

# Federal Parks & Recreation

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## **Interior closing in on multi-agency outdoors proposal**

The Obama administration next month is expected to propose a comprehensive conservation program that is, in part, a follow-on to the Bush administration's Park Service Centennial Initiative.

The Obama administration is keeping the details of the America's Great Outdoors initiative close to its chest, but as an initial matter it is expected to include the Forest Service and several Interior Department agencies as well as NPS. The Bush Centennial Challenge addressed just the Park Service.

Advocates of the national parks such as the National Parks Conservation Association (NPCA) are hoping the parks will play a prominent role. Said Craig Obey, vice president for government affairs for the association, "Whatever product they come up with we will be seeking a very robust program to restore the parks in time for the 2016 Centennial."

Obey said he also hoped the proposal would address external threats to the parks. "One thing NPCA wants to see is a robust initiative to protect the parks, not just inside but also outside as well," he said. "Easements can be used to protect wildlife corridors."

Derrick Crandall, president of the American Recreation Coalition, said the initiative was still in the formative stage. "The details have yet to be worked out, but this is going to be a significant initiative," he said.

The proposal will also be closely watched to see if it addresses an Obama administration promise to provide full funding for the Land and Water Conservation Fund, if it keeps an Obama promise

to protect Treasured Landscapes around the country, and if it recommends the designation of new national monuments on Bureau of Land Management land. Those three areas are of course intertwined.

While a specific rollout date has not been set, one Interior Department official expects it to come in April. Of course the National Park Week is scheduled for April 17 to 25, a possible clue.

A spokeswoman for Secretary of Interior Ken Salazar would neither confirm nor deny any details, but she did acknowledge March 19 there will be no announcement "in the next couple of weeks."

Within the administration the lead architects are reportedly assistant secretary of Interior for Fish and Wildlife and Parks Tom Strickland and under secretary of Agriculture Harris Sherman. Both are from Colorado originally and are close to Secretary of Interior Ken Salazar.

Salazar, Strickland and Sherman all had a hand in developing a landmark State of Colorado program called Great Outdoors Colorado (GOCO), established by constitutional amendment, that uses a portion of state lottery money for conservation purposes.

Salazar has often referenced GOCO as a model for a conservation program to revive the Land and Water Conservation Fund and/or to protect the nation's Treasured Landscapes. And Salazar has often suggested using new offshore oil and gas royalties to pay for a beefed up LWCF.

Once the Obama proposal is laid out top administration officials are expected to cross the country to hold listening sessions and preach the gospel. Those leaders are expected to include Salazar, Secretary of Agriculture Tom Vilsack and others.

The Bush administration's Centennial Challenge proposal asked Congress to appropriate \$100 million per year for 10 years to match a like amount of pri-

vate money to upgrade non-core functions in the parks for the 2016 Centennial. While Congress did appropriate \$25 million in seed money in fiscal year 2008 and \$15 million in fiscal 2010 for the program, the underlying authorization legislation never took off. Congress was unable to identify any new money to pay the freight.

Of note the lead Senate sponsor of Centennial Challenge legislation was none other than Sen. Ken Salazar (D-Colo.), now secretary of Interior and expected champion of the Great Outdoors program. The bill he introduced April 3, 2008, lacked one thing - money to pay for it.

The Centennial Challenge was part of a larger \$3 billion Centennial Initiative produced by former Secretary of Interior Dirk Kempthorne. An additional \$100 million per year was to be used for core Park Service operations for 10 years. Congress has appropriated most of that money in recent years.

An America's Great Outdoors initiative may also provide the Obama administration an opportunity to propose the designation of Treasured Landscapes as national monuments. To the dismay of western Republicans the department has been analyzing the possibility of designating a number of monuments on Bureau of Land Management land.

## **Senate acts on NPS overflight policy; McCain backs off**

The Senate performed major surgery on national parks air tour policy March 22. Among other things it wrote a new definition of Park Service and Federal Aviation Administration (FAA) responsibilities in writing air tour plans.

It also approved a provision that would authorize FAA to charge air tour operators fees large enough to pay the costs of preparing air tour plans.

Finally, in a major non-action Sen. John McCain (R-Ariz.) withdrew a proposed amendment that would have barred a reduction in the number of air

tours over Grand Canyon National Park. McCain acted after Sen. Jeff Bingaman (D-N.M.) objected to his amendment.

The air tour actions took place during Senate consideration of legislation (HR 1586) to reauthorize FAA operations. The bill now goes to a conference with the House, which included neither the clarification of FAA and NPS responsibilities, nor the air tour fees.

Advocates of the national parks hope that the House will cede to the Senate. "We hope that since the Senate is historically where air tour law comes from, the House will accept the Senate provisions," said Bryan Faehner, associate director for park use for the National Parks Conservation Association.

(Indeed, such senators as McCain and former Sen. Wendell Ford (D-Ky.) in the last two decades have written the bulk of parks overflight legislation.)

The rider to HR 1585 clarifying FAA and NPS responsibilities was largely the work of Sen. Ron Wyden (D-Ore.) His amendment is designed to prod the agencies into cooperating in the completion of air tour management plans for individual parks. Since the National Parks Air Tour Management Act of 2000 (PL 106-181 April 5, 2000) was enacted and ordered the agencies to write the plans, exactly none have been completed. Grand Canyon was not included in the law.

Wyden's amendment essentially says the FAA is responsible for controlling airspace over the country and the Park Service is responsible for protecting the parks. "It would allow the Park Service to flex some muscle," said Faehner. "They can say, 'This is within our jurisdiction. In an area where a ranger is giving a talk on a ridge you can't fly helicopters over it.'"

The key bill wording says, "(FAA) has sole authority to control airspace over the United States. (NPS) has the sole responsibility for conserving the scenery and natural resources in National Parks and providing for the enjoyment of the National Parks unimpaired for future generations."

Wyden said of the current stalemate, "As no such plans have been completed for any park in ten years, there is little prospect of getting any certainty anytime in the near future. This is uncertainty for air tour operators and for parks visitors alike."

While he was at it, Wyden included language in his provision that would allow Crater Lake National Park to reject an application for air tours over the park even though an air tour management plan has not been written yet.

The rider requiring air tour operators to pay large enough fees to pay for air tour management plans was sponsored by Sen. Tom Coburn (R-Okla.), frequently a critic of initiatives to expand the National Park Service. His amendment simply gives the Interior Department authority to assess a fee, with the amount to be "determined."

McCain's Grand Canyon amendment would have set a new standard for allowable air tour noise in the park. The rider would have defined natural quiet in the park as when 50 percent of it is quiet 75 percent of the time. In other words the other half of the park would not have to be free from air tour noise. McCain was the lead sponsor but Senate Majority Leader Harry Reid (D-Nev.), Sen. Jon Kyl (R-Ariz.) and Sen. John Ensign (R-Nev.) were cosponsors.

The Senate Grand Canyon natural quiet amendment said "the substantial restoration of the natural quiet and experience of the Grand Canyon National Park. . . shall be considered to be achieved in the Park if, for at least 75 percent of each day, 50 percent of the Park is free of sound produced by commercial air tour operations that have an allocation to conduct commercial air tours in the Park as of the date of the enactment of this Act."

The amendment also says that the existing cap on overflights over the park may not be reduced. The amendment does limit the number of flights per day in special flight rule areas to 364.

Queried Sen. Bingaman of the quiet

definition, "What does that mean? The legislation would establish a certain definition of that which is significantly different from what has been assumed and worked with for a long time by a great many people."

Environmentalists hit the ceiling. "The McCain rider is a blatant giveaway to the commercial air tour industry and a direct attack on Grand Canyon National Park," said Sandy Bahr, director of the Sierra Club's Grand Canyon Chapter. "It prevents the National Park Service from managing a vital piece of the visitor experience at our flagship national park – the natural quiet of this world class treasure, one of the quietest places on Earth."

FAA and NPS are in the process of writing an EIS that would back a management plan to insure natural quiet in the park, as required by the National Parks Overflights Act of 1987.

Bingaman faulted the timing of the McCain amendment. "I do not believe it makes sense to legislatively enact new standards when the National Park Service is close to putting out its new recommendations, especially since it has taken so long to get to this point. I believe the better action would be for us to wait and see what the agencies actually propose."

Before McCain withdrew his amendment the National Parks Conservation Association said his proposal would have interfered with the FAA and NPS plan.

"The (EIS) reflects years of hard work and input from local stakeholders and the American public and includes a thoughtful range of alternatives," NPCA said in an alert. "Although we share Sen. McCain's frustration at the lengthy process, we disagree with his proposed resolution, which will render moot many years of effort with public input that has produced a proposal that is nearly ready for publication."

In addition to the Grand Canyon the FAA and the Park Service have been trying a new approach at cooperation elsewhere. They are trying a new strat-

egy for writing a plan for Death Valley National Park. Instead of using procedures laid out in the 2001 Act the agencies are testing an Aviation Rulemaking Committee (ARC) process.

FAA has used the ARC process a number of times over the years to write various rules, but not for air tour operations. The agencies requested public advice on the new approach January 19 in the *Federal Register*. The ARC process approximates a negotiated rulemaking, rather than an agency rule that is commented on and then revised. The agencies will prepare an environmental assessment.

Outside the Death Valley proposal, FAA and the Park Service still have not resolved their impasse over comprehensive air tour regulations that are supposed to guide the preparation of individual park plans. To oversimplify NPS has traditionally been more concerned about maintaining quiet in parks than FAA and FAA has been more concerned about aviation safety.

## **Congress extends SAFETEA-LU, sets stage for next bill**

President Obama signed into law March 18 a law that both extends the existing surface transportation law through the end of the calendar year and guarantees full funding for transportation-related recreation programs throughout the fiscal year.

That is, the stimulus law (PL 111-147) extends the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) through December 31. That gives Congress the rest of the year to write and pass a comprehensive new five-or-six year law.

In addition to keeping SAFETEA-LU alive the law provides full funding for transportation programs in fiscal 2010 by (1) increasing the appropriation for SAFETEA-LU from \$30 billion to \$42 billion, (2) canceling \$8.7 billion in take-backs from previous year SAFETEA-LU allocations, called rescissions, and (3)

fattening up the Highway Trust Fund that provides money for SAFETEA-LU with a \$19.5 million infusion. So surface transportation programs are effectively paid up through September 30.

The transportation money was included in an abbreviated economic stimulus law that included little other money for outdoor programs. The House and Senate trimmed almost all of the other outdoor money from an initial, broad stimulus bill (HR 2847) the House approved Dec. 16, 2009, with \$174 billion in economic assistance. A good portion of that would have gone to federal land managers.

However, House and Senate Democratic leaders say they aren't done yet with economic stimulus legislation, so portions of HR 2847 could appear in new bills.

Supporters of surface transportation programs were pleased with the extensions and the new money. "That's good news for recreational trails," said one lobbyist. "They had been holding back trails money for this quarter."

Key senators who are to take the lead in writing a six-year law to replace SAFETEA-LU between now and December praised the passage of the extension law and pledged to get to work on a new bill.

Senate Environment and Public Works Committee Chairman Barbara Boxer (D-Calif.) said, "This is a great signal to all our states, to all of our transportation agencies, and to the private sector. Now that this is behind us, we will focus on moving forward with a transformational transportation authorization that will create jobs and build the infrastructure America needs for economic recovery and long term prosperity."

Almost as important ranking committee Republican James Inhofe (R-Okla.), who is often a dedicated opponent of Democratic proposals, supports federal spending on surface transportation. "As I have long said, transportation spending is one of our primary

responsibilities as lawmakers here in Congress," he said on enactment of the extension law.

Inhofe added, "After months of delay, due to politics as usual in Washington, Congress finally passed an extension that will ensure states receive the money they are owed and provide the long term certainty that is the lifeblood of state and local highway and bridge programs."

An alliance of surface transportation interests, including road builders and state officials, is prodding Congress to get moving.

"Congress must write a comprehensive six-year surface transportation bill with a major investment in new highway capacity, safety, freight routes, and the construction of aging bridges and roads," said Greg Cohen, president of the American Highway Users Alliance.

As we reported in the last issue of *FPR*, Boxer said she will use as a template for the next surface transportation bill a House subcommittee-passed measure. The House subcommittee on Highways and Transit June 24, 2009, approved the bill and packed it with outdoor programs. Altogether the legislation would allocate \$500 billion to surface transportation over the next six years.

The subcommittee bill would extend for six years such outdoor programs as transportation enhancements, recreational trails, scenic byways, federal and Indian land roads, and Safe Routes to School.

In addition the subcommittee bill contains a new concept that could boost outdoor programs - "livability." The bill would create a new Office of Livability that would oversee transportation enhancements, recreational trails, scenic byways, Safe Routes to School and a new U.S. bicycle route system.

Inhofe is less enthusiastic about the livability concept. (See note on page 11.)

## House appropriators echo Senate DoI budget gripes

The ranking Republican on a key House appropriations subcommittee is expressing many of the same concerns about the Obama administration's fiscal year 2011 Interior Department budget request as the Democratic chairman of a counterpart Senate subcommittee.

That is, too much money for land acquisition and not enough money to cover fixed costs, defined as pay raises, health benefits, rent, etc.

The Republican, Rep. Mike Simpson (Idaho), said of an Obama administration request for \$619 million for the Land and Water Conservation Fund (LWCF), "I'm concerned about the trade-off when it comes to increases in (LWCF) at the expense of other critical base programs."

He added, "The rapid increase in land acquisition coupled with a decrease in the construction and maintenance budget tells me the administration put a higher priority on acquiring land rather than responsibly managing what the government already owns."

Simpson made his observations at a hearing of the House subcommittee on Interior appropriations March 18 on the Obama administration's fiscal 2011 budget request for the Interior Department, with Secretary of Interior Ken Salazar in the hot seat.

The Democratic chairman of the counterpart Senate subcommittee on Interior appropriations, Sen. Dianne Feinstein (D-Calif.), made a similar observation at a March 9 hearing with Salazar. After noting a 31 percent proposed increase in spending for LWCF, among other proposed increases, Feinstein said, "Each of these is an important priority, we understand that. My concern is in order to pay for these the administration is proposing cuts elsewhere that may well be untenable."

Among the reductions she worried about were \$164 million in construction costs at the Park Service, Fish and

Wildlife Service, the Bureau of Land Management, and the Bureau of Indian Affairs. "That's a 33 percent reduction for these agencies," she said. "That is a problem."

Again, Simpson sounded like he was channeling Feinstein at the March 18 hearing. "The department budget includes fixed costs that have to be absorbed somewhere," he said. "There is going to be something that doesn't get done. There will be fewer people to do activities. How can you address (maintenance and other) backlogs if we have reduced personnel?"

Salazar replied obliquely, "It's a tough one. It's not the budget I would have proposed if we were not dealing with the greater financial situation. We have cut \$63 million from travel and information technology."

The proposed Interior budget would force department agencies to deduct \$106 million in fixed costs from their appropriations. The Park Service alone would have to eat \$33 million.

The March 18 hearing provided new subcommittee chairman James Moran (D-Va.) with his first run at Salazar. He promised in a way to balance protection of the nation's natural resources with development by quoting extensively former President Theodore Roosevelt. Moran said:

"Conservation means development as much as it does protection. I recognize the duty of this generation to develop natural resources of our land. But I do not recognize the right to waste them or to rob by wasteful use the generations that come after them."

Moran, Simpson and Feinstein, along with ranking Senate subcommittee Republican Lamar Alexander (Tenn.), will write the details of a fiscal 2011 appropriations bill. The concerns of Feinstein and Simpson about LWCF don't augur well for the program. But their concerns about agencies being forced to eat fixed costs suggest that Congress will put up at least some of that \$106 million.

## FS chief officially kills campground discount plan

Forest Service Chief Tom Tidwell put in a press release March 17 what *FPR* reported in the last issue: The Forest Service will not reduce camping fee discounts for senior citizens.

Tidwell said in the release, "Particularly in these difficult economic times, it is very important to maintain affordable access to our National Forests and Grasslands, giving people easy ways to recreate and find respite in the great outdoors."

Tidwell was responding to complaints from senior citizen groups and anti-fee activists who objected to a Dec. 1, 2009, Forest Service proposal to reduce senior discounts from 50 percent to 10 percent.

As Tidwell told Sen. Jim Risch (R-Idaho) at a senate Energy Committee hearing last month, "I can tell you that by far, by far, the comments we have received have been not supportive of this idea. We haven't made an announcement yet, but we're going to be looking at different ways to do our campgrounds and find other ways (to pay for it.)"

Risch and the rest of the Idaho delegation, as well as numerous other western senators and House members from both parties, opposed the idea.

Said Risch's colleague, Sen. Mike Crapo (R-Idaho), on receiving the chief's statement, "Idahoans and people across the West spoke loud and clear in opposition to this ill-conceived proposal, and I am glad that the Forest Service heard their voices."

Park Service concessioners have told us the Forest Service proposed the discount reduction as a trade-off to allow lower fees for youths. Warren Meyer, a concessioner who often speaks for the concessioners, said it makes no difference to him how the Forest Service structures the fee schedule. Meyer is president of Recreation Resource Management.

The anti-fee group the Western Slope No-Fee Coalition called the chief's decision "an exciting victory," but said the war was not over. The coalition worried in a bulletin that private concessioners will have liberty to charge fees at day-use sites. "At day-use sites managed by concessionaires, the Forest Service allows private companies to charge fees that the agency is prohibited from charging," the coalition said in the March 18 bulletin.

## Hill, Obama initiatives may affect LWCF approps picture

As Congress this year begins the slow grind of writing an annual appropriation bill to allocate money to the Land and Water Conservation Fund (LWCF), a couple of new factors may play a role.

For one the Obama administration next month is expected to roll out its signature conservation initiative, an America's Great Outdoors proposal. That proposal in turn may include a revived LWCF among its beneficiaries. (See *related article page one.*)

For another thing the three senators who are making a last-ditch attempt to put together a compromise climate change bill this year may propose a major boost for LWCF. In briefing industry and environmentalists on a draft of a bill the three said they were considering a provision to allocate a percentage of new offshore oil and gas royalties to LWCF. (See *below.*)

Meanwhile, there is the annual appropriations slog. Although the Obama administration has proposed significant increases in fiscal year 2011, supporters are asking for even more significant hikes. The administration has proposed \$384 million for the federal side of LWCF (the fiscal 2010 appropriation is \$265.3 million) and \$50 million for the state side (the fiscal 2010 appropriation is \$40 million.)

Five House members are circulating a "Dear Colleague" letter asking for support for \$425 million for the federal side of LWCF, \$175 million for state

grants, and \$150 million for a Forest Legacy program. (The administration recommended \$100.1 million for Forest Legacy compared to a fiscal 2010 appropriation of \$76.5 million.) The Forest Legacy money would come from LWCF.

CLIMATE BILL: The "compromise" climate change bill is being drafted by Sens. John Kerry (D-Mass.), Joe Lieberman (I-Conn.) and Lindsey Graham (R-S.C.) They briefed industry and environmentalists earlier this month on some of the concepts in the bill, but haven't revealed the details yet.

At least one report says that the senators and their staffs mentioned a possible allocation to LWCF of 10 percent of revenues generated by offshore oil and gas leases. Another 25 percent would go to adjacent states and 65 percent to the U.S. Treasury.

The senators didn't provide details beyond that, such as whether the LWCF money would be guaranteed and not be subject to annual appropriations, according to the National Wildlife Federation, which is taking the lead for greens on climate change legislation. And how much money would be involved.

The House and the Senate Environment and Public Works Committee approved comprehensive climate change legislation (HR 2454, S 1733) last year that is generous to LWCF. Both bills would establish a Natural Resources Climate Change Adaptation Fund that would provide billions of dollars to protect natural resources. In a major difference from the House bill S 1733 would guarantee money in the fund, to LWCF and other programs. The House would subject distribution of the money to appropriations in annual spending bills.

In total the administration recommended \$619 million for LWCF in fiscal 2011, although not all the money would go to the traditional state and federal sides of the program. In addition to the federal and state sides of LWCF the budget would transfer \$100 million to the Forest Service-run Forest Legacy program and \$85 million to a Fish and Wildlife Service-run Endangered Species Conservation Fund.

Thus far, the Obama administration's LWCF proposal has received a rocky reception from appropriators. As we report elsewhere in this issue (see page 6), the ranking Republican on the House subcommittee on Interior appropriations, Mike Simpson (Idaho), complained March 18, "The rapid increase in land acquisition coupled with a decrease in the construction and maintenance budget tells me the administration put a higher priority on acquiring land rather than responsibly managing what the government already owns."

And the chairman of the Senate subcommittee on Interior appropriations, Sen. Dianne Feinstein (D-Calif.), said March 9 that the sacrifices an increase in LWCF would require in other programs "may well be untenable."

LWCF STATE REPORT: A new report from the Park Service's State Assistance Program documents the achievements of the program in fiscal year 2009. Using an appropriation of \$28,249,430, the program was able to leverage a total of \$39,326,309, when matching grants are counted in.

That money was used to acquire 17 new parks, open 13,313 acres for recreation use, help develop new outdoor recreation facilities in 98 parks, and provide grants to 160 local jurisdictions.

The report, *Land and Water Conservation Fund, State Assistance Program 2009 Annual Report*, is available at [www.nps.gov/lwcf](http://www.nps.gov/lwcf).

## **Sides square off over new Yellowstone snowmobile rule**

The battle over snowmobile use in Yellowstone National Park will begin this year with competing interest groups taking contrary positions, as usual.

Environmentalists and the Coalition of National Park Service Retirees are expected to recommend few, if any, snowmobiles in the park. They will accept snowcoaches.

"In the past we have suggested a



phase out," said Mark Pearson, national parks program manager for the Greater Yellowstone Coalition. "I think we will continue to push for that." However, Pearson said the coalition will wait to see what new science the Park Service comes up with, if any.

Snowmobile advocates haven't identified a specific cap, but are expected to ask for 450-500 machines per day, with a slightly higher ceiling for holidays, said Jack Welch, volunteer consultant to the BlueRibbon Coalition.

The State of Wyoming will also be a key player. Last year Gov. Dave Freudenthal (D-Wyo.) recommended 720 machines per day. Freudenthal is leaving office at the end of the year, but his successor is expected to be at least as big a supporter of snowmobiles as he.

The Park Service for the fourth time this decade is attempting to develop a permanent rule to govern snowmobile use in Yellowstone. The previous three rules were thrown out by various courts, forcing NPS to issue temporary rules.

For this last winter and for the winter of 2010-2011 an interim rule allows up to 318 snowmobiles per day and up to 78 snowcoaches per day.

Longer term the park asked January 29 for public guidance on an EIS that will back permanent regulations. The comment period is scheduled to end Tuesday, March 30. NPS will take most of the next two years to write the permanent rule.

In addition to polar opposite positions on the numbers of snowmobiles in Yellowstone, interest groups disagree on the impact of the vehicles in the park. For instance, the Greater Yellowstone Coalition advised its members after NPS announced the scoping period:

"Every living former director of the National Park Service has agreed with you that snowcoach visitation ought to replace snowmobiles; the EPA and a federal court have agreed with you that

the Park Service has not applied its best available, sound science and adopted visitation that best protects Yellowstone. The park has indeed become healthier as snowmobile numbers have dwindled and visitors have turned increasingly to snowcoaches as their means of visiting and enjoying Yellowstone."

The Coalition of National Park Service Retirees says it will review the science as NPS goes along. "We will be urging that the new process produce a plan that is sustainable, that represents accurate fidelity to the law, is based on the best available sound science, and is in the public interest," said Rick Smith, the new chairman of the coalition's executive council. "Let's see where that takes the NPS."

But the BlueRibbon Coalition says the science is on its side. In a recent bulletin to members it paraphrased a Park Service study of snowmobile impacts: "Air quality is very good to excellent in the winter. Best Available Technology snowmobiles, limits on numbers of oversnow vehicles, and commercial guiding have all contributed to the improvements in air quality. The BAT technology snowmobiles are currently all four-stroke machines that produce far less pollution than traditional two-stroke snowmobiles. Yellowstone intends to implement a BAT requirement for snowcoaches in the future that would continue to improve air quality."

Citing Park Service analyses from last fall, the coalition's Welch said, "We're encouraged. The Park Service at the beginning of this past season produced documentation that for the first time reinforces our position that both snowmobiles and snowcoaches should be in the park." In fact, said Welch, that evidence shows that snowcoaches sometimes produce more pollution than snowmobiles.

The interim rule has generated hard feelings. As *FPR* has reported, Park Service retirees in January charged that Yellowstone officials were biased in favor of snowmobiles. The Coalition of National Park Service Retirees asked NPS Director Jon Jarvis to intercede on

behalf of interests that oppose snowmobile use in the park.

The Park Service offered no hint January 29 as to how it will tilt in writing an EIS to back a permanent rule. It simply asked for comments during a scoping period and said it will assess "air quality and visibility, wildlife, natural soundscapes, employee and visitor health and safety, visitor experience, and socioeconomics."

Jarvis did say the process would be guided by science. "We begin this process with a clear goal: a winter use plan for Yellowstone National Park consistent with the NPS mission, best available sound science, accurate fidelity to the law, and the long-term public interest," he said.

## Will circuit courts differ on Clinton FS roadless rule?

A key judge on the Tenth U.S. Circuit Court of Appeals indicated March 10 that he is not sympathetic to a so-called Clinton administration national forest roadless area rule. It bars almost all road construction on 58 million acres of roadless national forests.

In an important oral hearing on the legality of the Clinton roadless rule Senior Judge Stephen Anderson reportedly said he suspected the Clinton administration issued its rule in 2001 to lock up the lands before leaving office. "It sure looks like it," Anderson said, according to the *Denver Post*.

The Tenth Circuit is in position to hand down a critical ruling on the roadless rule, which has been stymied by competing court decisions. If the Tenth Circuit agrees with the Ninth U.S. Circuit Court of Appeals, it will hold the Clinton rule valid.

But if the Tenth Circuit disagrees with the Ninth Circuit and agrees with a U.S. District Court judge's ruling in the case before it, it will hold that the Clinton rule is illegal.

The Obama administration is sympathetic to the Clinton rule, but is not

going to act until the Ninth and Tenth Circuits clarify the legality of the Clinton rule. Or continue to disagree.

"This administration has been very clear we are going to protect roadless areas, we are going to protect those values," Forest Service Chief Tom Tidwell told the Senate Energy Committee February 24. "At the same time we have to consider the issues that come along with that. At this time we are not moving forward with any action. We are going to wait for the courts. In the past we have moved forward."

If the Tenth Circuit disagrees with the Ninth Circuit, the administration could be faced with a dilemma. Should it go ahead and write a new roadless rule of its own and risk having a court knock it down? Or should it wait to see if a disagreement between the circuit courts goes to the U.S. Supreme Court?

In the legal dueling the Ninth U.S. Circuit Court of Appeals on Aug. 5, 2009, upheld the Clinton rule. But on June 16, 2009, U.S. District Court Judge Clarence Brimmer in Wyoming held the rule illegal. Brimmer said the Clinton administration effectively established 58 million acres of wilderness with its rule, and only Congress has that authority. That is the reading judge Anderson inferred he believes.

Secretary of Agriculture Tom Vilsack on May 28, 2009, issued a directive that gives him authority to review all proposed projects in roadless areas. And Vilsack has said that if federal courts don't resolve their disagreements about national forest roadless areas, the Forest Service will write a new rule.

Meanwhile, the sportsmen's group the Theodore Roosevelt Conservation Partnership (TRCP) March 11 urged the Obama administration to hold off on a Colorado-peculiar roadless rule sought by Gov. Bill Ritter (D) until the 10th Circuit rules. "Hunters and anglers urge the state of Colorado to wait for a ruling from the 10th Circuit before moving forward with the Colorado

roadless rule," said Nick Payne, TRCP Colorado field representative.

TRCP wants as much roadless land protected as possible. "The national roadless rule upholds sportsmen's values and is the strongest option for ensuring conservation of Colorado's roadless areas in the long term," said Payne.

If the courts don't support the Clinton rule and the Obama administration doesn't act, Congress may become involved. Sen. Maria Cantwell (D-Wash.) and Rep. Jay Inslee (D-Wash.) introduced legislation (HR 3692, S 1738) Oct. 1, 2009, that would reinstate the Clinton rule. Twenty-five senators have cosponsored the Senate bill and 152 House members the House bill.

## Notes

**NPS will hold no-fee week.** Secretary of Interior Ken Salazar made it official March 23: The Park Service will allow all visitors to all parks to enter for free the week of April 17-25. That's the Presidentially-proclaimed National Park Week. The fee-free week follows up on last year's policy of offering three weekends with no entrance fees. The fee-free weekends are believed to have contributed to near-record visitation to the National Park System. Gateway communities and national park concessioners in particular have pressed NPS to increase visitation to the system. Mid-April is of course not a peak visitation time. (We had previously reported the upcoming fee-free week in the last issue based on non-Park Service sources. This time the word is coming from the horses' mouths.)

**Livability concept has critic.** Sen. James Inhofe (R-Okla.), nominally a major supporter of federal transportation programs, is drawing the line at the Obama administration's proposed "livability" policy. That policy, as described in a bill a House subcommittee approved last June 24, 2009, would establish a livability program, complete with a new Office of Livability. That office would oversee such transportation-related recreation programs as transportation enhancements, recre-

ational trails, scenic byways, Safe Routes to School and a proposed new U.S. bicycle route system. Inhofe tore into the proposal March 18 at a Senate Environment and Public Works Committee hearing on congestion in urban and rural America. "While details of the proposed program are still lacking, what I have heard so far makes me believe that the goal of this program is to move people to urban centers where transit options will negate the need to own a car," said Inhofe, whose assistance will probably be needed if a comprehensive new transportation bill is to move this year. "This is exactly the type of centralized decision-making and land-use planning that I oppose. The federal government should not be trying to tell communities what transportation solutions they need or should want."

**Cabin fees bill introduced.** Ranking House Natural Resources Committee Republican Doc Hastings (Wash.) and 11 of his colleagues introduced sweeping legislation (HR 4888) March 19 that would establish flat fees for cabin owners in national forests. Among the cosponsors was a senior committee Democrat, Rep. Jim Costa (Calif.), making the measure bipartisan. Under existing Forest Service practice fees sometimes shoot up dramatically when new appraisals of the value of the cabins are performed. There are 14,000 cabins in the national forests that are privately owned. The owners pay the Forest Service a yearly fee to retain use of their lots. Congress passed a cabin fee law in 2000 that was supposed to limit huge spikes in fees paid by cabin owners by establishing a variable cabin fee appraisal process. But Hastings said unforeseen difficulties with the appraisal process have led to continued spikes in fees. To prevent the spikes the bill would establish five levels of flat fees based on the value of cabins. Tier one would pay \$500; tier two, \$1,000; tier three, \$2,000; tier four, \$3,000; and tier five, \$4,000. The legislation would also establish a flat transfer fee of \$1,000 plus five percent for sales between \$250,000 and \$500,000 and 10 percent on sales of more than \$500,000. The National Forest Homeowners Association backs the legislation.

**Stewart Udall dies at 90.** One need only list the legislation enacted on his watch to understand the enormous influence that former Secretary of Interior Stewart Udall had on the nation's natural resources. Udall died at 90 March 20 after a fall at his home in Santa Fe, N.M. The legislation includes the Wilderness Act, the Land and Water Conservation Act, the National Historic Preservation Act, the Wild and Scenic Rivers Act and the Endangered Species Act. Udall served as secretary during the Kennedy and Johnson administrations in the 1960s. After leaving the department he continued to champion protection of the nation's wild lands. Stewart Udall was the older brother of former Rep. Morris Udall (D-Ariz.), who made a run at the Presidency. Stewart Udall was also the father of Sen. Tom Udall (D-Ariz.) Morris Udall's son, Mark Udall, is a Democratic senator from Colorado.

**House passes Public Lands Corps bill.** In the face of fierce criticism from Republicans, the House approved March 20 (yes on a Saturday) legislation (HR 1612) to extend and expand the Public Lands Service Corps. The program employs people between the ages of 16 and 25 to do conservation-related work on the public lands. The legislation historically receives about \$12 million per year. HR 1612 would expand the program to include coastal and marine systems and national marine sanctuaries. The Congressional Budget Office estimated that the expanded program would receive \$120 million over five years, or about twice the existing amount. Rep. Rob Bishop (R-Utah) objected to the cost and the expansion of the program. "But unfortunately as this is now altered, there is no guarantee of where the funds will go and what the priorities may be, which is one of the things we simply wanted. Keep the program doing what the program was intended to do," he said. But Rep. Raúl Grijalva (D-Ariz.) said that when the nation has high unemployment of more than 20 percent among youths that is precisely the time to spend more on employment legislation. The House vote on passage was [288-116](#).

**NPCA honors Bingaman, others.** The National Parks Conservation Association

(NPCA) presented its annual awards March 24 to one sitting senator, two former senators, and filmmakers Ken Burns and Dayton Duncan. NPCA selected Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) to receive its William Penn Mott Jr. Park Leadership Award. Among other things Bingaman shepherded an omnibus parks and public lands bill through Congress last year. NPCA presented its Centennial Leadership Award to honor a lifetime of service to former Sen. Howard H. Baker (R-Tenn.) and former Sen. J. Bennett Johnston (D-La.) They co-chaired a National Parks Second Century Commission last year. Burns and Duncan received the Robin W. Winks Award for creating their television series, *The National Parks, America's Best Idea*.

**Smith takes NPS retiree post.** Richard B. (Rick) Smith, a Park Service retiree with 31 years in the agency, took over as chairman of the executive council of Coalition of National Park Service Retirees last month. He replaces J. W. (Bill) Wade, who has held the chairman post since the coalition was founded. Wade will remain the founding director. Smith has worked at Yellowstone, Yosemite, the Albright Training Center in Grand Canyon, the Washington Office, Everglades, the Mid-Atlantic Regional Office, Carlsbad Caverns and Guadalupe Mountains, and the Southwest Region. After retirement he has worked as a conservation consultant, primarily in Latin America. Wade has taken a post in Abu Dhabi as the manager of that nation's first national park called Jebel Hafit.

**Recreationists file monuments FOIA.** Representatives of powered recreationists March 17 filed a Freedom of Information Act (FOIA) request with the Department of Interior in search of details about an Obama administration campaign to designate national monuments, if there is a campaign. The request was filed by the BlueRibbon Coalition. Seven pages of an internal Interior Department document released by House Republicans February 18 analyzed the possibility of designating 14 national monuments on land managed by the Bureau of Land Management. The Republicans, ranking House Natural Resources Committee member Doc Hastings (R-Wash.)

and ranking House subcommittee on National Parks, Forests and Public Lands member Rob Bishop (R-Utah), subsequently asked Secretary of Interior Ken Salazar for the rest of the document. Now the BlueRibbon Coalition has filed a Freedom of Information request for any details on the possibility of a national monument designation in a popular off-highway vehicle recreation area in the Mendocino National Forests. The area is called the Stonyford OHV area.

**Moreno assumes key Justice post.**

Ignacia Moreno, a veteran Justice Department attorney, was sworn in March 5 as the assistant attorney for the Environment and Natural Resources Division. Moreno will oversee all natural resources litigation for the Obama administration. She is a political appointee who was confirmed by the Senate. A Colombian by birth Moreno grew up in New York City. She served in the Environment and Natural Resources Division during the Clinton administration.

**Salazar highlights border project.**

Secretary of Interior Ken Salazar visited Organ Pipe Cactus National Monument March 13 to highlight border patrol efforts of federal land management agencies. But Rep. Rob Bishop (R-Utah) charged that the department is hampering border patrol agents in their efforts to keep "terrorists, criminals, drug smugglers and human traffickers" out of the country. Bishop said the department should not hinder the Department of Homeland Security and the U.S. Border Patrol along the border. In his visit to Arizona Salazar said that eventually on its 30-mile border with Mexico the Organ Pipe Cactus National Monument will have five miles of fence, 26 miles of vehicle barriers and 10 surveillance towers.

**Gillibrand seeks New York NP.**

Sen. Kirsten Gillibrand (D-N.Y.) introduced legislation (S 3131) March 17 to authorize a study of the Hudson River Valley in New York as a potential new national park. She said the designation would bring additional federal money to the area for conservation and economic development. Rep. Maurice Hinchey (D-N.Y.) and five House cosponsors intro-

duced a counterpart bill (HR 4003) on Nov. 3, 2009.

**Bison Range probe launched.** The Interior Department Inspector General (IG) said March 18 that it will investigate management of the National Bison Range in Montana. Acting IG Mary Kendall wrote the environmental group Public Employees for Environmental Responsibility (PEER) and said her office will review management of the range by the Confederated Salish and Kootenai Tribes (CSKT.) The tribes manage the refuge under an agreement with the Interior Department. But PEER complained to the IG earlier this year that the tribe may be violating the agreement by tolerating poaching, allowing bison to escape from pasture, and not completing a plan of work. On behalf of former FWS employees, including a former chief of the refuge system, PEER fought a previous agreement between Interior and the tribes, successfully persuading Interior to cancel it. In January 2009 the Bush administration struck a deal to allow CSKT to resume control. PEER is also concerned about the precedent set by an outside group managing federal land.

**Wetlands petition asks Hill action.** An association of sportsmen has rounded up more than 90,000 Americans to sign a petition asking Congress to act on wetlands measure this year. The legislation would override two Supreme Court decisions and insure that all water bodies in the country were subject to Section 404 Clean Water Act permits. In fuzzy decisions the court held that only projects in navigable waters need obtain permits. Ducks Unlimited (DU) says that more than 20 million acres of marshes, wetlands, and lakes across the country are at risk if Congress doesn't pass the legislation. DU has made enactment of the legislation its number one priority. The petition was submitted by the Theodore Roosevelt Conservation Partnership, of which DU is a member. The Senate Environment and Public Works Committee June 18, 2009, did approve a bill (S 787) but the measure has not moved any further toward Senate floor action. Senate Transportation Committee Chairman James Oberstar (D-Minn.), who took the lead last year, has not introduced a bill yet this year.

## Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
<b>Appropriations 2011</b> No bill yet	President submitted budget request Feb. 1.	Would increase LWCF significantly but provide flat budgets, at best, elsewhere.
<b>Appropriations fiscal 2010 (Interior)</b> HR 2996 (Dicks)	President Obama signed into law Oct. 30, 2009, as PL 111-88.	Provides broad increases for park and rec programs.
<b>Appropriations fiscal 2010 (Energy and water)</b> HR 3183 (Visclosky) S 1436 (Dorgan)	President Obama signed into Oct. 28, 2009, as PL 111-85.	Roughly maintains FY 2009 levels. Senate reduced Everglades money.
<b>Appropriations fiscal 2010 (Agriculture)</b> HR 2997 (DeLauro)	President Obama signed into law Oct. 21, 2009, as PL 111-80.	Restores some conservation money, but leaves EQIP short.
<b>Appropriations fiscal 2010 (Transportation)</b> HR 3288 (Olver)	President Obama signed into law Dec. 16, 2009, as PL 111-117.	Does not make up Highway Trust Fund shortfall.
<b>Appropriations Stimulus</b> HR 1 (Obey)	President Obama signed into law Feb. 17, 2009, as PL 111-5.	Allocates some \$4 billion to federal land management agencies to help revive the economy.
<b>LWCF revival</b> HR 3534 (Rahall) S 2747 (Bingaman)	House hearings in Sept. 2009. Bingaman put in Nov. 6, 2009.	Both would guarantee full funding of \$900M per year.
<b>UPAR revival</b> HR 3734 (Sires)	Sires introduced Oct. 6, 2009.	Would establish \$445 million urban park grant program in HUD.
<b>Omnibus Lands Bill</b> S 22 (Bingaman) HR 146 (Holt)	President signed into law March 30, 2009, as PL 111-11.	Includes 160+ individual bills, including NLCS, new national parks.
<b>National Landscape Conservation System</b> HR 404 (Grijalva) S 22 (previous item)	Included in omnibus law (previous item.)	Gives NLCS official designation by Congress.
<b>California Desert protection</b> S 2921 (Feinstein)	Feinstein introduced Dec. 21, 2009.	Would establish monument to protect 1 million acres of BLM-managed desert.
<b>Grand Canyon withdrawal</b> HR 644 (Grijalva)	House subcommittee hearing July 21, 2009.	Would withdraw 1 million acres of federal land near Grand Canyon NP to prevent uranium mining.
<b>Surface Transportation</b> HR 1329 (Blumenauer) S 575 (Carper) S 1036 (Rockefeller) Unnumbered (Oberstar)	Blumenauer put in March 5, 2009. Carper put in March 11, 2009. Rockefeller put in May 12, 2009. House subcommittee approved Oberstar bill June 24, 2009.	Blumenauer would establish a piece of a surface transportation law with climate change money. Rockefeller would establish broad goals for law. Oberstar would extend outdoor programs for six years.
<b>FLREA (rec fee law) repeal</b> S 868 (Baucus)	Baucus introduced April 22, 2009.	Would repeal the comprehensive federal rec fee law.
<b>Fire suppression</b> HR 1404 (Rahall) S 561 (Bingaman)	Included in Interior money bill above.	Establishes an emergency fire-fighting fund to limit agency borrowing.
<b>Ski area uses</b> S 607 (M. Udall)	Udall introduced March 17, 2009.	Would specify that ski resorts on national forest land may allow non-skiing recreation uses.