# **Federal Parks & Recreation**

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### Salazar on board with efforts to increase NPS visitation

Secretary of Interior Ken Salazar himself has raised the banner to encourage people to visit the national parks.

Citing data first reported by FPR in mid-August, Salazar last month "announced" a substantial increase of 4.5 million visits to the national parks over the first six months of the year, compared to 2008.

Salazar didn't attribute the increase to fee-free weekends, as others have, but they were on his mind. "I am hopeful that the fee free weekends are making it even easier for Americans to enjoy the special places that belong to all of us," he said.

Salazar's interest in the national parks was complemented by visits by President Obama and his family in mid-August to Yellowstone National Park and Grand Canyon National Park.

Said the secretary, "It is great to see so many Americans, including the First Family, take advantage of the incredible natural, cultural, and historic resources that we have here at home. Especially when times are tough, our parks and public lands refuel the spirit and help energize local economies."

The increase in visitation can serve as a double-edged sword because too many visitors can put pressure on park resources. But Bill Wade, chair of the executive council of the Coalition of National Park Service Retirees, says the increase is mostly a plus. "I think the modest increase we're seeing in visitation to the national parks this year is good because it means more people are likely to experience them and therefore have increased appreciation for them," he said.

Wade cautioned, however, that the parks may come under severe pressure to handle the increase. "We do continue to worry about staffing limitations in some parks, which will mean fewer interpretive/education programs for those visitors and fewer rangers to provide emergency response and resource protection," he said.

Gateway communities and national park concessioners have for the last eight years asked the Bush administration, the Obama administration, the Park Service and Congress to act to reverse a decline in visits to the national parks. That decline has, according to various interpretations, been caused by the terrorist attacks of 9/11, competition from resorts, an increase in the use of computer games by the young, a disinterest in parks among minorities or all of the above.

Most everyone agrees the up-tick in visitation this year has, in large part, stemmed from the distressed economy. Americans and foreign visitors alike are strapped for cash and the national parks and state and local parks make for a comparatively less expensive vacation than theme parks or resorts.

Then too the Obama administration is actively promoting visitation, beginning with fee-free days. NPS held its first fee-free weekend June 20-21, its second July 18-19 and the last one August 15-16.

"The Interior Department is really being reminded by the White House that a revitalized economy is the responsibility of every cabinet officer," said Derrick Crandall, the counselor to the National Park Hospitality Association. "Salazar understands the public lands can play a significant role in rebuilding regional economies and in rebuilding the national economy."

Crandall added, "So when the secretary puts out a press release on increased visitation and news releases on projects created by the American Recovery and Reinvestment Act he is offering incentives to help grow jobs."

According to NPS statistics,

available at <a href="http://www.nature.nps.gov/stats/park.cfm">http://www.nature.nps.gov/stats/park.cfm</a>, through July NPS nationally has hosted five million more visitors than last year, at a percentage increase of 2.66 percent. And that's with some tough weather in the northeastern United States that led to large decreases in visitation in Acadia National Park in Maine (down by more than 75,000) and Boston National Historical Park (down by more than 110,000.)

Some parks, such as Yellowstone, are posting all-time records. Yellowstone set a record for July with 900,515 visitors, compared to the previous high in July 1995 of 847,000 visitors. The park said June had also set an all-time record.

It should be noted the national numbers are skewed significantly by the huge numbers of visitors to the National Mall in Washington, D.C., for the Obama inaugural.

The Park Service may get another boost later this month when the Public Broadcasting System begins airing a series on the national parks put together by noted filmmaker Ken Burns. The six-episode, 12-hour series is scheduled to begin September 27.

### Vilsack promises change in course for Forest Service

In a major speech last month Secretary of Agriculture Tom Vilsack said the Obama administration would emphasize "restoration" in the management of the national forests.

"Our shared vision begins with restoration," Vilsack said in an August 14 speech in Seattle. "Restoration means managing forest lands first and foremost to protect our water resources, while making our forests more resilient to climate change."

The Vilsack message harks back to a Clinton administration forest policy of 'ecological sustainability' as a first priority. The Bush administration changed that to advocate a balance between ecological protection and commercial use.

Vilsack made some hard news in the speech when he said the Obama administration will write **new planning regulations**. A federal court June 30 issued an injunction against Bush administration rules. Vilsack said the Obama administration will not appeal that ruling.

"I've asked chief (Tom) Tidwell to develop a new planning rule to insure the management and restoration (there's that word again) of our national forests with the goal of protection of our climate, water and wildlife, while creating economic opportunity," Vilsack said.

Separately, Vilsack said that if federal courts don't resolve their disagreements about national forest roadless areas, the Forest Service will write a new rule. "And if the courts remain conflicted, or if it is not possible to protect roadless areas through the courts, we will initiate a new rulemaking process to do so," he said.

Like most secretaries of Agriculture Vilsack, a former Iowa governor, is primarily concerned about farm issues. Most recent administrations have chosen aggressive under secretaries of Agriculture for natural resources to oversee the Forest Service.

However, the Obama administration has yet to secure confirmation of an under secretary. Its first nominee, Homer Lee Wilkes, withdrew his name in June and no new nominee has been announced. (Tidwell, former Region One regional forester, took over as chief of the Forest Service July 5.)

Vilsack stepped into the policymaking breach last month and put down his own vision of "restoration" for national forest management.

"Why restoration as a driving principle in forest policy?" he asked.
"There is no doubt that we are facing a health crisis in our forests. Climate change places them under increasing stress that exacerbates the threats of fire, disease, and insects. Throughout the West - but in other parts of the country as well - a legacy of fire suppression has resulted in forests that

are over-stocked and much more susceptible to catastrophic fire and disease."

Vilsack went on, "Restoring forest ecosystems, particularly in fire-adapted forests, will make forests more resilient to climate-induced stresses and will ensure that our forests continue to supply abundant, clean water."

But Republican critics, such as Rep. Doc Hastings (Wash.), ranking minority member of the House Natural Resources Committee, criticized Vilsack for not attacking environmentalists for filing lawsuits against timber sales. "We must also be honest about why many forests are in the poor health they are today, and it's not climate change, but rather lawsuits and policies that shutdown active, environmentally-beneficial management of forests that protect trees' health and prevent forest fires," said Hastings.

He added, "Secretary Vilsack failed to address how the Administration will confront these agenda-driven lawsuits that are killing our forests and the rural communities whose livelihoods depend on timber-related jobs."

### Interior money bill may get a top Senate floor priority

Two major outdoor spending bills are on the Senate leadership's list of measures that the Senate must pass this month - an Interior bill and a Transportation bill.

Two other outdoor spending bills - Energy and Water (the Corps) and Agriculture, are further along, having been approved by the Senate this summer. Those bills are candidates for early conference committees with the House this month.

Democratic leaders hold out tenuous hope that Congress will complete all four bills before fiscal year 2010 begins October 1, less than three weeks from now. If any of the bills aren't completed, the House and Senate will undoubtedly pass continuing resolutions to keep the government in business.

A Senate Appropriations Committee staff member told us this week that "Interior and (Transportation) are likely to be among the first appropriations bills to go to the floor this month."

As for conferencing with the House, the staff member said, "We are aiming for mid-September conferences for bills that have passed the Senate."

If the House and Senate continue to disagree about individual appropriations bills into the fall, a good possibility, the remaining measures would likely be tossed into one big continuing resolution that would keep agencies running for the entire fiscal year. Congress will probably have time to do that because the legislative session is sure to run into the early winter because Democratic leaders are determined to pass complex, time-consuming health care and climate initiatives this year.

The pressure is still on the appropriators. No one likes a yearlong continuing resolution because it doesn't provide specific direction to federal agencies. Here's a recap of the four remaining outdoor spending bills:

\* INTERIOR AND RELATED AGENCIES: HR 2996. The House approved its version of a bill June 26. The Senate Appropriations Committee passed its version June 25.

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

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

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

Money-wise, the Senate committee would spend significantly less for Save

America and Preserve America grants administered by NPS than the House, but it would spend significantly more for recreation and preservation in NPS than the House.

\*AGRICULTURE: HR 2997, S 1406.
The House approved its version of HR
2997 July 9 and the Senate approved S
1406 August 4. Both the House and Senate rejected some - but not all - spending reductions proposed by the Obama administration for conservation programs.

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

The House restored about all the conservation money except it cut the Environmental Quality Incentive Program by \$270 million. The Senate reduced it by \$250 million.

\* ENERGY AND WATER: HR 3183, S 1436. The House approved its bill July 16 and the Senate approved its bill July 29. For the Corps of Engineers the House bill roughly meets a fiscal 2009 spending level of \$5.4 billion, with \$5.5 billion. The Senate approved \$5.4 billion.

However, both the House and the Senate would increase spending for the key operations and maintenance line item by \$300 million and \$248 million respectively.

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

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

\* TRANSPORTATION: HR 3288. The

House approved its bill July 23 with a survival appropriation of \$41.1 million for highway programs. The Senate Appropriations Committee approved its version of HR 3288 July 30 with \$42.5 billion for highway programs.

However, the Highway Trust Fund, which pays for highway programs, is billions of dollars short and the measure does not resolve the shortage. Subcommittee on Transportation Appropriations Chairman Rep. John Olver (D-Mass.) said the subcommittee was not responsible for making up a huge deficit in the Highway Trust Fund.

### House leaders seem determined to move big highway bill, now

The White House and Senate Democrats may deem it a fruitless exercise, but House leaders still intend to bring to the floor shortly a giant surface transportation bill, perhaps the week of September 21.

Before that can happen, the House Ways and Means Committee must identify revenues to pay for the six-year bill. The measure was approved by the House subcommittee on Highways and Transits June 24, but the subcommittee did not fill in the amounts of money for each program.

"The game plan is we're waiting for Ways and Means," said a House Transportation Committee staff member. "Once Ways and Means finishes we will mark up in full committee. (House Majority Leader Steny) Hoyer (D-Md.) said there is time for the bill on the House floor the third week in September, if the bill is ready."

The Ways and Means Committee action may be as important as the policy calls made by the House Transportation Committee. The transportation committee assumes a price tag of \$500 million, almost twice the cost of the last fiveyear surface transportation law.

"If Ways and Means doesn't come up with sufficient revenues, we may have to scale back the size of the bill and that will determine the allocations to spe-

cific programs our committee makes in mark-up," said the committee staff member.

The White House and Senate Democrats say this is not the time to write a \$500 billion piece of legislation. They argue that Congress should instead extend the existing law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), for 18 months, with some modest embellishments.

Meantime, President Obama signed into law (PL 111-46) August 7 legislation that transfers \$7 billion to the Highway Trust Fund to keep SAFETEA-LU programs in money through September. The fund has run short because the American people are driving fewer miles than SAFETEA anticipated, leaving the program low on cash. The House approved the legislation July 29 and the Senate July 30.

But PL 111-46 only takes care of September. The House and Senate disagree about what to do next. House Transportation Committee Chairman James Oberstar (D-Minn.), backed by House leaders, has repeatedly said Congress should move immediately to write a multi-year law. But the Obama administration and Senate leaders, playing for time, instead are recommending the 18-month extension of SAFETEA-LU.

The multi-year House subcommittee bill is generally supportive of park and rec programs. The Surface Transportation Authorization Act of 2009, as it is formally called, would extend for six years such outdoor programs as transportation enhancements (still at 10 percent of total allocations for the Surface Transportation program), recreational trails, scenic byways, federal and Indian land roads, and Safe Routes to School. All the programs except enhancements would receive individual allocations of unspecified amounts.

In addition the subcommittee bill contains a new concept that could boost outdoor programs - "livability." It is backed by both President Obama and Oberstar. 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.

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

Park and rec programs aren't universally loved. Influential Republican Sen. John McCain (Ariz.) this summer fiercely criticized recreation projects financed by the Highway Trust Fund. McCain is perturbed by a Government Accountability Office (GAO) analysis that said \$78 billion of Highway Trust money in the last five years has been used for purposes other than construction of roads and bridges.

Said McCain in a July attack, "GAO's analysis only confirms that Congress is frivolously spending the Highway Trust Fund for pet projects like walkways and bicycle paths, at the expense of our nation's roads and bridges. Now Congress wants to bail out the Trust Fund by saddling future generations with even more debt. Doing so is irresponsible." McCain is perturbed that SAFETEA-LU has provided more than \$2 billion for 5,547 bike paths and pedestrian walkways.

### NPS commission report will dovetail with Burns film

Amid the crush of events this month surrounding the broadcast of Ken Burns's series on the National Park System, one will provide some meat and potatoes - the release of a report by a blue ribbon commission on the future of the National Park System.

The National Parks Second Century Commission, chaired by two former senators, has been considering a broad range of recommendations, including:

\* a greater emphasis on education in the parks with, perhaps, a proposal

to amend the Park Service Organic Act to include education in the agency's mission;

- \* options for providing money and resources for the parks;
- \* guarantees that park policy would be based on independent science; and
- \* a greater emphasis on cultural resources, to the level of a decade ago.

The 30-member commission, chaired by former Sens. J. Bennett Johnston, Jr. (D-La.) and Howard H. Baker, Jr. (R-Tenn.), will present its findings September 21.

Meanwhile, the Park Service and support groups plan a series of events for the entire week of September 19-27 pegged to a new PBS documentary film on the national parks from Ken Burns. NPS will link its main events to Public Lands Day on September 26 with sneak previews of the film at parks across the country. PBS will air the documentary in six episodes over 12 hours.

Acting NPS Director Dan Wenk made the welcoming quote to Burns because the Senate has not yet confirmed the nomination of Jon Jarvis as director. That may happen before the PBS events unfold. At any rate, said Wenk, "We hope everyone will come out and join us on September 26 to celebrate the parks and our shared commitment to make America's Best Idea even better."

During Public Lands Day volunteers and park officials will do such things as rehabilitate trails, clean up rivers and remove exotic plants.

The National Parks Foundation, the National Parks Conservation Association and the National Hospitality Association are concentrating their fire on Central Park in New York (not a national park.) A number of entertainers will host a concert September 23 in the park (not a national park.)

Expected to appear at the event, in addition to Secretary of Interior Ken Salazar and New York City Mayor Mike Bloomberg are Eric Benet, Gavin DeGraw, Jose Feliciano, Carole King, Alison Krauss and Union Station featuring Jerry

Douglas and Peter Yarrow. The event will be made available to PBS stations around the country.

To give the weeklong events a boost the National Parks Hospitality Association will offer major incentives for people to visit the national parks. The concessioners will offer thousands of dollars worth of free vacations.

The goodies include, on the top end, a tour for two of the Great Lodges of Glacier National Park (\$3,798 value) and a weeklong houseboat rental at Lake Mead National recreation Area (\$5,292 value.) On the low end the contributions include such things as paddleboat rides on the Tidal Basin on the Washington, D.C. mall.

#### Flight 93 agreement gives goahead to Pennsylvania site

Secretary of Interior Ken Salazar and Pennsylvania's senators are taking bows for concluding a deal to acquire land for a Flight 93 memorial in Pennsylvania.

Salazar announced September 1 that the federal government had reached agreement with seven of the eight landowners at the site of the September 11, 2001, crash in Somerset County. And the eighth - and most important landowner - has agreed to allow a federal court to determine a price.

"The Park Service will acquire the eighth parcel owned by Svonavec Inc., as well," said Salazar at a press briefing. "The owners of the Svonavec property have agreed with the Park Service to allow the court to establish the best compensation for that property."

Salazar and Acting NPS Director Dan Wenk set the following schedule:

Mid-October: Close on the acquisitions, including the Svonavec property.

November 7: Ground breaking on a memorial, followed immediately by initial construction.

September 11, 2011: Project completed on  $10^{\text{th}}$  anniversary of the crash.

A lot of numbers are floating around that are sometimes confusing. Family members of victims, private citizens and the general public have contributed to land acquisition and construction of the memorial. The usual bottom-line figure is \$57 million for the 2,200-acre memorial. Of that \$18 million has come from federal funds.

Salazar said the land acquisition with federal money is estimated at \$9.5 million, including the Svonavec property.

Said Salazar, "The way we will proceed, there is a Phase 1 for establishment of the memorial. That will be a little over \$20 million for land acquisition and construction. That will be the heart of the memorial for Flight 93. The land acquired by these acquisitions is negotiated at \$9.5 million. That amount is reflective of the appraised fair market value. Of course the federal court still has to determine (the fair market value of the Svonavec land.)"

Almost from the beginning the Svonavec property has been the most difficult to acquire, with negotiations lasting well over two years. NPS had raised the possibility of condemnation but the Svonavec representatives agreed in January to allow a federal court to establish compensation. Most of the land where the plane crashed is on the 275-acre Svonavec property.

Sen. Arlen Specter (D-Pa.), a major force behind the deal, said, "I am extremely pleased to hear that after years of negotiations, the National Park Service has reached agreements with all the landowners. When I invited Secretary Salazar to Somerset (County) in June for a roundtable meeting with the landowners, he rededicated the Park Service to forging good faith negotiations and today he has fulfilled that yow."

### Circuit court tilts towards feds in RS 2477 dispute

A federal appeals court held September 1 that a county may not manage a

road on federal land if that management violates federal policy.

Specifically, the Tenth U.S. Circuit Court of Appeals said that Kane County, Utah, had no authority to open Bureau of Land Management (BLM) lands to off-highway vehicle (OHV) use when BLM policy prohibited it.

The two-judge majority held that when federal policy disagrees with local policy the Supremacy Clause of the U.S. Constitution gives the feds priority.

"Kane County's only substantive defense is that it possesses valid R.S. 2477 rights of way over the routes in question," said the majority opinion written by Judge Carlos F. Lucero. "Under that theory, there can be no preemption because the federal management regimes are explicitly made subject to valid existing rights."

But, said Lucero, to establish valid existing rights Kane County first "must prove those rights in a court of law, or obtain some other recognition of such rights under federal law."

Despite the majority's arguments, the appeals court decision was a near thing with a dissenting judge arguing vigorously that, irrespective of the Supremacy Clause, the courts have no right to say that Kane County did not enjoy valid existing rights (VERs) to RS 2477 rights-of-way (ROWs.) And that VER could be interpreted to give the county authority over the ROW.

Said dissenting Judge Michael M. McConnell, "As a general matter, people are free to exercise rights even when those rights are disputed, without first going to court, on the understanding that persons with opposing interests may have the corresponding right to sue to stop them, or for damages."

But the majority said judge McConnell erred because the court didn't deny Kane County's VER assertion. The court only said that VER to an RS 2477 ROW must be proved before a county can manage the ROW.

"As explained above, the district

court went to great lengths to make clear it was not determining the validity of the County's claims to R.S. 2477 rights," said the majority. "It simply held that Kane County must prove the existence and scope of such rights before exercising them unilaterally.

Both the majority and dissent agree on one point: Only a federal court - and not the Interior Department - has authority to determine if Kane County holds a valid RS 2477 ROW. The Tenth Circuit laid out that basic interpretation of law in a benchmark decision, Southern Utah Wilderness Alliance v. BLM, Nos. 04-4071 & 04-4073 of Sept. 9. 2005. The Tenth Circuit said that BLM could not adjudicate the validity of RS 2477 ROW assertions, only a federal court could.

Within the 1.6 million acres of Kane County lie 1.3 million acres of the Grand Staircase-Escalante National Monument managed by BLM. The county also hosts parts of the Glen Canyon National Recreation Area managed by NPS. In the September 1 case, The Wilderness Society v. Kane Country, No. 08-4090, Kane County in 2005 erected signs welcoming OHVs in the national monument, in Glen Canyon and in two wilderness areas that permitted OHV use. Federal land plans and policies forbid the use in the areas at question. The county also passed an ordinance allowing OHV use on trails in the areas, although it later rescinded the ordinance.

The Wilderness Society and the Southern Utah Wilderness Alliance then brought suit against Kane County. In May 2008, the district court agreed with the environmentalists and said Kane County could not post the signs.

Now the appeals court is in agreement with the district court. The decision is available at: <a href="http://www.ca10.uscourts.gov/clerk/">http://www.ca10.uscourts.gov/clerk/</a>
opinions.php. Click on Opinion 08-4090.

Congress has been involved. In the mid-1990s it forbid the Interior Department from writing regulations to guide the adjudication of RS 2477 ROW claims.

Now with a new Democratic President supported by a solid Democratic majority in Congress, environmentalists will be tempted to attempt to persuade Congress to order the Interior Department to adjudicate RS 2477 ROWs, rather than leave the job up to the courts.

### Delays in climate change schedule endanger bill

Climate change legislation in the Senate, already troubled by divisions among majority Democrats, ran into another roadblock last week when Senate leaders said a bill won't be introduced until the end of September at the earliest.

Under a previous schedule Senate Majority Leader Harry Reid (D-Nev.) had directed the half-dozen committees with responsibility for climate change legislation to complete their work by the end of this month. The change in schedule means that the legislation is not only looking at a one-month delay but also that it may not get out of the Senate this year, period.

Senate Environment and Public Works (EPW) Committee Chairman Barbara Boxer (D-Calif.) and Sen. John Kerry (D-Mass.) put out the word August 31: "We have told the majority leader that our goal is to introduce our bill later in September."

Boxer and Kerry blamed the delay on the distraction caused by writing health care legislation, hip surgery on Kerry and Sen. Edward Kennedy's (D-Mass.) death.

But ranking EPW Republican James Inhofe (Okla.) said disagreements among Democrats are the real causes for the delay. "The delay is emblematic of the division and disarray in the Democratic Party over cap-and-trade and health care legislation-both of which are big government schemes for which the public has expressed overwhelming opposition," he said.

He added, "As to just who will win this intra-party squabble, I put money

down on those representing the vast majority of the American people, who are clear that cap-and-trade should be rationed out of existence."

Supporters of strong climate change legislation weighed in on their own last week to demand much tougher medicine than in a bill (HR 2454) the House approved June 24. The more than 300 groups, including environmentalists, religions and human rights advocates, objected to the dozens of exceptions from payments to produce pollutants in the House bill.

"We recognize the massive political effort that is necessary to pass climate legislation, but a bill with inadequate targets, loophole-ridden mechanisms, rollbacks of our flagship environmental laws, and inadequate financing for developing countries to address climate change will move us in the wrong direction," the groups said in a letter they distributed to senators' field offices last week.

The bill supporters didn't mention a provision that would provide significant money to conservation programs, but not guarantee the money. The House bill would subject the money to annual appropriations, an iffy proposition.

Twenty labor unions did join forces last month to ask the Senate to guarantee the money.

HR 2454 would produce an estimated \$845 billion in revenues for the government over the next decade. Some of that money would establish a Natural Resources Climate Change Adaptation Fund.

The National Wildlife Federation estimates the fund would receive an average of \$2.6 billion per year from fees paid by companies that produce carbon pollution. However, the House would subject to annual appropriations all allocations to federal programs from the fund.

Federal allocations, if appropriators felt like putting up the money, would be allocated thusly: 27.6 percent to the Department of the Interior for

endangered species, bird, and Fish and Wildlife Service programs, wildlife refuges, and the Bureau of Reclamation; 8.1 percent to Interior for cooperative grant programs; and 4.9 percent to Interior for tribal programs.

In addition the fund would allocate 19.5 percent to the Land and Water Conservation Fund; 5 percent to the Forest Service; 12.2 percent to EPA; 8.1 percent to the Army Corps of Engineers; and 11.5 percent to National Oceans and Atmospheric Administration.

## DoI begins Arizona uranium claims EIS near Grand Canyon

The Interior Department last month announced it will prepare an environmental evaluation of a proposal to withdraw from hard rock mining for 20 years a million acres of public lands near Grand Canyon National Park.

The department gave notice August 26 that it would prepare an EIS on the proposed withdrawal. The withdrawal could last up to 20 years. The withdrawal would succeed a segregation of the same lands that the department put into effect July 21. The segregation would last for up to two years.

The segregation order and the proposed withdrawal would effectively prevent the filing of new uranium claims on 633,547 acres of BLM-managed land and 360,002 acres of Kaibab National Forest in Arizona.

However, between 8,000 and 11,000 uranium claims have already been filed in the area, the precise number depending on whom you talk to. Al Burch, group manager for renewable & mineral resources at BLM's Arizona Strip District, puts the number at 8,000.

Those claims enjoy valid existing rights (VER) and can't be withdrawn. The existing claims can be developed, but under sometimes stringent conditions. Indeed, the mining industry worries that the segregation and proposed withdrawal would effectively prevent development of most projects.

Arizona Sens. John McCain (R) and Jon Kyl (R) and former Sen. Dennis DeConcini (D) oppose the withdrawal. McCain did persuade Secretary of Interior Ken Salazar to tour the segregated land August 22, but the Arizona Republic reported that the secretary did not change his position. The paper quoted Salazar as saying the visit was a "fact-finding mission."

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

In addition Rep. Raúl M. Grijalva (D-Ariz.) has introduced legislation (HR 644) that would make permanent the withdrawal of land in the Tusayan Ranger District of the Kaibab forest and BLM land near Kanab Creek and House Rock Valley.

But the legislation has a long way to go, leaving the segregation and the proposed withdrawal to govern the situation.

In its August 26 announcement BLM on behalf of the Interior Department said it would prepare a draft EIS that considers two alternatives - the withdrawal and no action. The no action alternative would allow continued location of uranium claims in the area.

After the draft EIS is published BLM will take public comments. Meantime BLM will host public meetings on its intent to prepare the EIS on September 30 in Fredonia, Ariz., and on October 15 in Flagstaff, Ariz.

The withdrawal would only ban the issuance of hard rock mining claims. It would not affect mineral leasing, mineral materials (sand and gravel), geothermal leasing, or other public land laws.

Environmentalists, who have filed and refiled litigation against the Bush administration, praised the department for announcing it will prepare an EIS. "Allowing the uranium industry to mine within Grand Canyon's watersheds would entail contamination risks that aren't worth taking," said Taylor McKinnon, public lands campaigns director at the Center for Biological Diversity. "A 20-year mineral withdrawal would go a long way toward securing the Grand Canyon's future."

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

McCain, Kyl and DeConcini all invoke the name of former Rep. Morris "Mo" Udall (D-Ariz.) as the broker of the understanding.

The uranium mining industry fears that the segregation and proposed withdrawal would effectively prevent them from developing all but a handful of claims that have VER. They are concerned that only those claims that already demonstrate a discovery of minerals that could be economically developed contain VER and that development of all other claims may be barred for the foreseeable future.

Asked if the withdrawal will prevent action on claims where discovery has not been proved, Jim Rasmussen, exploration manager for Uranium One North America, told us, "It absolutely does. The withdrawal limits us to the two or three discoveries we have already made."

### Jarvis nomination runs into Coburn 'hold' in Senate

Sen. Tom Coburn (R-Okla.) has reportedly placed a "hold" on the nomination of Jon Jarvis as director of the National Park Service.

The hold effectively means Senate

leadership must come up with a three-fifths majority, or 60 votes, to over-come a filibuster and confirm Jarvis. The procedure is time-consuming and by custom used just for major nominations, such as cabinet members and Supreme Court nominees.

So it is not clear how long the delay will last. "I think it is unfortunate because Jon Jarvis is eminently qualified to be director of the Park Service," said Tom Hill, legislative representative for the National Parks Conservation Association.

If Senate Majority Leader Harry Reid (D-Nev.) and the Obama administration have the time and energy, they might be able to push the nomination through. But Reid and the administration right now are up to their eyeballs writing climate and health legislation.

Besides, Coburn may enjoy an advantage on the Senate floor. He is reportedly miffed because the Park Service did not immediately authorize the use of concealed weapons in national parks after Congress approved the use earlier this year. When Coburn sponsored the guns-in-the-parks amendment on the Senate floor May 12, the Senate approved it by a 67-to-29 vote. So Reid would have to convert a large number of those 67 pro-gun votes, including his own, into support for Jarvis.

The provision authorizing guns in national parks was attached to a credit card law (PL 111-24 of May 22) that doesn't go into effect until Feb. 22, 2010. So the Park Service does not intend to implement the provision until then.

PL 111-24 requires NPS and the Fish and Wildlife Service to allow visitors to carry concealed weapons, if state law allows concealed weapons.

The delay in Jarvis's confirmation has already had consequences. Jarvis was unable to participate as Park Service director in a Park Service Leadership Council meeting held August 18-20 in Dayton, Ohio.

Senior headquarters officials and regional directors attended the meeting and the event had been billed as an opportunity for Jarvis to put his mark on Park Service policy.

Jarvis was able to participate in the meeting as director of the West Region of the Park Service by discussing issues that affect only the West Region. But Jarvis wasn't able to discuss national issues, even if they affect the West Region.

The Senate August 7 did approve two key Interior Department positions -Robert Abbey as director of the Bureau of Land Management and Wilma Lewis as assistant secretary of Interior for Land and Minerals Management.

An important vacancy sign is still hanging out at the Department of Agriculture for an under secretary to set policy for the Forest Service. The administration's first nominee for the position, Homer Lee Wilkes, withdrew his name June 8.

The Forest Service July 5 did get a new chief when former Northern Regional Forester Tom Tidwell took over. He replaced Gail Kimbell. The Forest Service chief does not require Senate confirmation.

Coburn is not the only Republican senator who has problems with the Jarvis nomination. Three western Republicans -Lisa Murkowski (Alaska), Robert Bennett (Utah) and John Barrasso (Wyo.) - raked him over the coals at a July 28 confirmation hearing. Murkowski addressed guns in national parks, Bennett complained that NPS has interfered with oil and gas leasing on public lands in Utah adjacent to national parks, and Barrasso objected to proposed Yellowstone National Parks snowmobiles regulations. However, Murkowski and Bennett didn't vote against Jarvis's nomination in the Senate Energy Committee.

#### Notes

NPS addresses visitors' risks.
The Park Service a fortnight ago proposed a "Director's Order" to guide

field offices in limiting injury to visitors. NPS said that, while prevention of injury is ultimately visitors' responsibility, field offices should do as much as possible to help visitors do The proposed order assigns safety responsibility primarily to field super-"Park managers will seek to identify risks within their jurisdiction and to mitigate these risks within the limits of available resources and where these measures do not compromise the integrity of the environments they are charged to protect," says the proposed The proposed order lists a numorder. ber of common sense steps for field offices to take, such as appointment of a risk management coordinator. proposed order is available at <a href="http://">http://</a> www.nps.gov/policy/DO-50Cdraft.htm. Comment by September 24 to: Sara Newman, Public Risk Management Program Director, Risk Management Division, 1201 Eye Street, N.W., Washington, DC 20005, or by E-mail to sara newman@nps.gov.

House rejects heritage bill. House refused to pass legislation (HR 324) September 8 to designate a new National Heritage Area (NHA) in the Santa Cruz Valley of New Mexico. bill was brought up under a Suspension of the Rules procedure that required a two-thirds vote to pass. The measure received 249 votes, but that was not enough for a two-thirds majority. 145 House members, mostly Republicans, opposed HR 324. The bill is not dead because sponsor Rep. Raúl Grijalva N.M.) can still bring it up under regular procedures that require only a simple majority to pass. Opponents, led by Rep. Doug Lamborn (R-Colo.) faulted the bill for not allowing private property owners to opt out of an NHA. Lamborn, "While the current language allows owners to 'refrain from participation,' nothing changes the fact that this bill places them within a new Federal designation that provides a basis for ambitious Federal land managers to claim that they now have a mandate and millions of Federal dollars to interfere with local decisions affecting their neighbors' property." Grijalva responded that no private property has been violated by an NHA. "We should be clear that during the 20-plus years of

this program's existence, opponents have not been able to identify a single instance in which someone has been deprived of the use of their property as a result of this designation," he said.

#### Utah exchange bill enacted.

President Obama signed into law August 19 (PL 111-53) legislation that orders the exchange of 46,000 acres of environmentally-sensitive Utah state land for 36,000 acres of federal land. eral land in Grand and Uintah counties holds potential for oil and gas development. The state land holds recreation potential along the Colorado River corridor. Now that President Obama has signed the bill (the entire Utah delegation supported it), the Utah School and Institutional Trust Land Administration and the Bureau of Land Management (BLM) will hire independent appraisers to value the land and the minerals. The trust land administration manages the state lands. The House passed the legislation July 8 and the Senate August 5.

#### New NCA dedicated in Colorado.

Secretary of Interior Ken Salazar dedicated a new Dominguez-Escalante National Conservation Area (NCA) last month in western Colorado that he was instrumental in persuading Congress to approve when he was a senator. The NCA stretches over 210,000 acres of BLMmanaged land in Mesa, Delta and Montrose counties, including a 66,280-acre Dominguez Canyon Wilderness. The NCA was part of a giant omnibus lands bill that President Obama signed into law March 30 (PL 111-11.) The legislation allows existing grazing uses to continue while protecting sites within the NCA. The BLM Grand Junction and Uncompangre Field Offices will write a resource management plan for the NCA over the next "several years," the department said.

Grand Canyon quiet urged. The National Parks Conservation Association (NPCA) took the occasion of a Presidential visit to Grand Canyon National Park last month to urge the restoration of natural quiet in the park. The Grand Canyon Overflights Act of 1987 requires the Federal Aviation Administration (FAA) and NPS to maintain quiet in the

park at least 75 percent of the day for half the park. But NPCA says that is not good enough. David Dinkin, southwest regional director of NPCA, said that President Obama, Secretary of interior Ken Salazar and western senators should "overcome a 20-year failure to restore natural quiet to this expansive landscape, where the sound of aircraft engines dampens the experiences of millions of visitors each year." At least Grand Canyon has a somewhat modern overflight plan. Nine years after Congress enacted a National Parks Air Tour Management Act of 2000 (PL 106-181 April 5, 2000) no new plans for other parks have been completed. law was written both to provide quiet over the national parks and in reaction to high-profile accidents. FAA says it has received applications to fly over more than 100 national parks and six tribal lands from 91 different air tour operators. Currently, NPS and FAA allow air tours over 106 national parks under interim authority.

Recession boosts camping. outdoor industry says in a new report that the current economic recession helped increase camping last year. report says automobile camping and backyard camping increased by 7.4 percent in calendar 2008. "In today's economy, people are returning to simpler lifestyles - the 'less is more' ethic," said Christine Fanning, executive director of The Outdoor Foundation. "Reservations for campsites and sales for camping gear are up." The Outdoor Foundation in association with the Coleman Company, Inc. prepared the Special Report on Camping. Among other things the report said 56 percent of all campers in 2008 were male and the largest single age group participating was from 25 to 44 (34.5 percent.) To download a copy of the Special Report on Camping go to www.outdoorfoundation.org/research.

#### Parks get cut of SNPLMA money.

Parks, trails and natural areas in Nevada received more than \$10 million from the latest round of allocations from an unusual land sale law. The 10-year old law, the Southern Nevada Public Land management Act (SNPLMA), has provided billions of dollars for conservation

purposes from the sale to developers of federal land around Las Vegas. The most recent, and tenth, allocation under the law allocated more than \$135 million to federal projects. Of that, \$10,239,022 is to be spent on parks, trails and natural areas. Under SNPLMA 85 percent of revenues go to conservation projects in the state, 10 percent to the Southern Nevada Water Authority and five percent to a State of Nevada education fund. The Bush administration tried unsuccessfully to divert some of the money to the federal Treasury. The Obama administration is new to the game and has not yet tried to divert the SNPLMA money.

Nine CRP hearings are set. The Department of Agriculture will host nine public meetings this fall in nine separate states to take public comment on a Conservation Reserve Program (CRP.) program pays farmers not to cultivate sensitive conservation lands. A new farm law of May 2, 2008 (PL 110-234) reduces the acreage farmers may leave idle from 39.2 million acres to 32 million acres. That was probably inevitable in today's economy where a farmer can make far more than the \$50 per acre the government pays by growing corn and wheat. The Farm Service Agency and the Commodity Credit Corporation will host the meetings from September 15 through October 8. The meetings will begin in Spokane, Wash., on September 15 and end in Harrisburg, Pa., on October 8.

FWS fills out leadership. Newly confirmed Fish and Wildlife Service (FWS) Director Sam Hamilton named his top two aides August 31. Rowan Gould, who has served as acting director since January, will become deputy director for operations. Dan Ashe, science advisor to the director since 2003, will serve as deputy director for policy. The Senate confirmed the nomination of Hamilton July 31 as FWS director. He formerly served as Southeast Director of FWS.

#### Conference Calendar

#### SEPTEMBER

20-24. **The Wildlife Society** annual meeting in Monterey, Calif. Contact: The Wildlife Society, 5410 Grosvenor

Lane, Bethesda, MD 20814-2197. (301) 897-9770. http://www.wildlife.org.

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

#### OCTOBER

- 6-8. Watchable Wildlife annual conference in Cape May, N.J. Contact: Watchable Wildlife, Inc., PO Box 319, Marine on St. Croix, MN 55047. 651-433-4100. http://www.watchablewildlife.org.
- 11-14. Land Trust Alliance rally in Portland, Ore. Contact: Land Trust Alliance, 1331 H St., N.W., Suite 400, Washington, DC 20005-4711. (202) 638-4725. http://www.lta.org.
- 13-16. National Recreation and Park Association congress and exposition in Salt Lake City. Contact: National Recreation and Park Association, 22377 Belmont Ridge Road, Ashburn, VA 20148. (703) 858-2158. http://www.nrpa.org.
- 13-17. The National Trust for Historic Preservation annual conference in San Diego. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. http://www.nationaltrust.org.
- 27-29. **Sportfishing Summit** in Galveston, Texas. Contact: American Sportfishing Association, 225 Reinekers Lane, Suite 420, Alexandria, VA 22314. (703) 519-9691. http://www.asafishing.org.

#### NOVEMBER

- 3-6. National League of Cities annual Congress of Cities in San Francisco.. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. http://www.nlc.org.
- 12-15. **Council of State Governments** state trends forum in Palm Springs, Calif. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. www.csg.org.