010 (Transportation) HR 3288 (Olver)	President Obama signed into law Dec. 16, 2009, as PL 111-117.	Does not make up Highway Trust Fund shortfall.
Appropriations Stimulus HR 1 (Obey)	President Obama signed into law Feb. 17, 2009, as PL 111-5.	Allocates some \$4 billion to federal land management agencies to help revive the economy.
LWCF revival HR 3534 (Rahall) S 2747 (Bingaman)	House hearings in Sept. 2009. Bingaman put in Nov. 6, 2009.	Both would guarantee full funding of \$900M per year.
UPAR revival HR 3734 (Sires)	Sires introduced Oct. 6, 2009.	Would establish \$445 million urban park grant program in HUD.
Omnibus Lands Bill S 22 (Bingaman) HR 146 (Holt)	President signed into law March 30, 2009, as PL 111-11.	Includes 160+ individual bills, including NLCS, new national parks.
National Landscape Conservation System HR 404 (Grijalva) S 22 (previous item)	Included in omnibus law (previous item.)	Gives NLCS official designation by Congress.
California Desert protection S 2921 (Feinstein)	Feinstein introduced Dec. 21, 2009.	Would establish monument to protect 1 million acres of BLM-managed desert.
Grand Canyon withdrawal HR 644 (Grijalva)	House subcommittee hearing July 21, 2009.	Would withdraw 1 million acres of federal land near Grand Canyon NP to prevent uranium mining.
Surface Transportation HR 1329 (Blumenauer) S 575 (Carper) S 1036 (Rockefeller) Unnumbered (Oberstar)	Blumenauer put in March 5, 2009. Carper put in March 11, 2009. Rockefeller put in May 12, 2009. House subcommittee approved Oberstar bill June 24, 2009.	Blumenauer would establish a piece of a surface transportation law with climate change money. Rockefeller would establish broad goals for law. Oberstar would extend outdoor programs for six years.
FLREA (rec fee law) repeal S 868 (Baucus)	Baucus introduced April 22, 2009.	Would repeal the comprehensive federal rec fee law.
Fire suppression HR 1404 (Rahall) S 561 (Bingaman)	Included in Interior money bill above.	Establishes an emergency fire-fighting fund to limit agency borrowing.
Ski area uses S 607 (M. Udall)	Udall introduced March 17, 2009.	Would specify that ski resorts on national forest land may allow non-skiing recreation uses.
Weapons in parks HR 1684 (Hastings) S 816 (Crapo) HR 627 (Maloney)	President Obama signed into law May 22, 2009, as part of credit and law (PL 111-24.)	Directs Interior to allow concealed weapons in national parks, refuges.