

# Federal Parks & Recreation

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Volume 27 Number 15, July 31, 2009

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## Jarvis given cool reception from three GOP senators

Western Republican senators July 28 raked Jon Jarvis, the Obama nominee for Park Service director, over the coals at a confirmation hearing held by the Senate Energy Committee.

The senators want Jarvis, former Pacific West Regional Director, to allow guns in the parks, to allow snowmobiles in Yellowstone National Park and to allow oil and gas leasing on public lands near national parks in Utah.

But none of the three senators doing the hard questioning - Lisa Murkowski (R-Alaska), Robert Bennett (R-Utah) or John Barrasso (R-Wyo.) - threatened to place a "hold" on Jarvis's nomination. That could delay confirmation for the foreseeable future.

However, the Republican criticism does cast doubt on final confirmation. The Senate leaves on a month-long summer vacation August 7. Prior to the hearing there had been hope in the ranks that the Senate would confirm Jarvis quickly so that he could attend a Park Service Leadership Council meeting set for August 17 in Dayton, Ohio. Senior headquarters officials and regional directors usually attend such meetings.

Said a Democratic staff member. "I would expect that Mr. Jarvis is going to have to answer a lot of questions and, depending on those answers, some senators may not vote for him. But is his nomination in jeopardy? I don't think so."

If Jarvis were confirmed next week, it would give him an opportunity to quickly make his mark on NPS policy at the meeting. "He could throw out his agenda to Park Service leaders," said one source close to NPS. "He could do

his strategic planning now so that in September the leadership would have a clear idea what Jon wants for an agenda for the Park Service."

Barrasso appeared to be the most dissatisfied of the three western senators, objecting repeatedly to an Obama administration proposal to cut in half a daily snowmobile cap in Yellowstone National Park. When Jarvis was reluctant to commit to a position on the issue until planning was completed, Barrasso snapped, "Planning for snowmobiles is an absolute answer, but that is not what everybody in Wyoming is looking for."

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

Jarvis said NPS has time to get ready for the new law because it doesn't go into effect until February. "The last thing we want to do is create confusion among the public and the users who are bringing their weapons to the park," he said. "So in part we had to make sure every one of our rangers understands the applicable state law in each case and that any facilities in our parks where weapons might be prohibited such as government buildings where there are employees working."

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

"Creating buffer zones is a de facto way of enlarging national parks. Enlarging national parks under the law lies with Congress," said Bennett. "But if (you) say we need to protect the park with a buffer zone and then somebody says we need to protect a buffer zone with a buffer zone, you see where this is going. This is a creeping power grab."

Responded Jarvis, "We have no veto

powers, nor would I seek that. But I do believe there is a relationship that must be built over time between the values that are held in the national parks and the responsibilities and values of our adjacent land managers to develop a mutual respect."

On July 29 the committee approved unanimously the nominations of Robert Abbey as director of the Bureau of Land Management (BLM) and Wilma Lewis as assistant secretary of Interior for Land and Minerals Management, where she would oversee BLM policy.

However, the Abbey and Lewis nominations are not guaranteed if and when they reach the Senate floor because Sen. John McCain (R-Ariz.) has threatened to vote against them, raising the possibility that he will place a "hold" that prevents final confirmation. McCain wants the Obama administration to take a position on a proposed copper mine in southeast Arizona.

McCain and Sen. Jon Kyl (R-Ariz.) have sponsored legislation (S 409) that would authorize a land exchange that would open the way for expansion of a Resolution Copper Mining operation. Native Americans say the Resolution Mine will destroy an area called Oak Flats that is sacred to them.

Abbey is a former director of the Nevada State Office of BLM. Lewis is a former Interior Department Inspector General.

Meanwhile, in the Department of Agriculture the Forest Service July 5 got a new chief when former Northern Regional Forester Tom Tidwell took over. He replaced Gail Kimbell. The Forest Service chief does not require Senate confirmation.

Separately, on July 22 the Senate Environment and Public Works (EPW) Committee held a hearing on the nomination of the Fish and Wildlife Service's (FWS's) Southeast Director Sam Hamilton as the new FWS director.

At the hearing EPW chairman Barbara Boxer (D-Calif.) praised Hamilton,

"His experience makes him especially well qualified to deal with the many challenges faced by (FWS) today." Ranking committee Republican James Inhofe (R-Okla.) complained about the Obama administration's implementation of the Endangered Species Act, but did not object to Hamilton personally.

## California will probably close fewer than 50 parks

California Gov. Arnold Schwarzenegger (R) July 28 signed a state budget that could lead to the closure of up to 50 state parks. Still, that is a lot fewer than the 220 closures Schwarzenegger proposed earlier this year.

California State Parks will ultimately decide when and how parks will be closed, agency spokesman Roy Stearns told us. "The Administration will render a budget for us and it will then be up to our park professionals as to how to apply that budget to the park system," he said.

No decisions on closures will be made until after Labor Day. "We are intending to stay open to then," said Stearns. "In the meantime we are working to find partners - cities, counties, non-profits, big donors, others - who would want to contribute funding to keep parks open. If that happens, we will likely keep more open."

In the long run friends of the state parks are asking the California legislature for a dedicated source of revenue for the system in the form of a \$15 levy on motor vehicle registration.

That levy would provide California parks with \$220 million per year; however, on June 26 the state senate refused to take up the legislation. The measure needed a two-thirds vote. It received 22 votes with 14 opposed.

Said the California State Parks Foundation after the governor and the legislature brokered a budget deal last week: "It is clear that our state parks need a stable, dedicated funding stream

to keep them open for us all. The California State Parks Foundation will be working with park advocates, businesses, and representatives from local communities across to state to come up with such a solution."

California is but one of many state park systems facing draconian budget cuts this year. Georgia has also instituted massive lay-offs and closure of park facilities. Other states are choosing options besides out-and-out closures, such as leasing facilities to communities or privatizing the facilities. Others are instituting deep furloughs.

But the California situation may be the most extreme. It began with Schwarzenegger's January 9 budget for fiscal year 2009-2010 that proposed to cut state parks spending in half, or to reduce spending by \$70 million and leaving \$73 million.

Said California State Parks, "There are 220 state parks that rely on the \$143 million in General Fund revenue. There are 59 which could be self-sustaining, obtaining revenue by other means."

After a statewide protest the final budget agreement only chopped \$7 million from the state parks budget. Still, that could lead to the closure of up to 50 park units.

The National Park Service is involved with this fight, having warned California that it risked losing federal money if parks established with federal help were closed down.

NPS Pacific West Regional Director Jon Jarvis told the state it could miss out on future state grants from the Land and Water Conservation Fund (LWCF.) And Jarvis, the Obama administration's nominee for NPS director, told the state it could lose the six parks it obtained from a Federal Land to Parks Program. That is, the parks would revert to the federal government.

Jarvis said state and local governments in California over the years

have received more than 40,000 LWCF grants. The state has received \$286 million from LWCF state grants for 67 state parks on the closure list, he said.

The outdoor recreation industry also weighed in with a letter to Schwarzenegger asking him to keep California's parks open. "While we understand the grave budget constraints you face, the plan to close 220 state parks puts a disproportionate share of the burden onto the parks system and the people who visit them," an alliance of industry officials wrote. The companies, including North Face and Camelback REI, said the parks actually help the state's economy.

### **Murkowski, Landrieu propose state LWCF help from OCS**

It's a long shot at best but two senators introduced legislation (S 1517) July 24 that would set aside 12.5 percent of royalties from new offshore oil and gas development in the Gulf of Mexico for state recreation grants.

The 12.5 percent share in the bill, proposed by Sens. Lisa Murkowski (R-Alaska) and Mary Landrieu (D-La.), would not apply to existing offshore oil and gas development, said a Murkowski aide.

The bill appears to dovetail with an oft-voiced recommendation from Secretary of Interior Ken Salazar that Congress use offshore oil and gas royalties to guarantee funding for the Land and Water Conservation Fund (LWCF.) And it appears to dovetail with a recommendation early this month of an Outdoor Resources Review Group (ORRG) for a \$5 billion per year conservation fund.

The odds against S 1517 are long for lots of reasons. One, the Senate Energy Committee June 17 finished drafting a comprehensive energy bill (S 1462) that already addresses offshore oil and gas development. So Murkowski and Landrieu would have to ask the Senate to accept their bill as an amendment to S 1462, no easy task.

Two, the Senate Energy Committee energy bill may be taken up by the Senate during consideration of climate change legislation, and the outlook for that legislation is ambiguous at best.

Three, S 1517 is a long shot because of its budget implications. However, one Senate committee staff member allowed, "There would not have to be offsets for revenue sharing."

Finally, S 1517 is a long shot because it would open up controversial new portions of the Gulf of Mexico for leasing and would encourage leasing off some mid-Atlantic states.

For all that the Murkowski-Landrieu bill does give Salazar and others a discussion point. Salazar has been beating the drums all year for Congress to use any new offshore oil and gas royalties to provide secure revenues to LWCF.

Salazar has frequently cited The Gulf of Mexico Energy Security Act of 2006 as an example of legislation that allocates oil and gas royalties to bulk up LWCF. That law directs the Minerals Management Service to distribute to the state side of LWCF 12.5 percent of royalties from oil and gas lease sales from the 181 Area and the 181 South Area of the Gulf of Mexico. In fiscal 2008 state LWCF revenues from the sales amounted to \$8.3 million.

The ORRG recommended among other things "full" funding for LWCF of \$3.2 billion. The program is currently authorized for \$900 million per year, but the commission report says inflation should increase the payout to \$3.2 billion. The ORRG also calls for the study of a broader, \$5 billion per year fund to replace LWCF beginning in 2015, presumably by Congress, the White House and any new commission/conference.

For the time being the ORRG commission "proposes for study" the establishment of a broad new conservation trust to replace LWCF after the year 2015. To pay for the fund the commission suggests a new commission examine such things as royalties from conven-

tional and renewable energy development onshore and offshore, new conservation and recreation user taxes, and compensatory payments from commodity developers who use the public lands.

From its beginning the Obama administration has promised to fully fund LWCF, some day. It launched that commitment with a May 7 request for a \$420 million appropriation for LWCF in fiscal year 2010, but with only \$30 million for the state side of LWCF.

Some LWCF advocates don't say so publicly but they are less than enthused about the Obama administration's fiscal 2010 proposal because it would spend barely half of the \$420 million for LWCF on LWCF, just \$229 million. The other \$191 million would be used for Endangered Species Act grants and Forest Service Forest Legacy grants.

The full House June 26 approved a fiscal year 2010 Interior appropriations bill (HR 2996) with \$40 million for the state LWCF program and \$212.4 million for the federal side of LWCF. The Senate Appropriations Committee June 25 approved \$35 million for state grants and \$262 million for the federal side.

The pertinent state LWCF allocation provision of the Murkowski-Landrieu bill says: "*(4) CONSERVATION ROYALTY-After making distributions under paragraphs (1) and (2) and section 31, the Secretary shall, without further appropriation or action, distribute a conservation royalty equal to 12.5 percent of Federal royalty revenues derived from an area leased under this section from all areas leased under this section for any year, into the land and water conservation fund established under section 2 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-5) to provide financial assistance to States under section 6 of that Act (16 U.S.C. 4601-8).*"

### **Senate moving to extend SAFETEA; House moving new law**

House and Senate Democrats continue to disagree about both short-term

and long-term spending on surface transportation programs, threatening to leave state highway programs with a \$7.5 billion shortfall in this fiscal year.

The House and Senate Democrats disagree about whether to extend the existing surface transportation law for 18 months (the Senate preference) or to write a new, six-year law now (the House preference.) The Obama administration is backing the Senate's temporary fix.

At the same time the Senate committees are moving to transfer more than \$20 billion into the Highway Trust Fund to keep highway programs solvent for the 18 months. The money would come from general funds. But the House July 29 approved a bill (HR 3357) that would provide only \$7 billion for the Highway Trust Fund because they say they will address the fund's insolvency in the new, six-year law.

State highway departments are caught in the middle. They support elements of both the Senate and House proposals - a Senate-backed transfer of money to the Highway Trust Fund but also a House-backed long-term fix.

"The two concerns of state (Departments of Transportation) are the immediate threat of Highway Trust Fund insolvency and the need to enact a well-funded long-term surface transportation authorization measure," said Al Biehler, president of the American Association of State Highway Transportation Officials. "We estimate that \$7.5 billion should be transferred into the trust fund to cover commitments in fiscal year 2009." Biehler is also Pennsylvania transportation secretary. The rest of the \$20 billion shortfall would occur in fiscal 2010.

While the House and Senate battle over the extension and the shortfall, they are at the same time attempting to move a fiscal 2010 appropriations bill. The House July 23 approved its version of a bill (HR 3288) with \$41.1 billion for surface transportation programs. However, the Highway Trust Fund doesn't contain enough money to pay the \$41.1 billion, so there is not enough money in

the bank to pay for programs. Again, Congress would have to transfer money from general revenues to the trust fund.

The Senate subcommittee on Transportation appropriations July 29 approved its version of a fiscal 2010 Transportation money bill.

**THE HOUSE:** Meanwhile, interest groups that represent park and rec programs are not taking chances and are lobbying the House Transportation Committee to be included in a six-year bill. The subcommittee on Highways and Transits June 24 approved the bill, the Surface Transportation Authorization Act of 2009 (no number yet), but did not include any numbers in it. House Transportation Committee Chairman James Oberstar (D-Minn.) wants to move the bill through Congress by the end of the fiscal year on September 30.

For instance, Congressional backers of a Recreational Trails program have sent committee leaders a request for continued funding for the program in the next six-year surface transportation bill. The recommendation is based on current funding under the existing surface transportation law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.)

The Congressmen, led by Reps. Michael Michaud (D-Me.) and Thomas Petri (R-Wis.), would increase spending for the program from \$85 million in fiscal 2009 to \$90 million in fiscal 2010, and to \$130 million after four more years.

Park and rec programs in SAFETEA-LU include recreational trails, transportation enhancements, scenic byways, federal lands roads, Safe Routes to School and hundreds of earmarks for such things as trails in and near transportation projects.

A House Transportation Committee staff member laid out this schedule for the House to fill in the numbers on the six-year Surface Transportation Authorization Act of 2009 approved by the subcommittee on Highways and Transits June 24: "We're waiting for the (House) Ways

and Means Committee to work up the revenue title. We presented them with several options for financing. We estimate there is about \$325 million in the Highway Trust Fund account and we estimate the bill will cost about \$450 billion. So we're about \$125 billion short. The idea is to time this so we can have input ready from (the House Transportation) Committee and Ways and Means at the same time." The aide said that wouldn't happen until September.

The bill approved by the House subcommittee June 24, although it does not contain any numbers, would extend for six years such outdoor programs as transportation enhancements (still at 10 percent of total allocations for the Surface Transportation program), recreational trails, scenic byways, federal and Indian land roads, and Safe Routes to School. All the programs except enhancements would receive individual allocations of unspecified amounts.

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

But the subcommittee bill does contain one new concept with major implications for park and rec activities - livability. A new Office of Livability would oversee transportation enhancements, recreational trails, scenic byways, Safe Routes to School and a new U.S. bicycle route system.

The bike route program would provide grants to states and Indian tribes (80 percent federal money) to establish a national system. The money would be used for construction (at least half of all expenditures), planning, mapping, signage and promotional materials. The bike route system is Section 1203 (k.)

House Transportation Committee Republicans have Oberstar's back on writing a six-year bill. Rep. John J. Duncan, Jr. (R-Tenn.), ranking minority member of the subcommittee on Highways, said, "A short-term extension will force states to delay major transportation

projects due to lack of a predictable federal funding stream. And we all know that any time we delay a project, the cost of the project increases because the cost of labor and materials increases over time."

Some interest groups feel the six-year program is the better way to go. "I fear that if the program is put off for 18 months or two years there won't be any new money available," said Derrick Crandall, president of the American Recreation Coalition and long-time supporter of the recreational trails program. "I sort of agree with Jim Oberstar that we're not going to be better off financially in 18 months."

At an important House Ways and Means Committee hearing July 23 on possible sources of money to supplement the Highway Trust Fund the Obama administration did not make any specific recommendations. Roy Kienitz, undersecretary for policy at the Department of Transportation, simply outlined guiding principles and said, "We need a transportation funding system that will support the achievement of these goals."

At that hearing Oberstar ruled out an increase in gasoline taxes to fatten up the Highway Trust Fund, as long as the recession continues. But he did recommend six other options for additional trust fund money, including a transaction tax on trading of crude oil futures (\$190 billion) and a federal Treasury bonds (\$60 billion.)

**THE SENATE:** Two bills are moving to (1) implement a short-term extension of SAFETEA-LU and (2) patch the shortfall in the Highway Trust Fund. Eventually, Senate leaders may merge the two.

The Senate Environment and Public Works (EPW) Committee approved the 18-month extension bill (S 1498) July 15. The Senate Commerce Committee, which has responsibility for highway safety programs, approved the bill July 21.

The bill simply extends SAFETEA-LU for all of fiscal 2010 and the first six months of fiscal 2011 at the fiscal 2009 spending levels set by SAFETEA-LU.

Separately, Senate Finance Committee Chairman Max Baucus (D-Mont.) introduced legislation (S 1474) July 20 that would make up the Highway Trust Fund shortfall with \$20 billion from general revenues.

EPW chairman Barbara Boxer (D-Calif.) said, "We plan to take this (18-month extension) bill and merge it with legislation being crafted in the Commerce and Banking committees to extend the portions of SAFETEA-LU that are within their jurisdictions, and a provision from the Finance Committee that will restore \$20 billion to the Highway Trust Fund."

**APPROPRIATIONS:** The House July 23 approved its version of a fiscal 2010 Transportation appropriations bill (HR 3288) with \$41.1 billion for surface transportation programs. However, the Highway Trust Fund doesn't contain enough money to pay the \$41.1 billion, so there is not enough money in the bank to pay for the bill. Congress would have to transfer money from general revenues to the trust fund for the appropriations to take effect. The Senate subcommittee on Transportation appropriations approved its version of HR 3288 July 29 with \$42.5 billion for highway programs.

## Yellowstone snowmobile rule draws wrath of Wyoming

Wyoming elected officials are reacting with extreme hostility to a July 24 Obama administration proposal to reduce by half the daily number of snowmobiles allowed in Yellowstone National Park.

Said Rep. Cynthia Loomis (R-Wyo.), "These proposed limits are far below what the Park Service itself recommended less than two years ago. This administration should spend some time reading why Yellowstone was established in the first place - for the benefit and enjoyment of the American people. I would venture a guess that if Teddy Roosevelt were around today, he would agree."

But more important politically are the views of increasingly influential

Democrats in the Rockies, such as Wyoming Gov. Dave Freudenthal, Montana Gov. Brian Schweitzer, and Montana Sens. John Teshler and Max Baucus.

Freudenthal said cryptically in a statement July 27, "We obviously don't agree with it. The Attorney General's Office will be returning to court." The State of Wyoming believes a court-ordered cap of 720 should be enforced this coming winter.

One theory holds that those Democrats will hold the line against a total elimination of snowmobiles because of the economic impacts of snowmobiling in Wyoming and Montana.

"Salazar is trying to thread the needle," said one fairly neutral observer. "One of the interesting things is there are Democrats in the two Montana Senate seats and governors of Wyoming and Montana. Salazar will find it important to consult with western Democrats."

The Salazar proposal, outlined in a July 24 *Federal Register* notice, would authorize up to 318 snowmobiles per day in Yellowstone and 78 multi-passenger snowcoaches. The 318 snowmobiles cap is down from 720 snowmobiles per day allowed last winter. However, the peak number of daily snowmobile visitors last winter was 426. An average of 205 snowmobiles daily entered the park in 2008-09.

The Park Service last December under the Bush administration issued a rule that governed the 2008-2009 winter with a 720-machine cap. The Park Service said at the time it had no choice but to allow significant snowmobile use because U.S. District Court Judge Clarence Brimmer in Wyoming ordered it in a Nov. 7, 2008, opinion.

Brimmer's decision countermanded a Sept. 15, 2008, decision by Judge Emmett Sullivan in the U.S. District Court for the District of Columbia that had thrown out still another Park Service proposal that had recommended 540 snowmobiles per day last winter.

When Salazar announced the pro-

posed new 318 snowmobile cap July 24 Wyoming Attorney General Bruce Salzburg said, "We have filed today a motion to enforce Judge Brimmer's judgment in the pending case. We believe Judge Brimmer intended that the prior temporary rule limiting snowmobile entry to 720 per day was to remain in effect until the Park Service implemented a new final rule. What the Park Service is doing is implementing a different temporary rule."

Sen. John Barrasso (R-Wyo.) complained at a confirmation hearing held by the Senate Energy Committee July 28 for Jon Jarvis, nominated to head the Park Service, "This administration is developing an ideological agenda for the parks, one that will result in reduced public access and an increased maintenance backlog."

Jarvis responded, "I cannot commit one way or the other. I don't know the details of this. I do commit to winter use and winter access in a sustainable decision, one that can provide continuity and planning for gateway communities and for the park itself."

The Coalition of National Park Service Retirees has consistently been one of the loudest voices in favor of an outright ban on snowmobiles in Yellowstone. As Bill Wade, chair of the executive council of the coalition, wrote Salazar in May: "We hope that your decision will be to phase out snowmobile use over a two-year period and to increase the number of snowcoaches. A series of NEPA studies conducted across the previous two administrations determined that doing exactly this will uphold the National Park Service's conservation mandate and specific duties in its Management Policies, while continuing even recent reduced levels of snowmobile use would not. Indeed the National Park Service and the Environmental Protection Agency have made this determination independently, four times, at a cumulative cost of over \$10 million."

Comment on the Salazar proposal by September 8 to: [www.regulations.gov/search/index.jsp](http://www.regulations.gov/search/index.jsp). Click on "Documents Open For Public Comment" and choose the National Park Service.

## Interior blocks new uranium claims near Grand Canyon

The Interior Department posted a "segregation" notice July 21 that bars the filing of new uranium mining claims on almost one million acres of public land near Grand Canyon National Park.

However, 10,600 uranium claims have already been filed in the area. Those claims enjoy valid existing rights and can't be withdrawn. Despite the segregation notice the existing claims can be developed.

Secretary of Interior Ken Salazar said the land segregation will last until the Interior Department decides whether to issue a formal withdrawal of the land. In a *Federal Register* notice the department not only executed the segregation but also proposed a two-year withdrawal. The Bureau of Land Management (BLM) will next hold a 90-day comment period.

The department's proposed withdrawal would approximate a June 25, 2008, demand of the House Natural Resources Committee for an emergency withdrawal of the one million acres. The Bush administration on Dec. 5, 2008, refused to carry out the withdrawal, asserting that it was illegal.

The segregation and planned withdrawal infuriated natural resources committee Republicans at a July 21 hearing, most immediately because neither Salazar nor any other member of the administration testified.

Said Rep. Rob Bishop (R-Utah), ranking minority member of the House subcommittee on National Parks, Forests and Public Lands, "Yes, the administration should be here to explain the rationale for doing this, but they are not here. The member who represents the area (Rep. Ann Kirkpatrick (D-Ariz.)) should be here but she is not."

Subcommittee chairman Rep. Raúl M. Grijalva (D-Ariz.) explained the administration's absence: "It would be inappropriate for a variety of reasons -

pendency of litigation, desire to avoid repetition and the fact that because of some of the partisan gamesmanship that is going on the Interior Department still lacks its full leadership staff."

Grijalva's remark about "partisan gamesmanship" presumably was aimed at Sen. John McCain (R-Ariz.), who is opposing the nomination of Bob Abbey as BLM director and Wilma Lewis as assistant secretary of Interior for Land and Minerals Management. McCain is upset because the administration hasn't reached a decision on a proposed land exchange involving a disputed Resolution Copper mine in southeast Arizona.

Substantively, ranking House Natural Resources Committee Republican Doc Hastings (Wash.) objected to the withdrawal because of its potential impact on energy supplies.

"Once again, the Obama Administration is saying no to American energy and no to American jobs," said Hastings. "In just six short months, the Administration has blocked new offshore drilling, blocked oil and natural gas leases in Utah, and is now blocking uranium mining in Arizona."

Grijalva responded that it is better to be cautious about the impact of uranium mining before allowing companies to stake additional claims. "Until we have a better idea of the impact of mining the administration is right to provide a time out to take a hard scientific look," he said.

The day before the hearing Salazar issued the same caution message as Grijalva: "Over the next two years, we will gather the best science and input from the public, members of Congress, tribes, and stakeholders, and we will thoughtfully evaluate whether these lands should be withdrawn from new mining claims for a longer period of time." The segregation bars new claims on 633,547 acres of BLM land and 360,002 acres of national forest.

The committee hearing was originally called to evaluate a bill (HR 644) from Grijalva that would make permanent

the withdrawal of land in the Tusayan Ranger District and BLM land near Kanab Creek and House Rock Valley in Arizona.

If the House does go along with a permanent withdrawal, the odds against the legislation are steep in the Senate. Both Arizona senators as well as former Democratic Sen. Dennis DeConcini oppose it. Senatorial comity will make it difficult.

Said a Democratic Senate Energy Committee staff member, "If the entire delegation doesn't want a hearing, I don't believe the odds are good there will be a hearing. That's the way things work over here. It would be poor form for a senator from another state to ask for a hearing on a bill affecting another state."

On the other hand McCain does sit on the Senate Energy Committee and may welcome the opportunity to hold a hearing to shoot the bill down. "McCain may want to hold a hearing and talk about what a terrible idea it is," said the staff member.

At any rate the Senate committee probably won't have time for a hearing this year. "Because we have spent the last five months on energy legislation the queue is full of public lands bill," the staff member said. "We can probably hold hearings on them until the end of the session."

McCain, Sen. John Kyl (R-Ariz.) and DeConcini all argue that a withdrawal would violate an understanding the Arizona Congressional delegation reached in 1984 on statewide wilderness legislation. The deal called for designation of more than one million acres of wilderness in exchange for release to commercial uses of other roadless areas, including the area containing the uranium claims.

McCain, Kyl and DeConcini all invoke the name of former Rep. Morris "Mo" Udall (D-Ariz.) as the broker of the understanding. But at the House subcommittee hearing a former aide to Udall, Mark Trautwein, begged to differ.

"If there is an 'understanding' implicit in the Arizona Wilderness Act that Mr. Udall's work would be the final word on the Arizona Strip not to be rewritten by those who came after him, which is the underlying thesis of the Senate letters, I am quite certain Mr. Udall did not share it," said Trautwein, who worked for Udall for 12 years. "In fact, I can think of no idea more contrary to Mo's most fundamental beliefs about the work he cared about so deeply."

The House Natural Resources Committee's emergency withdrawal order was based on Section 204(e) of the Federal Land Policy and Management Act of 1976. It authorizes either the House panel or the Senate Energy Committee to order an emergency withdrawal of up to three years.

Environmentalists have filed a major lawsuit to force the government to make the withdrawal. Environmentalists, including the Grand Canyon Trust, argue in their litigation that the withdrawal order not only bars future mining claims, but also forbids exploration activities on existing claims.

## **DoI appropriations bill set back; others make progress**

The Senate will probably not take up a fiscal year 2010 Interior appropriations bill (HR 2996) until Congress returns to work in the fall, raising the possibility the bill won't be completed before the next fiscal year.

The Senate floor presents the greatest hurdle for appropriations bills, with 60 votes needed just to bring up legislation.

"I don't anticipate Interior going to the floor prior to the recess (which begins August 7)," said a Senate Appropriations Committee staff member. Congress is not scheduled to return to work until September 8 and the fiscal year 2010 begins barely three weeks later on October 1.

The House approved its version of

a bill June 26, the day after the Senate Appropriations Committee passed its version.

Meanwhile, Congress continues to make progress on three other outdoor-related money bills. The Senate July 29 approved an Energy and Water appropriations bill (HR 3183, S 1436.) At press time it was working on an Agriculture appropriations bill (HR 2997.) On July 23 the House approved a Transportation appropriations bill (HR 3288.)

Despite the Senate delay on the Interior bill, the large Democratic majority in Congress is widely expected to ensure that most appropriations bills will be completed by the beginning of fiscal 2010.

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

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

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

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

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

\* PARK SERVICE OPERATIONS: Senate committee, \$2.261 billion; House, \$2.261

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

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

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

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

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

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

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

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

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

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

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

\* BLM RECREATION MANAGEMENT: Senate committee, \$68.4 million; House, \$67.7 million; administration, \$67.7 million; fiscal 2009, \$63.7 million.

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

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

fight emergency fires of \$50 million.

Here are summaries of non-Interior spending bills:

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

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

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

**AGRICULTURE:** HR 2997. The House approved its version of HR 2997 July 9 and the Senate Appropriations Committee approved its version July 7. Both the House and Senate committee restored some - but not all - spending reductions proposed by the Obama administration for conservation programs.

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

The Senate committee restored about all the conservation money except it cut the Environmental Quality Incentive Program by \$270 million, compared to the farm bill. The Senate committee reduced it by \$250 million.

**TRANSPORTATION:** HR 3288. The

House approved its bill July 23 with a survival appropriation of \$41.1 million for highway programs. However, the Highway Trust Fund, which pays for highway programs, is \$7.5 billion short and the measure does not resolve the shortage. Subcommittee on Transportation Appropriations Chairman Rep. John Olver (D-Mass.) said the subcommittee was not responsible for making up a huge deficit in the Highway Trust Fund. (See related article page 5.) The Senate subcommittee on Transportation appropriations approved its version of HR 3288 July 29 with \$42.5 billion for highway programs.

### **Feds see outdoor stimulus progress; GOP has doubts**

Three federal departments that oversee park and rec programs gave themselves high marks last week in the implementation of a giant economic stimulus law (PL 111-5 of February 17.) But Congressional Republicans are not so sure.

Secretary of Interior Ken Salazar told the House Budget Committee, "As of July 17, 2009, DoI has obligated \$305 million in (American Recovery and Reinvestment Act) funding, creating approximately 3,300 job years. We are projecting obligations of nearly \$1.1 billion by the end of FY 2009 and another \$1 billion in the first and second quarters of fiscal 2010."

Secretary of Agriculture Tom Vilsack said his department has identified \$585 million in capital improvement and maintenance projects for the Forest Service alone. He told the committee, "Of the (capital improvement and maintenance) projects that FS has completed, FS decommissioned over 20 miles of road to date, and repaired or maintained 275 miles of road."

Secretary of Transportation Ray LaHood said the Federal Highway Administration "has obligated nearly two-thirds" of the \$27.5 billion the act allocated to the agency. Of that he said, "We have approved over 6,600 projects for highway and other transportation projects nationwide."

But ranking House Budget Committee Republican Rep. Paul Ryan (Wis.) said the whole \$790 billion stimulus program was not putting people to work. "Since the stimulus was enacted, nearly 2 million jobs have been lost," he said. "The Administration continues to promise that we will see results 'soon;' that we need to give the stimulus more time to work. But most experts are predicting a so-called 'jobless recovery.'"

Not counting road money and energy efficiency money, the Interior Department received just over \$2 billion from the \$790 billion economic stimulus law. The Forest Service received just short of \$1 billion. Congress wants all the money obligated by the end of September of next year when fiscal year 2010 ends.

Interior Department and Forest Service allocations pale in comparison to the amount of money PL 111-5 antes up for transportation projects, including national park roads. To name a couple of bigger items the Department of Transportation received \$27.5 billion for highways and bridges, \$8.4 billion for transit, \$9.3 billion for passenger rails and \$1.5 billion for competitive surface transportation grants.

At a press briefing July 23 Forest Service Chief Tom Tidwell said his agency has "released 81 percent of the \$1.115 billion" it received from the stimulus law.

Tidwell said that trail work in particular should move quickly. "We do have some projects that are already started and especially with this current round of trail and facility work," he said. "Quite a bit of this trail work should be able to get started this year. A lot of this work will be done by youth crews and in partnership with existing memorandums of understanding with crews so we will be able to add additional money into those efforts."

Vilsack backed Tidwell July 21 in announcing the approval of 191 national forest projects worth \$274 million, bringing the Forest Service total to \$936 million announced, out of \$1.1 billion appropriated.

The Forest Service also published last week a description of trail projects that have been funded. For instance in California alone the Forest Service has allocated \$9.7 million to non-motorized, non-wilderness trails. The money is being spent through nine partners, including AmeriCorps and Back Country Horsemen of America. The service also identified \$4.1 million in wilderness projects in California.

Meanwhile, on July 23 Yellowstone National Park said it has completed its first major project under the stimulus law, a \$1.2 million repair of an 11-mile section of road near the park's south entrance.

And on July 25 Salazar went to Maine to join Sen. Susan Collins (R-Me.) in highlighting \$8.3 million in Acadia National Park projects.

## **Senate taking hard look at emergency fire-fighting bill**

The Senate Energy Committee is getting serious about legislation passed twice by the House that would establish an emergency fire-fighting fund.

The committee held an inaugural hearing on the bill (HR 1401, S 561) July 21 and received the Obama administration's qualified blessing. Rhea Suh, assistant secretary of Interior for Policy, Management and Budget, said, "The administration supports the FLAME Act if amended to provide for a contingency reserve as outlined by the President's budget."

The administration's fiscal year 2010 budget requests a contingency appropriation of \$332 million for fighting emergency fires. The House and Senate Appropriations Committees are already providing that money, but only for one year.

This is a bipartisan issue, so ranking committee minority member Lisa Murkowski (R-Alaska) has cosponsored the bill. But she did complain that the administration budget favors other fire-fighting costs over an emergency fund.

"We need to reverse how we fund fire suppression on federal land," Murkowski said. "The majority of the funding needs to be directed to the reserve account to cover the cost of the big fires."

S 561 is straightforward. It follows the outlines of a similar bill introduced in the House by House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) That is, the legislation would establish a fund to be used to pay for large, complex emergency fires.

The Secretary of Agriculture and Secretary of Interior would decide which suppression activities would be eligible for the fund. The House approved HR 1401 March 24.

The idea of course is to prevent the recent practice of the Forest Service in particular of borrowing money from line programs to pay to fight fires. Recreation programs in particular suffered devastating diversion of money.

There are no guarantees in the legislation, however. S 561 and HR 1404 do not specify an amount of money for the fund, which would continue to be subject to annual appropriations.

In addition the House approved an amendment to the bill, called the Federal Land Assistance Management and Enhancement Act (FLAME), which would NOT consider bill allocations as emergency money, leaving the fund at even greater risk.

In a parallel development both the full House and the Senate Appropriations Committee have included the \$332 million emergency fire-fighting contingency fund in a fiscal year 2010 appropriations bill (HR 2996.) Of that \$282 million would be used by the Forest Service and \$50 million by the Interior Department.

Congress also approved a \$250 million emergency supplemental for fiscal 2009 in an Iraq War spending bill (PL 111-32 of June 24.) Of that, \$200 million would go to the Forest Service

and \$50 million to the Interior Department, if needed.

Both the House and the Senate Appropriations Committee are on line to approve a significant appropriation in fiscal 2010 for regular fire-fighting activities and the contingency fund. The House approved \$3.66 billion and the Senate committee \$3.56 billion. The administration recommended \$3.495 billion.

Fire suppression costs have increased from 13 percent of the Forest Service budget in fiscal 1991 to nearly 50 percent now. Although Congress has increased the fire budget almost every year, the cost of fighting huge emergency fires has topped the appropriation by as much as \$1 billion. That has forced the Forest Service to borrow from other programs and Congress has not always repaid those programs.

Five former Forest Service chiefs in March endorsed the legislation. The chiefs said the FLAME act and the Obama budget would help. The five chiefs who wrote to bill sponsors were Max Peterson, F. Dale Robertson, Jack Ward Thomas, Michael P. Dombeck and Dale N. Bosworth.

As impressive in a way, 67 diverse interest groups March 20 formed an alliance to pitch for the bill. The Partner Caucus on Fire Suppression Funding Solutions wrote House bill sponsors March 20, "These growing (wildfire suppression) costs severely hamper the land management agencies' ability to fund other agency programs. Without resolution, suppression costs will continue to consume a larger percentage of agency budgets year after year, subsequently reducing funding for and crippling critical programs and projects."

The interest groups include the American Forest and Paper Association, the American Hiking Society, the National Association of Counties, the National Cattlemen's Beef Association, the National Ski Areas Association, the Sierra Club and the Western Governors' Association.

## Notes

### **National forest visitation sinks.**

The Forest Service reported last week that visitation in the national forests has declined by 18 percent in the last eight years from 214,200,000 visitors in 2001 to 175,624,000 in 2008. The service said July 23 in a new report the decline was felt in all nine regions of the National Forest System, with Alaska declining by 74 percent, the Northeast by 42 percent and the Pacific Northwest by 37 percent. Critics immediately blamed new entrance fees. According to Western Slope No-Fee Coalition President Kitty Benzar, "Fees were already driving many families away from public lands, even while times were good. The economic crisis we're facing now will exacerbate a very worrisome trend. As household budgets are cut to the bare bones, visiting a National Forest will be just another luxury item that can be done without." Sen. Max Baucus (D-Mont.) has introduced legislation (S 868) that would repeal the fee law. See chart at: [http://www.westernslopenofee.org/pdfuploads/NVUM\\_Visitation\\_Change\\_2001\\_to\\_2008.pdf](http://www.westernslopenofee.org/pdfuploads/NVUM_Visitation_Change_2001_to_2008.pdf).

### **Conservation tax up for extension.**

Sportsmen and their allies in Congress are beginning to beat the drums for extension of legislation (S 812, HR 1831) that provides a healthy tax incentive for donation of land to conservation purposes. The current provision expires at the end of December. Presumably, the legislation will be swept up in some other piece of legislation. The law was last extended in the big 2008 farm bill. Earlier this month the leaders of a Congressional Sportsmen's Caucus, Rep. Dan Boren (D-Okla.) and Paul Ryan (R-Wis.), wrote their colleagues and urged support for the legislation that would make the easements permanent. Rep. Mike Thompson (D-Calif.) and 165 of his colleagues have introduced the House bill and Sen. Max Baucus (D-Mont.) and 23 of his colleagues have introduced the Senate bill. The existing law authorizes a tax break on 100 percent of income for farmers and ranchers and increases the easement period from five years to 15 years. For non-farm land the tax break is authorized on 50 per-

cent of income. Baucus said the law works. "According to the Land Trust Alliance, America's Land Trusts protected 535,000 more acres with conservation easements in the first two years with the new tax incentive than in the previous two years, a 36 percent increase," he said. "In 2006 and 2007, land trusts added over 6,000 easements, about 2,000 more than the 2 years before the incentive." The sportsmen's caucus is backed by a wide range of conservation groups including the American Fisheries Society, Ducks Unlimited, the National Rifle Association, Trout Unlimited and the Wildlife Management Institute.

### **Outdoor industry has internal issues.**

Leaders of the human-powered recreation industry are having an internal dispute over whether to have comprehensive trade shows or more segmented shows. The Outdoor Industry Association (OIA) went public July 22 with its concerns that the paddlesport industry intends to hold its own trade show in October, less than a month after the national group holds its annual Rendezvous in San Diego September 29-October 1. "Both Outdoor Industry Association and Outdoor Retailer feel that a separate trade show at this time will split the industry when together we should concentrate more on growing the market," said Frank Hugelmeyer, president and CEO of OIA. "Segmented trade shows are a failing model. To introduce one while paddlesports sales are declining is detrimental to the paddlesports segment and the overall health of the industry."

### **Spotsylvania Park meets Wal-Mart.**

The Orange County (Virginia) Board of Supervisors is expected to vote momentarily on the construction of a 240,000 square-foot Wal-Mart across the road from the Fredericksburg & Spotsylvania National Military Park. The National Trust for Historic Preservation is opposing the project on the grounds it would harm the battlefield and depreciate the battlefield experience. The Wal-Mart would be within the general outline of the Wilderness Battlefield, one of the bloodiest of the Civil War battles. However, Wal-Mart says commercial enterprises are already in place in

the neighborhood. By coincidence the Park Service last week announced that it would prepare a new management plan to guide management of the 8,382 acres of Fredericksburg & Spotsylvania National Military Park over the next 10-to-15 years. While the park is relatively small, much of its acreage is located within the city of Fredericksburg and its close-in suburbs, making commercial expansion particularly tricky.

**FWS: Ducks appear to be abundant.**

The Fish and Wildlife Service (FWS) July 27 said that an annual duck breeding count this spring indicated a 25 percent increase above a long-term average. In addition FWS said the number of ponds in Canada and the northcentral United States had jumped by 45 percent over last year. FWS said in the traditional breeding area in Canada and the northcentral U.S. the duck population estimate was 42 million birds. "This estimate represents a 13 percent increase over last year's estimates of 37.3 million birds and was 25 percent above the long-term average (1955-2008)," said FWS in an annual report titled *Waterfowl Population Status, 2009*. FWS also said that the results of an eastern survey area were not as dramatic with counts "all similar to their 2008 estimates and long-term averages." For the count report go to: <http://www.fws.gov/migratorybirds/>. In a separate related development FWS July 24 made an initial proposal for migratory hunting regulations for the 2009-2010 early season. FWS takes several regulatory steps before completing early-season and late-season regulations that will govern daily bag limits and season lengths. Comment on the early season proposal (no E-mail or FAX) by August 3 to: <http://www.regulations.gov> or to *Public Comments Processing, Attn: FWS-R9-MB-2008-0124; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203*.

**Solar EIS comment period extended.**

The Department of Energy and the Bureau of Land Management extended until September 14 a comment period on a programmatic EIS that would assess the impact of solar energy development on public land in the West. The EIS is one major

step of a group of initiatives undertaken by the Obama administration to encourage renewable energy development on the public lands. The previous comment period was to end yesterday (July 30.) The programmatic EIS will assess possible solar development impacts in Nevada, Arizona, California, Colorado, New Mexico and Utah.

## Conference Calendar

### AUGUST

30-Sept. 3. **American Fisheries Society** annual meeting in Nashville, Tenn. Contact: American Fisheries Society, 5410 Grosvenor Lane, Suite 110, Bethesda, MD 20814-2199. (301) 897-8616. <http://www.fisheries.org>.

### SEPTEMBER

8-11. **National Association of State Park Directors** annual meeting in Stone Mountain Park in Georgia. Contact: Jerry Brown, (800) 573-9659. Email: [jerry\\_brown@dnr.state.ga.us](mailto:jerry_brown@dnr.state.ga.us)

20-24. **The Wildlife Society** annual meeting in Monterey, Calif. Contact: The Wildlife Society, 5410 Grosvenor Lane, Bethesda, MD 20814-2197. (301) 897-9770. <http://www.wildlife.org>.

29-Oct. 1. **Outdoor Industry Association Rendezvous** in San Diego. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

### OCTOBER

6-8. **Watchable Wildlife** annual conference in Cape May, N.J.. Contact: Watchable Wildlife, Inc., PO Box 319, Marine on St. Croix, MN 55047. 651-433-4100. <http://www.watchablewildlife.org>.

11-14. **Land Trust Alliance** rally in Portland, Ore. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. <http://www.lta.org>.

13-16. **National Recreation and Park Association** congress and exposition in Salt Lake City. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. <http://www.nrpa.org>.