

# Federal Parks & Recreation

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**White House puts great emphasis on economics of rec**

The Obama administration and its conservationist allies last week reenergized a campaign that emphasizes the economic benefits of the outdoors. And to make the case that government spending on the outdoors pays off.

The campaign spiked March 2 when the White House hosted a conference on the outdoors and the economy, topped off by an appearance by the President himself.

Obama offered no policy changes in a lengthy speech at the conference at the Interior Department in Washington, D.C. But he did draw a connection between conservation areas and business.

"The bottom line is this: There will always be people in this country who say we've got to choose between clean air and clean water and a growing economy, between doing right by our environment and putting people back to work," he said. "And I'm here to tell you that is a false choice. That is a false choice. With smart, sustainable policies, we can grow our economy today and protect our environment for ourselves and our children."

At the conference the President and his top aides highlighted a number of major conservation initiatives the administration has taken to spur the economy. They include: a recent NPS report that says the national parks are big economic engines, a campaign to entice foreign tourists to visit the United States, the establishment last week of a new national waterways system, expanded conservation reserves, and, last but not least, an ambitious fiscal year 2013 budget request for conservation programs.

The by-invitation-only conference, *Growing America's Outdoor Heritage and Economy*, was attended by hundreds of outdoor leaders from around the country. The host Council on Environmental Quality said the conferees included "international tourism boaters, hunters, anglers, farmers, ranchers, land conservationists, historic preservationists, outdoor recreationists, small business owners, local governments (and) tribal leaders."

We asked several of the participants what substantive policy changes, or policy emphases, may come from the meeting. Whit Fosburgh, president of the Theodore Roosevelt Conservation Partnership, said just the fact that the White House and conservationists are tying recreation to the economy is already paying off.

"We were getting killed in the debate because our critics said recreation is a luxury," he said. "We put together a big coalition (of conservationists, hunters and fishermen, outdoor industries) and argued that recreation produced jobs. That changed things and led to success on the Hill, with the administration echoing our message. The White House gets it."

He added, "The Obama administration finally figured out if it was going to get its conservation agenda enacted, it was going to have to make the economic link."

As for specific impacts from the March 2 conference, Fosburgh said it may take awhile. He said the attendees broke out into specific sessions (i.e. hunting and fishing for him) with a scribe at each one. "I think what you are going to see is the various folks responsible, like (Fish and Wildlife Service Director Dan Ashe at the hunting session) compile notes and come back with action items. But I don't know when you are going to see that."

Another participant, Will Manzer, CEO of EMS (Eastern Mountain Sports), said the conference reinforced the Outdoor Industry Association's (OIA's) message that recreation helps the economy. "My feeling is it's an uphill

battle, but I feel good about what we're doing," he said. "We approach the administration and Congress with the message that recreation is good for the economy."

Manzer, chair of OIA's board, added, "Recreation is a jobs creator. Too often we are seen as land-grabbers and tree-huggers, but that couldn't be further from the truth when it comes to jobs."

Essentially, *Growing America's Outdoor Heritage and Economy* continues the implementation of President Obama's America's Great Outdoor (AGO) initiative. An AGO report, published Feb. 16, 2011, recommends an all-of-the-above approach to outdoor policy, beginning with full funding for the Land and Water Conservation Fund.

At the federal level the AGO report tasked CEQ with coordinating the follow-up by 15 federal agencies through the Federal Interagency Council on Outdoor Recreation. The council is headed by CEQ Chair Nancy Sutley.

Administration leaders at the conference in addition to Sutley were Secretary of Interior Ken Salazar, Secretary of Agriculture Tom Vilsack, EPA Administrator Lisa P. Jackson and Assistant Secretary of the Army Jo-Ellen Darcy.

Here are some highlights of the administration campaign:

**NPS the moneymaker:** The Park Service helped tee up the conference by issuing a report February 28 that says the parks are phenomenal economic engines. The report said national parks generated \$31 billion for local economies in 2010 and 258,000 jobs.

And Salazar said that national park revenues, when combined with those from wildlife refuges and other public lands, totaled \$55 billion in economic contribution and 440,000 jobs in 2009.

NPS said its numbers are based on \$12 billion in direct spending by the 281 million visitors to the parks in 2010. The numbers are based on

an analysis by Dr. Daniel Stynes of Michigan State University. The study is available at: <http://www.nature.nps.gov/socialscience/products.cfm#MGM>, click on *Economic Benefits to Local Communities from National Park Visitation and Payroll, 2010*.

**International visitation:** The White House excited the outdoor community January 19 by launching a government-wide campaign to attract foreign tourists to the United States.

An executive order from President Obama gives visitation to parks, refuges and related sites a prominent seat at the table. At the bottom line the administration intends to greatly expand tourism from China, Indian and Brazil, three nations with rapidly expanding economies.

The President said the secretaries of Interior and Commerce will head up a task force to recommend methods of increasing tourism and recreation visits to the United States. The task force will work with the Corporation for Travel Promotion (better known as BrandUSA) to promote the United States.

BrandUSA is a nonprofit group established by Congress that is expected to spend some \$200 million. The money for the campaign is to come from nonfederal sources, mostly private industry.

**Conservation reserves:** Secretary of Agriculture Tom Vilsack described at the conference a new initiative to focus a portion of the 32 million-acre Conservation Reserve Program (CRP) on wetlands and grasslands. The Farm Service Agency will do that by targeting one million acres of wetlands and grasslands for addition to the system. Under CRP the government pays farmers and landowners to put lands in the reserve rather than develop them.

"By focusing 1 million acres of CRP on grasslands and wetlands, this initiative will have enormous benefits for farmers, sportsmen, and all Americans," said Vilsack.

**Waterways system:** The

administration announced February 29 the establishment of a new National Water Trail System composed of rivers, lakes and other waterways.

Secretary of Interior Ken Salazar signed Secretarial Order No. 3319 that defines a system this way: "A national water trail is a stretch of river, lake, shoreline, bay, stream, estuary, ocean, canal, or any combination of waterway that has been designated, mapped, and publicly identified with the intent to provide high quality outdoor recreational experiences through the application of Best Management Practices. . . "

The Park Service will administer a nominating process. A nominated water trail is to be made available to the public for at least 10 years.

Salazar announced that the Chattahoochee River Water Trail in Georgia will be the first. It will be based on the 48 miles of river within the Chattahoochee River National Recreation Area.

**FY 2013 budget request:** The Obama administration began the fiscal 2013 conservation-spending campaign February 13 by proposing substantial spending, at least compared to recommendations from House Republicans.

For federal land acquisition the budget asks for \$258 million total, compared to the \$46.7 million the House Appropriations Committee approved last summer for fiscal 2012.

For the state side of the Land and water Conservation Fund the administration recommended \$60 million, compared to the zero money the House committee approved last year. For wildlife conservation grants the administration recommended \$61.3 million, compared to the \$22 million the House committee recommended last year.

**Senators disagree, as usual, about outdoor priorities**

Senate committees gave federal conservation spending a predictable

mixed reaction last week, with western Republican senators against and eastern Democratic senators for.

One of the most important Democrats, the chairman of the Senate appropriations subcommittee on Interior and Related Agencies, asked for even more money for federal land acquisition than the budget request of \$258 million.

Sen. Jack Reed (D-R.I.), chairman of the Senate subcommittee on Interior Appropriations, at a February 29 hearing first noted a substantial increase in the administration request for fiscal year 2013. He said the budget was particularly generous to landscape-sized projects in Montana and Wyoming. But, he added, "I notice few efforts in some of our (eastern) states, like in Rhode Island. It is very important for urban parks and refuges to have an active acquisition program."

Reed was checkmated by the subcommittee's ranking Republican, Sen. Lisa Murkowski (R-Alaska), who said, "There are a number of concerns similar to last year in that the budget does propose an increase by 39 percent for the Land and Water Conservation Fund. At the same time it cuts construction for all the land management agencies and the Bureau of Indian Affairs."

She added, "I think it is somewhat short-sighted to continue underfunding essential construction and maintenance programs while at the same time increasing the operational demands of the department by increasing the amount of land under its jurisdiction."

Reed and Murkowski matter because they are tasked with drafting a Senate version of a fiscal 2013 appropriations bill for the Interior Department and such related agencies as the Forest Service.

Last year Reed and Murkowski teamed up to write a fiscal 2012 money bill that took sharp issue with a lead House bill by providing substantial funding for conservation programs. The Senate draft essentially provided a template for a final law.

The Senate bill sharply increased spending above House numbers for the Land and Water Conservation Fund (both federal and states sides), for state wildlife conservation grants, for heritage areas and for a Forest Legacy Program, to name a few items.

The fiscal year 2012 appropriations wars over conservation set the template for fiscal 2013. For instance, for federal land acquisition in fiscal 2012 the Obama administration recommended \$465 million, the Republican-controlled House approved a tenth of that, or \$46.7 million, and the draft Senate bill called for \$187.3 million. Congress agreed on \$186.7 million.

Again this year the administration recommended far more appropriations for the Land and Water Conservation Fund (LWCF) than House Republicans will likely accept. The fiscal 2013 budget asks for a \$258 million total for federal land acquisition, compared to the \$46.7 million the House Appropriations Committee approved last summer.

For the state side of LWCF the administration recommended \$60 million, compared to the zero money the House committee approved last year. For wildlife conservation grants the administration recommended \$61.3 million, compared to the \$22 million the House committee recommended last year.

Funding for federal land management agencies does not arouse the same passions as conservation because both Republicans and Democrats agree on the need to maintain the status quo. For Park Service operations the administration would roughly hold the line, recommending \$2.250 billion, or \$10 million more than the fiscal 2012 appropriation of \$2.240 billion.

National Forest System recreation is in for a substantial reduction. The administration recommended \$267 million, or \$14 million less than the fiscal 2012 appropriation of \$281.6 million.

The day before the Senate appropriations hearing, Senate Energy Committee Democrats also asked Secretary

of Interior Ken Salazar for more money for federal land acquisition. Said committee chairman Jeff Bingaman (D-N.M.), "There are a number of programs, such as the Land and Water Conservation Fund, which I wish were funded at higher levels, but I understand the budgetary constraints the administration is facing."

Sen. Jeanne Shaheen (D-N.H.) pressed for more money. "I know you are committed to getting full funding by 2014," she told the secretary. "I was wondering if you could say what your plan is for getting full funding. Is there an additional funding stream?"

Salazar said simply that in tough budget times the administration must cut spending where it must.

**ACCESS TO FEDERAL LANDS:** At the Senate Energy Committee hearing Sen. Jon Tester (D-Mont.) pressed Salazar to support his legislation (S 901) that would require the allocation of at least 1.5 percent of federal LWCF money to access public lands for hunting and fishing. Salazar said, "The concept makes tremendous sense."

## **Highway bills slow to a crawl in Congress, but not dead yet**

In actual fact the Senate and House continue to try to put together a multi-year, multi-billion dollar surface transportation bill. But the chance of their succeeding grows more remote by the day.

While the lead bills (HR 7, S 1813) slide, the likelihood that Congress will be forced to extend the old law once again grows, perhaps for a year or two.

Rep. Peter DeFazio (D-Ore.), a senior member of the House Transportation Committee that put together HR 7, said the bill has failed because of partisan politics. "And they (Republicans) wrote for the first time since the founding of the Dwight D. Eisenhower National Highway System a purely partisan transportation bill in the hope of jamming it through," he said

on the House floor last week. "Well, it's all fallen apart now."

DeFazio said a new bill is needed. "It's time to go back to the drawing board and put together a bill that's good for America. We don't have to have partisan politics on every issue, and transportation investment should not be one of those," he said.

The House Transportation Committee approved HR 7 February 13 with major reductions in recreation spending. The bill would eliminate a \$600 million-plus annual allocation to transportation enhancements (TEs). And it would eliminate altogether a Safe Routes to Schools program and a Scenic Byways program.

The Senate Environment and Public Works Committee approved S 1813 February 6 and the measure has been stalled on the Senate floor ever since. The bill is not only bedeviled by disagreements over transportation, but by amendments on everything else from birth control to foreign affairs. The Senate bill is slightly more generous to rec programs than the House bill.

Despite the setbacks, House Transportation Committee Chairman John Mica (R-Fla.) said Republican leaders intend to press on with his committee's bill. "House leaders and I agree that the five-year transportation measure approved by the Committee in February is the best option for a job-creating bill to improve our infrastructure," Mica said March 7.

The Senate and House are under the gun to complete multi-year surface transportation bills because a temporary extension of the old law expires March 31.

That old law - the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) - authorized spending through fiscal year 2009, which ended on Sept. 30, 2009. SAFETEA has been kept alive since then through numerous temporary extensions.

Another temporary extension is now

possible, if not probable. That would probably benefit outdoor programs financed by SAFETEA-LU because the lead House and Senate bills would provide much less assistance than SAFETEA.

In the bigger money picture both the House and Senate bills are in deep trouble. The Highway Trust Fund provides an estimated \$28 billion of the \$40 billion per year needed to implement HR 7 and S 1813, leaving a \$12 billion gap.

House Republicans say they will obtain the extra \$12 billion per year from energy bills approved by the House February 16. However, House Democrats say that the legislation would provide only \$5 billion, and that over 10 years. And House Democrats and the White House oppose the energy bills.

Here are some of the floor amendments that senators have introduced:

*RECREATIONAL TRAILS - KLOBUCHAR SA 1661*: The amendment, with bipartisan support, would simply extend the Recreational Trails Program as a set-aside program at \$85 million per year. The House bill also guarantees the \$85 million. The amendment, from Sen. Amy Klobuchar (D-Minn.) would technically not cost anything in that the program is financed by gasoline taxes on outdoor machinery.

*SMALL CITY TRAILS MONEY - CARDIN SA 1549*: The amendment from Sens. Ben Cardin (D-Md.) and Chad Cochran (R-Miss.) would give cities below one million in population an opportunity to compete for broad categories of funds within a state. The amendment does not address individual rec programs but requires a fair distribution of general funds. The National Recreation and Parks Association and the Rails to Trails Conservancy back the amendment.

*BIKE-PEDESTRIAN SET-ASIDE - MERKLEY SA 1605*: The amendment from Sens. Jeff Merkley (D-Ore.) and Bernie Sanders (D-Vt.) would require states to allocate at least two percent of Surface Transportation Program money to bike and pedestrian projects.

*MASS TRANSIT IN PARKS - REID SA 1633*: The amendment from Senate Majority Leaders Harry Reid (D-Nev.) would set aside \$26.9 million per year for a mass transit in the parks program. This would extend an existing program.

*GRAND CANYON/ALL PARKS OVERFLIGHTS - MCCAIN SA 1669*: The amendment from Sen. John McCain (R-Ariz.) and Majority Leader Reid would authorize the Federal Aviation Administration to ignore environmental recommendations in a 1987 Grand Canyon overflight law. At the same time the amendment would require planes over all parks to adopt quiet aircraft technology. (See following article.)

**BILL PROVISIONS:** Here are some of the main recreation provisions in HR 7 as passed by the House Transportation Committee and in S 1813 as approved by the Senate Environment and Public Works Committee:

*Transportation enhancements (TEs)*: The House committee bill would retain the program but would eliminate its \$600 million annual guarantee from 10 percent of Surface Transportation Program funding. Instead, TE projects would have to compete for money with dozens of other programs.

In addition the House bill would eliminate five (of 12) eligible TE activities: acquisition of scenic or historic easements, including battlefields; historic preservation; rehabilitation and operation of historic transportation facilities; preservation of abandoned railway corridors; and transportation museums.

In the House committee mark-up February 13 a major pro-TE amendment would have restored the guaranteed 10 percent TE share of Surface Transportation Program money and would have retained all 12 categories of eligible projects. Because of the close 27-to-29 vote the House amendment is a good candidate for a House floor amendment.

The Senate bill would retain TE as an eligible program but, again, it would force TE projects to compete against numerous other programs from communal

pots of money. One, it would open up the old 10 percent TE set-aside to other programs as well as TEs, including recreational trails, Safe Routes to School, planning and "transportation choices." That last would include "on-road and off-road trail facilities."

Two, TE would have to compete for money held in a Transportation Mobility Program with 26 other programs, some recreation and some not.

*Recreational Trails Program (RTP):* The House committee bill would retain RTP as a set-aside program with a guaranteed allocation of \$85 million per year for five years.

The Senate bill would not make RTP a set-aside program. Instead, it would allow states to spend the 10 percent of Surface Transportation Program set-aside money formerly allocated to TEs on recreational trails, if they so chose. And it would allow states to use money from the Transportation Mobility Program for recreational trails.

Klobuchar's amendment would allocate \$85 million per year to RTP, as the House bill would.

*Scenic Byways:* The House committee bill would eliminate the program. It would also eliminate funding for the America's Byways Resource Center. That may not matter because the Obama administration is already closing the center down.

The Senate would allow the byways program to compete with 26 categories of programs for Transportation Mobility Program money from state transportation departments.

*Safe Routes to School:* The House would eliminate the program. The pro-recreation House committee amendment would authorize the program to use \$200 million per year from the 10 percent of Surface Transportation Program money that was formerly set side for TEs. That amendment of course failed in committee.

The Senate would allow Safe Routes to School to compete with 26 categories

of programs for mobility program money. State transportation departments would decide where to spend the money.

*Federal land roads:* The House committee bill would set aside \$535 million per year for federal land roads, 38 percent of which would go to National Park Service roads (or \$203 million), 32 percent to Forest Service roads (\$171 million) and 4.5 percent to the Fish and Wildlife Service.

The Senate committee bill would also keep federal and Indian land roads alive with an annual allocation of \$750 million. Of that \$260 million would be allocated to national park roads.

## **Senators attack NPS proposal for Grand Canyon air tours**

Four senators including majority leader Harry Reid (D-Nev.) introduced legislation last month that would prevent Grand Canyon National Park from imposing new restrictions on air tours over the park.

The senators, led by Sen. John McCain (R-Ariz.), offered the amendment at issue to a Senate surface transportation bill (S 1813). They would authorize the Federal Aviation Administration (FAA) to ignore environmental mandates in existing law in an air tour plan.

At the same time the amendment would require planes over all parks to adopt quiet aircraft technology.

NPS is using the environmental mandates in the preparation of a plan that would impose new restrictions on air tour operators in Grand Canyon. NPS published a proposed plan on Feb. 2, 2011.

Sen. Jeff Bingaman (D-N.M.), who interceded in March 2010 to block a previous attempt by the four senators to protect air tour companies, expressed concern at a February 28 hearing.

"The reason I'm asking about this is we have a transportation bill on the Senate floor and one of the

amendments that has been offered is an amendment we've seen before which would essentially override what the Park Service would propose," Bingaman told Secretary of Interior Ken Salazar at a hearing on the Interior Department's fiscal year 2013 budget.

Salazar said it has been "a tough issue to work through." He said he did not know when a final plan would be issued. A Grand Canyon spokeswoman told us the park expects to complete the plan "sometime this spring."

The Grand Canyon air tour plan is required under the National Parks Overflight Act of 1987. Interim regulations govern existing operations.

After years of delay on Feb. 2, 2011, NPS proposed a plan and EIS. Among other things the preferred alternative in the EIS would reduce the number of annual air tours over the park to 65,000 from 93,971 now; would raise the flight-free zone from 14,499 feet to 17,999 feet; and would change routes.

But McCain, Reid and six other legislators from Nevada and Arizona protested that the preferred alternative was too restrictive.

"We applaud the noise reduction efforts undertaken by the air tour industry and we believe such efforts should be supported. The preferred alternative, however, does not acknowledge the progress made by the industry," they wrote the Park Service about the proposed plan. "Rather, it proposes significant new restrictions, including curfews resulting in a reduction in annual flight time, seasonal closures of some of the most popular air tour routes and wholesale elimination of others, and a daily cap on flights on top of a reduction in existing flight annual allocations."

But a group of environmental groups, including the Grand Canyon Trust, asked NPS for even tougher medicine for industry than was in the preferred alternative.

The groups said, "National Park Service and FAA analysts estimate

that the number of air tours have increased from 40,000 flights in 1987 to approximately 55,000 in 2005. The Preferred Alternative proposes to limit the number of air tours to 65,000 per year, which is an increase of 8,000 above current levels and 25,000 more than in 1987. Because Congress concluded in that year that air tour noise was causing 'a significant adverse effect on natural quiet and experience in the park', the annual allocation limit should be reduced from the 1987 level and only allowed to increase if it can be demonstrated that increasing the limit does not result in increases in noise."

Here is the language in the McCain-Reid amendment (SA 1699 of February 16) that effectively would remove environmental requirements of the 1987 act from affecting overflights:

*"None of the environmental recommendations for commercial air tour operations required under section 3(b) (1) of Public Law 100-91 (16 U.S.C. 1a-1 note), including raising the flight-free zone altitude ceilings above the ceilings in effect on the date of the enactment of this Act, shall affect the management of the National Airspace System, as determined by the Administrator of the Federal Aviation Administration."*

## **Congress approves bridge over wild, scenic St. Croix River**

The House March 1 joined the Senate in passing legislation that would authorize for the first time the construction of a highway bridge over a wild and scenic river.

When signed by the President the bill (S 1134) will authorize the construction of a four-lane, \$700 million span across the St. Croix National Scenic River. It would replace an existing Stillwater Lift Bridge that connects the towns of Oak Park Heights, Minn., and Houlton, Wis.

The House vote was an overwhelming 339-to-80 and a Senate vote in January was unanimous.

Despite the large, bipartisan margin in favor there was fierce House opposition. Rep. Betty McCollum (D-Minn.) and park advocates fought against the measure.

"This bill is controversial because, if you look at page 2, line 10 of the bill, you will see that the bill dictates the location of this \$700 million megabridge, and I quote from the bill, 'approximately 6 miles north of the Interstate-94 crossing,'" McCollum said. "In other words, this bill mandates a 65-mile-per-hour interstate freeway bridge connecting a town of 368 people and builds it only six miles from an existing interstate crossing on the same river."

She also noted that the Park Service testified against the bill in a July 28, 2011, hearing.

But House Natural Resources Committee Chairman Doc Hastings (R-Wash.) said the legislation was necessary to head off "nuisance lawsuits." It does that by exempting the project from environmental review.

"These nuisance lawsuits and bureaucrat attacks are all based on the fact that the bridge spans the St. Croix River, which was listed in 1972 under the Federal Wild and Scenic River Act," he said. "This bipartisan bill simply says that this 'wild and scenic' label on the river, under Federal law, cannot stop these States from building a safe, new bridge. It's as simple as that."

The bill teamed up such usual antagonists as liberal Sens. Amy Klobuchar (D-Minn.) and Al Franken (D-Minn.) with conservative Rep. Michele Bachman (R-Minn.) Bachman introduced the House version of a bill (HR 850).

The legislation authorizes the bridge but does not appropriate money to build it. The money would come from state and federal programs, including allocations from the surface transportation law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users.

Taxpayers for Common Sense, a critic of the legislation, said the bridge would use up \$160 million of federal highway money that could be spent better elsewhere.

The National Parks Conservation Association (NPCA) led the attack against the bill. Said NPCA Senior Vice President for Government Affairs Craig Obey, "We are saddened that two states renowned for their history and legacy of foresight in protecting a tremendous natural bounty, which produced leaders who helped enact laws like the Wild and Scenic Rivers Act that protected the St Croix, have now led the way in undercutting that law. A replacement bridge is needed, but not this bridge. Not this way."

## **Bipartisan push begins for heritage area standards**

For a decade Republicans and Democrats of all stripes have called on Congress to establish national standards for the designation of national heritage areas (NHAs). Last week they reissued that call.

Under the present system NHAs are usually established when influential legislators attach riders to omnibus lands bills or to appropriations bills, no questions asked.

This time around 30 House members from both parties are cosponsoring legislation (HR 4099) that would establish (1) a national system of NHAs and (2) standards for the NHAs.

Said Rep. Charlie Dent (R-Pa.), lead sponsor of the national standards bill, "Throughout my home state of Pennsylvania, these public-private-partnerships are recognized as significant contributors to local and regional economic development. Modernizing the heritage area system and enhancing its efficiency will help ensure the long-term viability of these important economic drivers."

An association of heritage areas endorsed HR 4099. Said Alliance for National Heritage Areas Chair and former

Executive Director of the Delaware & Lehigh National Heritage Corridor C. Allen Sachse, "NHAs are a proven model to save and share America's heritage with minimum public investment. NHAs have been saving America's significant stories and creating jobs in NHA towns since 1984. We're looking forward to continuing this legacy within the framework of the new legislation."

A host of individual heritage area bills also have been introduced in this Congress. The Senate Energy Committee heard a lot of good things March 7 about two specific NHA proposals - a Sacramento-San Joaquin Delta National Heritage Area (S 29) in California and a Susquehanna Gateway National Heritage Area (S 1150) in Pennsylvania.

The most recent NHA proposal surfaced on March 6 when Sen. Herb Kohl (D-Wis.) and Rep. Tom Petri (R-Wis.) introduced legislation (HR 4148, S 2158) that would designate a Fox-Wisconsin Heritage Parkway NHA in Wisconsin. The 280-mile parkway would, among other things, match the route of explorers Father Jacques Marquette and Louis Joliet in 1673.

Congress appropriated \$17.4 million for heritage areas in a fiscal year 2012 appropriations law (PL 112-74 of Dec. 23, 2011). The Obama administration has requested half of that, or \$9.3 million, for fiscal 2013.

Not everyone is enthusiastic about NHAs. Rep. Tim Huelskamp (R-Kan.) has introduced a bill (HR 3716) that would bar spending any federal money on NHAs. HR 3716 lists 49 NHAs and forbids spending money on each.

The Congressional NHA process for years has been criticized by both Republicans and Democrats because Congress has never established a national policy for NHAs nor national standards for new NHAs. Instead, Congress has often designated NHAs in appropriations bills and omnibus lands bills.

Most recently, Congress established ten new NHAs in an omnibus lands law (PL 111-11 of March 30, 2009).

Heritage areas usually consist of a mix of public and private lands with striking social, economic, historical and natural features. NHAs don't, in their entirety, quite rise to the level of national parks. However, some NHAs do actually include national park units within their borders.

Once Congress designates an NHA, the Park Service works with local public and private partners to prepare a management plan.

Almost every biennial Congress develops an omnibus lands bill that includes several NHAs. This year dozens of lands bills have been introduced in the House and Senate that would be candidates for an omnibus bill. Because of hard feelings between Democrats and Republicans the chances of passage of an omnibus before the November 6 elections are slim, but an omnibus could slip through in a lame-duck session in November or December.

The heritage policy bill (HR 4089) directs the Park Service to work with other entities on a study to ensure a potential area includes "natural, historic, cultural, or scenic resources."

The bill also describes the necessary elements in a management plan, such as an inventory of resources, goals for a plan and a strategy for financing the plan.

## **FS not ready to give up on rec areas fees, completely**

The Forest Service said last week that it will continue to charge entrance fees to some recreation areas. That, despite an appeals court order critical of high impact recreation area (HIRA) fees and an agency policy reducing the number of HIRAs charging fees.

"Visitors to national forests should continue to expect to pay the established recreation fees that are currently in place," said the service in a statement.

But the agency did acknowledge

that it was greatly reducing the number of areas that charge fees. "The Forest Service began a review of all recreation fees two years ago, and in January made preliminary proposals on their future status," said the statement. "Under these proposals, 26 national forest areas will still require visitor fees, down from the current 90 areas nationwide."

But the elimination of fees won't take place until local recreation resource advisory committees review the proposals. If eliminated, the program could cost the agency an estimated \$10 million to \$15 million per year in reduced fee collections, down from the almost \$70 million per year now.

A lead critic of the FS rec fee program, Kitty Benzar, president of the Western Slope No-Fee Coalition, disagreed with the Forest Service plan to wait for advisory committees to weigh in. "That's absurd," she said. "A federal agency does not need an advisory committee to tell them how to comply with a federal court decision. The Forest Service does have a window of time in which to appeal, but once the decision takes effect compliance must follow immediately."

Recreationists and the Forest Service have been fighting over exactly which areas are authorized to require entrance fees under the Federal Lands Recreation Enhancement Act (FLREA) in 2004. The law authorized the Forest Service and other federal land management agencies to collect fees for developed recreation sites.

In implementing the law the Bush administration began collecting fees to enter areas with developed sites, even if visitors didn't use the developed sites.

On February 16<sup>th</sup> the Ninth U.S. Circuit Court of Appeals entered the fray and held that the Forest Service practice of charging fees to enter high impact recreation areas was, at best, limited.

In biting language the three judges said, "In sum, the statutory

language is clear. The Forest Service's interpretation is thus entitled to no deference."

The decision, written by Judge Robert W. Gettleman, said, "As alleged by plaintiffs, the Forest Service's fee structure at the Mount Lemmon HIRA (in Arizona) does not comport with the REA's express prohibition on charging fees for parking and then hiking through the HIRA without using the facilities and services, camping in undeveloped areas, or picnicking on roads or trailsides. The district court thus erred in dismissing plaintiffs' claim."

The court's holding in a way complements the new policy the Forest service began on its own in December that could eliminate fees in most HIRAs.

The Forest Service changed its policy in a series of notices to regional offices. Benzar of the Western Slope No-Fee Coalition said she suspects the Forest Service decided to eliminate most HIRAs because the agency knows that FLREA expires on Dec. 8, 2014. And Congress, under pressure from recreationists, may change the law.

The fiscal 2011 administration budget projected that FLREA would produce \$264.5 million, with 80 percent retained by the agencies. The lion's share, \$173 million, was to be collected by the Park Service, followed by the Forest Service with \$67.5 million, the Bureau of Land Management with \$18.7 million, the Fish and Wildlife Service with \$4.8 million and the Bureau of Reclamation with just under \$500,000.

In the last Congress four western senators - two from each party - introduced legislation (S 868) that would repeal FLREA. The four are Montana Sens. Max Baucus (D) and Jon Tester (D) and Idaho Sens. Mike Crapo (R) and James E. Risch (R).

## **Lawsuit filed against mining ban near Grand Canyon**

The hard rock mining industry, as expected, sued the Interior Department February 24 for withdrawing from uranium

mining one million acres of public lands near Grand Canyon National Park. The withdrawal is good for 20 years.

In its lawsuit filed in federal court in Arizona the National Mining Association held that the withdrawal is illegal because it (1) involves an unconstitutional legislative veto (i.e. it is illegally subject to a Congressional veto), (2) violates the Administrative Procedures Act because it is unnecessary (i.e. uranium mining won't damage the environment) and (3) violates the National Environmental Policy Act (i.e. the EIS understates economic impacts and overstates environmental impacts).

Summed up National Mining Association President Hal Quinn of the environmental analysis prepared by the Bureau of Land Management (BLM), "Further, DOI has provided no evidence in the record or in its environmental impact statement that a million-acre land grab is necessary to avoid environmental harm; it has inadequately analyzed the economic impact of its actions; and the department has failed to rigorously evaluate the 'no action' alternative required by NEPA."

The Interior Department January 18 formally withdrew from uranium mining for 20 years the one million acres of public land near Grand Canyon National Park managed by BLM and the Forest Service.

The withdrawal bars the filing of new mining claims, but it does not necessarily prevent the mining of existing claims.

Secretary of Interior Ken Salazar, who initially announced the decision January 9, said the long-term withdrawal - which replaces a short-term withdrawal - was necessary to protect Grand Canyon.

But the National Mining Association (NMA) lawsuit, filed on behalf of NMA by the law firm of Crowell & Moring LLP, said the EIS prepared by BLM does not prove that. "Interior overstates the potential adverse environmental impacts of uranium mining by relying on old mining techniques and

ignoring current mining techniques and attendant environmental controls," says the suit.

The million acres in question were first closed to new mining claims by a July 21, 2009, segregation notice. The notice had been scheduled to expire on July 20, 2011, but Salazar imposed an interim, six-month withdrawal. The interim withdrawal provided the Interior Department with time to complete an EIS to back the 20-year withdrawal.

Salazar authorized the withdrawal in the form of a record of decision. He used withdrawal authority granted the secretary of Interior by the Federal Land Policy and Management Act of 1976 (FLPMA).

The National Mining Association lawsuit contends the withdrawal under Section 204 of FLPMA fails because it is unconstitutional. The association said the Section 204 provision is illegal because it allows Congress to veto the withdrawal within 90 days, and such veto authority is unconstitutional, the Supreme Court has held.

"The Withdrawal of approximately 1,006,545 acres is unlawful because the Secretary of the Interior's authority to administratively withdraw more than 5,000 acres is premised on an unconstitutional legislative veto," said the suit. "The termination of a withdrawal under § 204(c)(1) is legislative in character and effect because it alters the legal rights, duties, and relations of persons outside of the legislative branch. Specifically, the termination of a withdrawal changes the legal status of federal public lands."

Congress has tried to intervene in the dispute. A fiscal year 2012 Interior and Related Agencies appropriations bill (HR 2584) that was on the House floor in July would have blocked the Salazar withdrawal, unless Congress approved it. But a House-Senate conference committee last month struck the provision, opening the way for the withdrawal.

In addition five western Republican senators and nine House members

introduced legislation (HR 3155, S 1690) in October that would block the withdrawal. It has not moved yet.

Much of the debate about mining near Grand Canyon focuses on the meaning of the Arizona Wilderness Act of 1984 (PL 98-406). Sen. John McCain (R-Ariz.), among others, argues the act represented an agreement among all parties that the 1 million acres would be made available for multiple uses, including uranium mining. In return Congress designated 250,000 acres of wilderness along the strip.

But Mark Trautwein, an aide to former Rep. Morris Udall (D-Ariz.) when Udall worked on that act, said the withdrawal is unrelated to the designation of wilderness and release of other roadless lands.

## Notes

### **Y'stone snowmobile suit tossed.**

The Tenth U.S. Circuit Court of Appeals February 29 dismissed a lawsuit brought by the State of Wyoming against 2009 Park Service regulations governing snowmobiles in Yellowstone National Park. The state, along with petitioner Park County, had argued that the interim rule limiting snowmobiles to 318 per day damaged their economies. But the Tenth Circuit said the plaintiffs don't have standing to sue because they can't prove they would (or did) suffer economic damage from the rule. For instance, the state said it lost tax money because of the rule. But, said the court, "Petitioners in this case have presented us with no evidence that specific loss of tax revenues have (sic) occurred, and their assertions of future lost tax revenues are merely speculative." The Obama administration extended the temporary rule through this past winter because it was having difficulty writing a permanent rule. The Park Service said in the *Federal Register* February 8 it would prepare still another environmental document this year that will further analyze the impacts of snowmobiles on the parks, and asked for public input on that document. The supplemental EIS, based on a draft EIS of nine months ago, constitutes one of a half-dozen analyses of snowmobile use

in Yellowstone in the last decade. The Tenth Circuit decision is at:

<http://www.leagle.com/xmlResult.aspx?xmlDoc=In%20FCO%2020120229110.xml&docbase=CslwAr3-2007-Curr.>

### **FS roadless rule goes to the**

**top.** Wyoming Gov. Matt Mead (R) said February 24 that the state will appeal to the U.S. Supreme Court an appeals court decision upholding a 2001 Clinton administration roadless area rule. The full Tenth U.S. Circuit Court of Appeals February 16 had refused to overturn a decision of a three-judge panel upholding the Clinton rule. The three-judge panel on Oct. 21, 2011, had sustained the Clinton rule by throwing out a district court decision. But Mead said the issue was too important not to take to the Supreme Court. "The Roadless Rule has seriously impacted Wyoming, our people, our industries and the health of our forests. Given the consequences it is important to ask the Supreme Court to hear this case," he said. The path chosen by Wyoming to get to the Supreme Court - a writ of certiorari - is risky. The court usually accepts only about one percent of such writs. Ignoring for the moment the Supreme Court appeal, both the Tenth and the Ninth circuits have now upheld the Clinton rule that limits road construction and timber sales on 49 million acres of national forest. The Obama administration has signaled it will implement the Clinton rule. Meanwhile, the Forest Service is reportedly nearing completion of an exception to the Clinton rule - a roadless area policy tailored to national forests in Colorado. The rule, as proposed by the Obama administration on April 15, 2011, would protect 4.18 million acres of the 14.5 million acres of national forest within the state.

**Dicks is stepping down.** One of the most influential advocates of conservation spending in the House, Rep. Norman Dicks (D-Wash.), is retiring after this year. The 71-year old Dicks, ranking Democrat on the House Appropriations Committee and former chairman of the panel, announced his retirement March 2. His landmark conservation achievement came in 2001 when he persuaded Congress to authorize

close to \$2 billion per year for six years for such conservation programs as the Land and Water Conservation Fund. The program, using appropriated money, was designed to head off legislation being prepared by authorizing committees that would have guaranteed more than \$3 billion per year for conversation. The authorizing committees would have largely bypassed appropriators, such as Dicks, who was chairman of the House subcommittee on Interior Appropriations at the time. The burly Dicks was a former football player at the University of Washington.

**Gettysburg bill supported.** A House committee February 29 gave a big boost to legislation (HR 1335) that would expand Gettysburg National Military Park. The bill, from Rep. Todd Russell Platts (R-Pa.), would add to the military park the Gettysburg Railroad Station and 45 acres near Big Round Top. On the other side of the Hill both senators - Pat Toomey (R) and Robert Casey (D) - support the legislation (S 1897). National Parks Conservation Association Civil War Associate Nicholas Lund said, "The bill's enactment will create a lasting legacy so that 150 years from now, Americans can learn about this remarkable time in our nation's history, and visit these places where history happened." Given the broad, bipartisan support for the measure it might be able to squeak through Congress on its own, rather than waiting for a controversial omnibus lands bill late in the Congressional session. The House Natural Resources Committee approval could propel HR 1335 to the House floor soon.

**Study backs state park worth.** A new report by a major think tank argues that state parks provide a substantial economic benefit to the community, an argument that state park officials have long advanced. But Juha Siikamäki, a researcher for the Resources for the Future research group, attempts to quantify that benefit in a new analysis. "My research indicates that state parks contribute roughly one-third of all nature recreation in the United States, measured in hours of nature recreation per capita," he said. "Using conventional economic approaches to

estimate the value of recreation time combined with relatively conservative assumptions, the estimated annual contribution of the state park system is around \$14 billion. That value is considerably larger than the annual operation and management costs of state parks." Siikamäki's analysis, *State Parks: Assessing Their Benefits*, comes on the heels of huge budget cuts by state governments, including a 50 percent cut by the State of Washington and the closure of 70 parks in California. The report is at <http://www.rff.org/Publications/Resources/Pages/179-Parks.aspx>.

**Shake-up at Wilderness Society.** The Wilderness Society said March 5 that a veteran of western conservation battles, Jamie Williams, will serve as its new president. Williams last worked as director of landscape conservation for North America for the Nature Conservancy. He replaces Bill Meadows, who announced his resignation in October. The society has suffered budget problems and has laid off a significant portion of its workforce in recent months. Williams has worked for the Nature Conservancy for the last 20 years. His experience with large landscapes dovetails with the Obama administration's priority of preserving large areas.

**Historic Pres grants out.** The Interior Department announced March 7 the annual distribution of state historic preservation grants, this time of \$46.9 million. Said Secretary of Interior Ken Salazar, "These grants leverage private investments in historic preservation activities and help spur tourism, create jobs, and build pride in communities across the nation." The money for the grants comes from offshore oil and gas royalties but Congress must first appropriate the money each year. States much match grant money. The State of California will receive the most, \$1,494,229. More than \$1 billion has been awarded for the grants since the program began in 1968. The administration's fiscal year 2013 budget request for state historic preservation grants remains the same as fiscal 2012, \$46.9 million.

**Wetlands rule nears completion.**

EPA and the Corps of Engineers have submitted to the Office of Management and Budget controversial guidance on identifying water bodies that require clean water permits, EPA has announced. The guidance is expected to go beyond Bush administration guidance that restricted Section 404 permits to navigable bodies of water. The House repeatedly attempted to block the guidance in appropriations bills last year, but the riders were dropped in December. A huge alliance of industries and farmers opposes the legislation but a huge alliance of sportsmen and conservationists supports it. "These rivers, lakes, streams and wetlands are essential for hunting and angling, providing fish and wildlife habitat and an economic boost to local economies," said Steve Moyer, vice president of government relations for Trout Unlimited. Exactly when the administration will post the guidance is unclear, particularly given the likelihood of litigation.

**Bill would revoke Hatteras rule.**

Rep. Walter B. Jones, Jr. introduced legislation (HR 4094) February 28 that would block implementation of a Park Service rule that governs off-road vehicle (ORV) use in Cape Hatteras National Seashore. HR 4094 would restore an interim management agreement of June 13, 2007, that allows significantly more ORV use than the Park Service rule that went into effect February 15. The rule keeps 28 miles of the seashore open to ORV uses and designates 26 miles of vehicle-free areas. Said Jones on introducing his bill, "The federal government needs to remember that Cape Hatteras was established to be a recreational area for the American people. But taxpayers can't recreate without access to the beach. The goal of management ought to be a balanced approach between visitor access and species protection. The Final Rule falls short of that goal. The Interim Strategy comes much closer to hitting the target."

**Conference Calendar**MARCH

12-17. **North American Wildlife**

conference in Atlanta, GA. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

13-17. **American Alliance for Health, Physical Education, Recreation and Dance** annual meeting in Boston. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191. (703) 476-3400. <http://www.aahperd.org>.

27-29. **NRPA National Legislative Forum on Parks and Recreation**, in Washington, D.C. Contact: National Recreation and Parks Association, 1901 Pennsylvania Ave, N.W., Washington, DC 20006. (202) 887-0290. <http://www.nrpa.org/legforum/>.

APRIL

16-18. **National Hydropower Association** annual meeting in Washington, D.C. Contact: National Hydropower Association, One Massachusetts Ave., N.W., Suite 850, Washington, D.C. 20001. (202) 682-1700. <http://www.hydro.org>.

16-19. **National Association of Recreation Resource Planners** annual meeting in Baton Rouge, La. Contact: National Association of Recreation Resource Planners, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.narrp.org>.

18-19. **Outdoor Industry Association** Capitol Summit in Washington, D.C. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

18-22. **Society for American Archaeology** annual meeting in Memphis, Tenn. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, D.C. 20002-3557. (202) 789-8200. <http://www.saa.org>.

23-24. **America Boating Congress** legislative conference in Washington, D.C. Contact: National Marine Manufacturers Association, 444 N. Capitol Street, NW Suite 645, Washington, D.C. 20001. (202) 737-9750. <http://www.nmma.org>.