

Federal Parks & Recreation

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Tentative deal in works for NPS Centennial Challenge

House leaders and the Interior Department are nearing a tentative agreement on legislation (HR 3094) to implement a billion dollar National Park System Centennial Challenge program, *FPR* has learned.

Secretary of Interior Dirk Kempthorne personally worked on an agreement this week with majority and minority staff members of the House Natural Resources Committee and interest groups. And he discussed the legislation with committee leaders.

The agreement would likely be based on a new Democratic committee staff draft of legislation (HR 3094) that describes a program to upgrade the National Park System, outside of core operations. The staff draft closely parallels the recommendations of interest groups.

At press time the staff draft was being reviewed by committee Republicans, the Interior Department and a broad coalition of interest groups. Supporters hope to move a bill through the House committee this year.

As always, the biggest hurdle is money. The Interior Department had recommended the committee use three sets of energy program savings to pay the \$100 million per year price tag. But because of Congressional budget scoring rules much of that money cannot be counted.

For now some parties are positive. "I'm hoping if push comes to shove we may be able to do it (gain enactment) this year," said Tom Hill, legislative representative for the National Parks Conservation Association (NPCA.)

If the money problem can be re-

solved, backers may persuade Congressional leaders to attach the bill to an omnibus appropriations bill next month.

So the game plan at press time was this: Complete a committee draft in the next few days. Take that draft to the players and seek recommendations for revenue sources. Then hope that the Democrats and Republicans will accept revenue sources that their natural constituencies don't care for.

"The completed draft will leave us with a piece of legislation that we want enacted and can go find a way to pay for," said Derrick Crandall, president of the American Recreation Coalition, which represents the recreation industry and recreation users. "It's strategically important to have a product before we ask anyone to buy it."

A Democratic spokeswoman for the committee would only say, "The committee does not comment on ongoing negotiations." But a Republican spokesman said the draft is not a finished product. "Finding offsets to pay for the legislation is going to be a major, bipartisan obstacle," he said. "It looks like a lot of work is still going to have to be done."

Effectively, three versions of legislation designed to provide NPS a billion or more dollars to prepare parks for its centennial are under consideration. All three would implement a Centennial Challenge program that is at the heart of an administration Centennial Initiative to prepare the parks for the 2016 centennial.

An initial bill from the Interior Department (S 1253, HR 2959) would pay for the Centennial Challenge with \$100 million per year in guaranteed off-budget funding matched by up to \$100 million per year in contributions from nonfederal partners.

Subsequently House Natural Resources Committee chairman Nick Joe Rahall (D-W.Va.) and subcommittee on National Parks chairman Raúl Grijalva (D-Ariz.) introduced a second bill, HR 3094, that would finance the program from up to \$100 million per year in fees

charged by Interior Department agencies to commercial users and lessees of federal lands.

The third bill is a variation on HR 3094 and was developed by House Democratic staff members based on recommendations from a broad alliance of interest groups operating as the National Park Centennial Network. Craig Obey, vice president for Government Affairs for NPCA, is the lead signatory for the interest group draft.

The alliance includes groups varying from NPCA to the powered recreation industry as represented by the American Recreation Coalition to the human-powered recreation industry as represented by the Outdoor Industry Association to environmental groups such as The Wilderness Society to park advocates such as the Coalition of National Park Service Retirees and to concessioner reps such as the National Park Hospitality Association.

Reaction to the staff draft has been positive. Said Hill of the NPCA, "I think people have reacted positively," he said. "I can't speak for other interests and I have to use conditional adverbs because I'm not in position to talk for others, but I think the reaction was fairly positive." Crandall described the staff draft as a "very good overture."

In the last week the Interior Department, Democrats and Republicans on the House Natural Resources Committee, and the National Park Centennial Network have attempted to reach agreement on how to pay \$100 million or more per year for the legislation.

The negotiators are considering three main recommendations from Interior Department energy revenues: a \$1,866 fee for each application for permit to drill on oil and gas leases (\$23 million and up per year); a two percent deduction on the state share of oil and gas royalties (\$41 million plus per year); and cancellation of an ultra-deepwater oil and gas research program (\$50 million per year.)

In addition it is understood committee Republicans led by Rep. Rob

Bishop (R-Utah) also suggested two more possibilities - revenues from salvage timber sales and from energy conservation by federal agencies. Bishop attended the Monday meeting with Kempthorne and reportedly asked the Democrats to accept Republican recommendations if Republicans accept Democrats' recommendations.

In the negotiations this week Secretary Kempthorne on November 26 personally met with Rep. Bishop along with majority and minority staff members on the House Natural Resources Committee and with representatives of the interest group coalition.

Here's a brief comparison of the staff draft compared to HR 3094:

PARTNERSHIPS GENERAL: The original version of HR 3094 says simply NPS "may accept funds for any Project." The staff draft goes further and says NPS "may actively encourage and facilitate participation in proposals from nonFederal and philanthropic partners."

However, the staff draft does not include the detail the interest groups have recommended, including definitions of kinds of partner groups and a description of partnership agreements.

ALLOCATION AREAS: The original version of HR 3094 would allocate revenues to six specific areas at specific percentages: 30 percent of revenue to capital improvement, 30 percent to education in the parks, 10 percent to diversity in the parks, 10 percent to professional development of employees, 10 percent to environmental leadership and 10 percent to natural resource protection.

The staff draft would not restrict allocations by percentage except to limit spending for construction at less than 30 percent. In addition the staff draft would add two more entitlement areas for a total of eight, cultural resources and recreation.

MULTI-PARK PROJECTS: The original version of HR 3094 is silent. The staff draft says project may include "clusters of areas within such system, a region or regions of such system, or such system in its entirety." The system is the National Park System.

REVENUES: No change. HR 3094 and the staff draft would raise up to \$100 million per year for fiscal years 2008 through 2017 from fees on federal land "commercial activities, including leases." The provision is considered at best a placeholder for some better idea and at worst a nonstarter. The interest group recommendation is also silent on alternative sources of revenues.

VISITOR USE/RECREATION: The original version of HR 3094 is silent. As noted above the staff draft adds recreation as one of the eight allocation areas. This attempts to bridge the old gap between powered recreation vehicle users and protectors of park resources.

LAND ACQUISITION: The original version of HR 3094 is silent. The staff draft says the list of projects "may include land acquisition consistent with existing National Park Service land acquisition authority."

Dems offer to cut in half domestic spending hikes

When Congressional Democrats return to work next week, they say they will settle for a spending increase of \$11 billion for domestic appropriations bills in fiscal year 2008. That is according to Senate Majority Leader Harry Reid (D-Nev.)

The \$11 billion is half the \$22 billion increase proposed by Congress in 11 stalled fiscal 2008 domestic appropriations bills, compared to Bush administration recommendations. The Reid plan would wrap all 11 bills into one omnibus measure.

The Bush administration quickly rejected Reid's proposal.

The House version of an Interior and related agencies bill (HR 2634) would increase appropriations by \$2 billion over an administration request. Half that would be a \$1 billion increase. The Senate Appropriations Committee version of HR 2635 would increase spending by \$1.5 billion, so half that would be a \$750 million increase.

The Reid proposal has not been fleshed out yet, according to a Senate

Appropriations Committee staff member, and it probably won't be until Congress returns from a Thanksgiving break December 4. "No announcement has been made," said the staff member. "As to the timing and how the reductions would be made, those decisions haven't been made yet."

The aide did say that appropriations committee staff members had begun discussing the possibility of splitting the difference between Congressional appropriations bills and Bush administration recommendations. (*See following article for rough estimate of the impact of a 50 percent reduction in increases.*)

The Office of Management and Budget reportedly rejected the Reid proposal both because it would still increase spending by \$11 billion over administration recommendations and because it would be carried out in one big omnibus bill. The administration insists on single bills.

Congress extended an interim appropriations bill until December 14 before taking a Thanksgiving holiday, heightening the possibility of no action this year on an Interior and related agencies bill. Congress and the President will have almost two weeks to negotiate in early December before the interim bill expires. Of course, additional interim bills are always a possibility.

The interim appropriations bill that keeps agencies in business through December 14 - a Department of Defense appropriations law (PL 110-116 of November 13) - also provides a \$500 million allotment to the Forest Service and the Interior Department to defray fire-fighting costs.

The bill provides \$329 million for the Forest Service. It includes \$110 million for emergency suppression, \$100 million to pay back money borrowed from other accounts, \$80 million for hazardous fuels reduction, \$25 million for restoration of federal lands, and \$14 million for facility construction.

The bill provides \$171 million for the Interior Department. It includes

\$40 million for emergency suppression, \$115 million for repayment to other accounts, \$10 million for hazardous fuels reduction and \$6 million for rehabilitation of federal lands.

Congress and the White House haven't reached agreement on fiscal 2008 appropriations bills simply because they differ on how much money to spend on domestic programs. The Democrats in Congress are asking for major increases in spending after a decade of declining appropriations for natural resources programs.

The House approved its version of HR 2634 June 27 with \$2 billion more than the President recommended, \$27.6 billion compared to a request of \$25.6 billion. The Senate Appropriations Committee approved a counterpart to HR 2634 (S 1696) June 21 with \$1.5 billion more than the administration request.

Similarly, the House approved an energy and water bill (HR 2641) July 17 that would increase fiscal 2008 spending for the Corps of Engineers alone by \$713 million more than the administration requested, \$5.584 billion compared to an administration request of \$4.871 billion. The Senate Appropriations Committee approved its version of an Energy and Water bill June 28 that would increase Corps spending by \$577 million above the administration request.

Finally, a House-Senate conference committee reached agreement November 8 on a fiscal year 2008 Transportation appropriations (HR 3074) bill minus a provision to require equal treatment of enhancements projects in rescissions. The House approved the conference bill November 14 by a 270-to-147 margin. The Senate was expected to address the measure after press time, having failed to do so before Congress took a two-week Thanksgiving break.

Going in to the conference the House version of HR 3074 would have required states to treat all programs equally in rescinding billions of dollars from prior allocations. The Senate had disagreed and specified that states be free to take rescissions from whatever programs they choose.

Here's how a straight 50% approps cut would play out

If Congressional Democrats follow through on their promise to reduce spending increases by half compared to administration requests, they will make significant cuts in park and rec programs for fiscal year 2008 in pending money bills.

The reductions are not expected to be a 50 percent across-the-board reduction. Rather appropriators will probably pick-and-choose among programs for their reductions.

The Bush administration's lead initiative to spruce up the national parks with a \$100 million per year spending increase is probably sacrosanct. But programs that the administration wants to reduce to the nubbin, such as the Land and Water Conservation Fund (LWCF), are not.

For the federal and state sides of LWCF combined the administration asked for just \$64.1 million, but the House approved \$205.5 million and the Senate Appropriations Committee \$182 million. Assuming the increase was cut in two that would mean a \$70 million reduction in the House level and \$59 million reduction in the Senate level.

The Forest Service would take a particularly severe cut because the administration budget already proposed a sharp reduction in spending compared to fiscal 2007. For the National Forest System alone a 50 percent reduction in the House-approved line item compared to the administration request would cost the agency \$82.5 million.

A 50 percent across-the-board reduction in the House bill would cut national forest recreation by \$20.3 million and national forest trails by \$6.2 million.

Senate Majority Leader Harry Reid (D-Nev.) made the informal proposal to reduce spending increases by half just before Congress left on a Thanksgiving holiday a fortnight ago. Appropriations

committee staff members said no decisions have been made about specific program reductions.

But, assuming appropriators apply reductions evenly across-the-board, here's what would happen to outdoor programs in an Interior and related agencies bill (HR 2634.) The Senate Appropriations Committee approved its version of a bill June 21 and the House approved its bill June 27:

* STATE SIDE OF LWCF: \$15 million reduction for Senate bill and \$25 million reduction for House bill. The Senate committee approved \$30 million, or \$20 million less than a House committee recommendation of \$50 million and \$30 million more than the Bush administration recommendation of no money,

* STATE AND TRIBAL WILDLIFE GRANTS: \$1.5 million reduction for Senate bill and \$7.75 million reduction for House bill. The Senate committee approved \$72.5 million, or \$12.5 million less than a House committee recommendation of \$85 million, but \$3 million more than a Bush administration recommendation of \$69.5 million,

* UPAR: The Senate committee approved no money, the same as a Bush administration recommendation and as a House committee recommendation; however, a House committee report directs NPS to keep the program going and to review possible conversions of recreation facilities to development,

* FED SIDE OF LWCF TOTAL: \$44 million reduction for Senate bill and \$45.7 million reduction for House bill. The Senate committee approved \$152.1 million, or \$3.4 million more than a House committee recommendation of \$155.5 million, and \$88 million more than a Bush administration recommendation of \$64.1 million,

* FED LWCF NPS: \$13.1 million reduction for Senate bill and \$13.45 million reduction for House bill. The Senate committee approved \$48.7 million, or \$700,000 less than a House committee recommendation of \$49.4 million and \$26.2 million more than a Bush administration recommendation of \$22.5 million,

* FED LWCF BLM: \$2.8 million reduction for Senate bill and \$6 million reduction for House bill. The Senate

committee approved \$12.2 million, or \$6.4 million less than a House committee recommendation of \$18.6 million and \$5.6 million more than a Bush administration recommendation of \$6.6 million,

* FED LWCF FWS: \$12.5 million reduction for Senate bill and \$12.5 million reduction for House bill. The Senate committee approved \$43 million, or the same as a House committee recommendation and \$25 million more than a Bush administration recommendation of \$18 million,

* FED LWCF FS: \$15.6 million reduction for Senate bill and \$13.75 million reduction for House bill. The Senate committee approved \$48.2 million, or \$3.7 million more than a House committee recommendation of \$44.5 million and \$31.2 million more than a Bush administration recommendation of \$17 million,

* NPS OPERATIONS: the Senate committee matched the administration request and the House approved \$11 million less than the request. The Senate committee approved \$1.958.7 billion, or \$10.3 million less than a House recommendation of \$1.969 billion and a Bush administration recommendation of \$1.969 billion,

* NPS CENTENNIAL CHALLENGE: The Senate committee approved no money for this new program, or \$50 million less than the House and \$100 million less than the administration request. The administration has recommended an automatic appropriation of up to \$100 million per year for the next 10 years, to be added to \$100 million in private donations. Appropriators anticipate that separate, authorizing committees will write the Challenge legislation (*See separate article page one*),

* NPS OPERATIONS MAINTENANCE: The Senate committee and the House approved less money than the administration requested. The Senate committee approved \$691.7 million, or \$1.1 million more than a House recommendation of \$690.6 million, and \$6.8 million less than a Bush administration recommendation of \$698.5 million,

* NPS CONSTRUCTION: \$12.7 million reduction for Senate bill and \$4.5 million reduction for House bill. The Senate committee approved \$227 million, or \$16.4 million more than a House com-

mittee recommendation of \$210.6 million, and \$25.4 million more than an administration request of \$201.6 million,

* NPS REC & PRES: \$7.4 million reduction for Senate bill and \$7 million reduction for House bill. The Senate committee approved \$63.7 million, or \$800,000 more than a House committee recommendation of \$62.9 million, and \$14.8 million more than an administration request of \$48.9 million,

* NATIONAL HERITAGE AREA GRANTS: \$2.5 million reduction for Senate bill and \$5 million reduction for House bill. The Senate committee approved \$15 million, or \$5 million less than a House committee recommendation of \$20 million, and \$5 million more than a Bush administration request of \$10 million,

* HISTORIC PRESERVATION FUND: \$5.65 million reduction for Senate bill and \$8.9 million reduction for House bill. The Senate committee approved \$75 million, or \$6.5 million less than a House recommendation of \$81.5 million, and \$11.3 million more than a Bush administration request of \$63.7 million,

* SAVE AMERICA'S TREASURES (money comes from the Historic Preservation line item): \$10 million reduction for Senate bill and \$5 million reduction for House bill. The Senate committee approved \$30 million, or \$10 million more than a House committee recommendation of \$20 million and \$20 million more than an administration request of \$10 million,

* PRESERVE AMERICA GRANTS: The Senate committee approved \$5 million from a recreation and preservation line item, or \$5 million less than a House committee recommendation of \$10 million from the Historic Preservation line item and \$5 million less than an administration request of \$10 million,

* NATIONAL FOREST SYSTEM: \$78 million reduction for Senate bill and \$82.5 million reduction for House bill. The Senate committee approved \$1.5 billion, or \$9 million less than a House committee recommendation of \$1.509 billion but \$156 million more than an administration request of \$1.344 billion,

* NATIONAL FOREST RECREATION: \$16.75 million reduction for Senate bill and \$20.3 million reduction for House bill. The Senate committee approved \$264.9 million, or 7.1 million less than a House committee recommendation of \$272

million, but \$33.5 million more than an administration request of \$231.4 million,

* NATIONAL FOREST TRAILS: \$4.9 million reduction for Senate bill and \$6.2 million reduction for House bill. The Senate committee approved \$76.2 million, or \$2.6 million less than a House committee recommendation of \$78.8 million, but \$9.8 million more than an administration request of \$66.4 million,

* FOREST LEGACY: \$9.4 million reduction for Senate bill and \$16.75 million reduction for House bill. The Senate committee approved \$48.1 million, or \$14.7 million less than a House recommendation of \$62.8 million, but \$18.8 million more than an administration request of \$29.3 million,

* FS LEGACY ROADS: The Senate committee does not mention. This new program in the House bill is the work of House subcommittee on Interior appropriations chairman Norman Dicks (D-Wash.) It would provide \$65 million to repair roads and trails. The administration requested no money,

* FWS REFUGE MANAGEMENT: \$9.35 million reduction for Senate bill and \$28.1 million reduction for House bill. The Senate committee approved \$413.8 million, or \$37.2 million less than a House committee recommendation of \$451 million, but \$19 million more than an administration request of \$394.8 million,

* BLM RECREATION: \$2.45 million reduction for Senate bill and \$1.9 million reduction for House bill. The Senate committee approved \$70.2 million, or \$900,000 more than a House committee recommendation of \$69.1 million and \$4.9 million more than an administration request of \$65.3 million,

Enviros will take Y'stone snowmobile decision to court

Competing interest groups are giving every indication they will not contest a Park Service plan to maintain snowmobile use at recent levels in Yellowstone National Park and environs this winter.

But environmentalists said they will go to court to block Park Service

plans to continue snowmobile use beyond this winter, albeit at a reduced level.

"We believe the decision is not in keeping with the law and good science, as developed by the park's own scientists," said Amy McNamara, national parks program director for the Greater Yellowstone Coalition. She said the environmentalists believe the decision violates the NPS Organic Act, the National Environmental Policy Act and Presidential Executive Orders requiring protection of the parks.

Again, the coalition will not attempt to block snowmobile use in Yellowstone and environs this winter. They will however attempt to block the decision in court next year.

The Park Service announced November 21 that it has reached a final decision on the decade-old snowmobiling dispute. NPS intends to complete regulations based on the decision in time for the beginning of the 2007-2008 season December 19.

For this 2007-2008 season the record of decision (ROD) would allow up to 720 machines a day in Yellowstone and 140 per day in Grand Teton National Park and the John D. Rockefeller, Jr., Memorial Parkway. NPS would also limit the number of snowcoaches in Yellowstone to 78 per day. Snowcoaches would not be required in Grand Teton and the John D. Rockefeller parkway.

For the 2008-2009 season and henceforth the ROD would allow up to 540 snowmobiles per day in Yellowstone and 83 snowcoaches. All snowmobiles and snowcoaches would have to use best available technology. All snowmobiles would have to be led by commercial guides. NPS would allow 65 snowmobiles per day in Grand Teton and the parkway.

In addition NPS would discontinue grooming on a stretch of the Continental Divide Snowmobile Trail between Moran Junction and Flagg Ranch.

In completing the ROD, Mike Snyder, director of the NPS Intermountain Region, made one major change from

a preferred alternative in a September 21 EIS - he decided to keep open a Sylvan Pass access road on the east side of Yellowstone.

When NPS said in the EIS it intended to close Sylvan Pass, it produced vehement protests from Wyoming elected officials.

Under the ROD Sylvan Pass would remain open to motorized oversnow travel this winter. In future winters the park would open the pass only when it believed visitors would be safe from avalanches.

Rep. Barbara Cubin (R-Wyo.) and the two Wyoming senators praised NPS. "This about face by the Park Service is a reflection of what can happen when a community unites on an issue so important to its economic health and heritage," Cubin said.

Cubin said the issue is not dead yet. "(W)e still have a lot of work to do to ensure the Park Service significantly improves its avalanche mitigation efforts over Sylvan Pass in the upcoming winter seasons," she said. "Wyoming's recreationists deserve better service than they have received."

Snowmobile advocates who sharply criticized the September 21 EIS preferred alternative were somewhat mollified. "We have some concerns, but note the news is not all bad," said Jack Welch, president of the BlueRibbon Coalition. "The Park Service has announced that a 'transition period' will occur in the upcoming 2007-2008 season. During the transition, none of the new restrictions will be implemented."

Conservationists are not mollified, as evidenced by their intention to go to court and ask Congress for help. As a maximum they said NPS should have restricted snowmobile use to the level of fewer than 300 snowmobiles per day that Yellowstone has experienced in the last three winters.

"After a three-year study, the Park's own scientists recommended capping traffic at its-much reduced level

to protect winter-stressed animals from being disturbed and harassed by too many vehicles," said Chris Mehl of The Wilderness Society.

The conservationists also objected to what they said were NPS plans to increase the area of Yellowstone impacted by snowmobiles from 21 square miles now to 63 square miles.

Congress is becoming involved on both sides of the issue. The Senate Appropriations Committee June 21 included a provision in its fiscal 2008 Interior spending bill (HR 2634) that would direct NPS to maintain snowmobile use at existing ceilings for the coming winter in Yellowstone. The House-passed version of HR 2634 does not contain a counterpart provision.

Oppositely, on October 29 Rep. Rush Holt (D-N.J.) and 85 other House members wrote NPS objecting to the 540 level of snowmobile use in Yellowstone beginning the winter of 2008-2009.

"The agency's studies have repeatedly demonstrated that the best way to protect the health and safety of Yellowstone's visitors, staff, wildlife, and national resources while promoting more affordable and educational access, is to phase out snowmobile use entirely and increase public access by modern, multi-passenger, guide-driven snowcoaches," the House members said.

The ROD and final EIS are available at: <http://parkplanning.nps.gov/documentsList.cfm?parkId=111&projectId=12047>.

FS plan lays out grand goals, but where is the money?

Starved for money, the Forest Service nonetheless has completed a new strategic plan that sets ambitious goals for the next five years. That goes for recreation and non-recreation programs alike.

For one thing the service anticipates moving from zero percent of its lands mapped for roads, trails and other uses now to 100 percent by the year 2012.

For another thing the service anticipates increasing the percentage of recreation sites maintained to standard from 65 percent now to 81 percent by 2012. And it anticipates increasing the percentage of roads suitable for car use from 29 percent now to 75 percent by 2012.

That's just for recreation. For fire controls, planning and dozens of other programs the *Forest Service Strategic Plan for FY 2007-2012* anticipates major improvements. Yet the service's budget for non-fire fighting purposes continues to wane. How does the agency anticipate paying for all the goals in the strategic plan?

How much the agency can accomplish will obviously depend on the size of the budget, said William Bradshaw, assistant director for Strategic Planning in the Forest Service Washington office. "Any budget would provide the resources to the areas in the Strategic Plan," he said. "It is not an offset but the plan does provide a framework. We're putting together (a fiscal year) 2009 budget right now and are using the Strategic Plan as a framework."

The strategic plan establishes priorities for the management of the Forest Service for five years. It covers all aspects of the agency from the National Forest System to State & Private Forestry to Fires to Capital Improvements. It also reflects the ambitions of Chief Abigail R. Kimbell.

The plan counts "unmanaged recreation" as one of the four great threats to the nation's forests. Kimbell's predecessor Dale Bosworth also included unmanaged recreation on his list of four great threats to the nation's forests. In fact the strategic plan follows Bosworth's list of threats precisely - fires, invasive species, loss of open space and unmanaged recreation.

In November 2005 the service completed a travel management regulation that directs each national forest and grassland to develop a strategy for designating routes where OHVs are to be allowed and areas where OHVs are banned.

Bosworth said at the time he anticipated completing route designations within four years, or 2009.

The strategic plan released under Kimbell's watch anticipates that the service will complete designation of "100 percent" of routes by 2012. Again, the OHV routes will be a priority, but a priority that dependent on the budget.

The overall spending trend for the Forest Service at large and for the National Forest System specifically is down, other than for fire fighting. The fiscal year 2008 Bush administration budget anticipates a seven percent reduction in spending for the service at large from \$5.013 billion in fiscal 2007 to \$4.649 billion in fiscal 2008.

For the National Forest System itself the administration again anticipates a seven percent reduction, decreasing from \$1.444 billion in fiscal 2007 to \$1.344 billion in fiscal 2008. For recreation management the news is even worse with an anticipated 11 percent reduction from \$260.7 million in fiscal 2007 to \$231.4 million in fiscal 2008.

Thus far Democratic Congressional appropriators have attempted to add back for the agency and then some in a fiscal 2008 appropriations bill (HR 2634), but the administration is threatening to veto HR 2634 for excessive spending.

In areas of interest other than recreation the strategic plan anticipates containing 86 percent of wild fires in initial attacks, up from 76 percent now. In the wildland-urban interface the plan anticipates increasing treatment of lands to 50 percent from 17 percent.

The strategic plan is available at <http://www.fs.fed.us/publications/strategic/fs-sp-fy07-12.pdf>.

Court test on roadless areas could put FS in a bind

If a federal court in Wyoming issues an injunction blocking a Clinton administration national forest roadless

area rule, the Forest Service could be placed in an untenable position.

That's because a federal court in California has already issued an injunction blocking a 2005 Bush administration roadless area rule that replaced the 2001 Clinton rule. With courts blocking both rules, the Forest Service would violate a court order no matter which rule it sought to implement.

"The Forest Service would be between a rock and a hard place," confirmed Jim Angell, an attorney for the environmental law firm Earthjustice. "The Forest Service (told the Wyoming judge) it could be held in contempt if it ignored either injunction."

The situation is creating strange bedfellows. The Bush administration, concerned that a second injunction would thoroughly confuse the legal situation, sided with environmentalists in the Wyoming court in opposing an injunction against the Clinton rule. Even though the Bush administration is trying to replace that rule.

Further, the administration recommended that if Wyoming Judge Clarence Brimmer decided to block the Clinton rule, he should limit his decision to Wyoming and let the Clinton rule stand in the rest of the country.

For now the Clinton rule governs. It bars road construction and timber sales, except in a few special circumstances, in 58.5 million acres of national forest.

The Bush rule, which authorizes governors to apply for state-specific rules, was blocked Sept. 19, 2006, by U.S. District Court Judge Elizabeth D. Laporte in Northern California. The administration has appealed Laporte's decision to the Ninth U.S. Circuit Court of Appeals.

Laporte said the administration should have assessed the environmental impacts of the 2005 rule before issuing it. The Forest Service had argued that it need not write an EIS with the rule because it would analyze environmental

impacts when states submitted their petitions.

However, the Bush administration is keeping the spirit of its 2005 rule alive by continuing to process state applications for customized rules under an Administrative Procedures Act. The Department of Agriculture is reviewing petitions from Colorado and Idaho for customized plans that would allow some uses forbidden by the Clinton rule.

The State of Wyoming brought the current case before Judge Brimmer. The state had earlier persuaded him in 2003 to issue an injunction against the Clinton rule. However, the Tenth U.S. Circuit Court of Appeals ruled the injunction moot in 2005 after the Bush administration issued its own roadless area rule. Now the State of Wyoming is asking Brimmer to again declare the Clinton rule invalid. The Wyoming Attorney General's office did not return calls.

At a November 16 hearing Brimmer reportedly took note of a mountain of legal arguments in the case and said it would take a good while for him to prepare a ruling. However, Angell said Brimmer knows the issue thoroughly. "I wouldn't be surprised if he came out with something before the end of the year," he said.

At the November 16 hearing off-road vehicle users joined Wyoming in requesting the Clinton rule be thrown out. Said Paul Turcke, an attorney for the recreationists, "Thirty years of experience and several bouts of litigation have hopefully cemented the reality that top down, one-size-fits-all management programs will not work on diverse forest landscapes spanning the country."

Congress has entered the argument. On May 24 Sens. John Warner (D-Va.) and Maria Cantwell (D-Wash.) and Rep. Jay Inslee (D-Wash.) introduced legislation (HR 2516, S 1478) that would have Congress formally reinstate the Clinton roadless area rule.

The State of Idaho has taken the lead in requesting a customized rule.

The Forest Service April 10 said it would write an EIS and prepare an Idaho rule to guide the management of roadless areas there.

The Idaho rule petition, submitted by former Gov. Jim Risch (R) on Oct. 5, 2006, and supported by current Gov. C. L. "Butch" Otter (R), would allow the state to open up somewhat 9.3 million acres of roadless areas within 10 national forests in the state. The state would allocate 1.3 million acres to wild land recreation, 1.7 million acres to primitive use, 5.5 million acres to backcountry and a half-million acres to general forest use.

Former Colorado Gov. Bill Owens (R) submitted a petition Nov. 13, 2006, that would exempt approximately 300,000 acres of the 4.4 million acres of roadless national forest in his state from the Clinton rule. Those exempted lands include 10,000 acres of ski areas. New Gov. Bill Ritter (D) supports the Owens petition, with modifications.

Five governors have gone in a different direction from Idaho and asked the Department of Agriculture to protect national forest roadless areas in their states from road construction. They are California, New Mexico, North Carolina, South Carolina and Virginia.

Dems disagree about FWS's Bison Range Indian contract

Two senior House Democrats are at loggerheads over a controversial policy that authorized Indian tribes to help manage the National Bison Range Complex in Montana. The complex is part of the National Wildlife Refuge System.

House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) is siding with delegation of the authority to the Confederated Salish and Kootenai Tribes (CSKT.) But House Energy Committee Chairman John Dingell (D-Mich.) says the transfer is unauthorized.

The disagreement between the two old bulls is not the only controversy involving the range. The Fish and Wild-

life Service (FWS) reached a final decision to terminate the CSKT contract on Dec. 11, 2006. But on Dec. 29, 2006, the Interior Department overruled FWS, infuriating FWS line employees and client interest groups. Those negotiations on a new, five-year contract have not been concluded.

At the moment FWS is managing the Bison Range while the Interior Department attempts to work out an agreement with CSKT that is agreeable to all parties.

The Bison Range situation may serve as a prototype for a larger policy that could apply to 19 other refuges and 57 National Park Service units, according to the group the Public Employees for Environmental Responsibility.

Rahall entered the picture after he cosponsored a bill (HR 3994) that is designed to specify what Interior Department programs Indian tribes may participate in. For the most part the bill, titled the Department of the Interior Tribal Self-Governance Act of 2007, would authorize tribes to manage Indian-specific programs, such as those administered by the Bureau of Indian Affairs and those that directly benefit Indians.

But the bill would also allow the tribes to participate in federal land management agency programs by authorizing funding agreements in areas "that are of special geographic, historical, or cultural significance to the Indian tribe." That would by definition include some national parks.

At the hearing the Interior Department opposed the bill, while praising agreements such as the Bison Range contract. Said Associate Deputy Secretary of Interior James Cason, "The legislation before the Committee today goes well beyond the principles of self-determination and self-governance. It poses problems with regard to appropriate management of federal funding and programs, could ultimately end up costing taxpayers more to fund programs, and potentially increases liability on the part of the Federal government."

Cason said the department opposes a blank check for Indian tribes that manage refuges. But, he said, "While there has been considerable controversy over the 2006 annual funding agreement between the Service and the CSKT, through this process we are gaining a better understanding of what each party needs to make a successful agreement with a non-BIA bureau work well. We believe that ultimately the process will grow stronger as a result of our efforts."

With that background Rahall and ranking committee Republican Don Young (Alaska) wrote Secretary of Interior Dirk Kempthorne November 2 to complain of department "reluctance" to enter good faith negotiations for a new annual funding agreement (AFA) with the CSKT tribes. "(W)e think it makes sense for the Tribes to manage the local Bison Range programs under an AFA and we strongly encourage you to take appropriate actions to secure such a Self Governance Annual Funding Agreement," wrote Rahall and Young.

But Dingell, a long-time friend of hunters and fishermen, wrote Kempthorne November 7 demanding information on the CSKT AFAs, past and proposed. "The Department's transfer of management responsibilities at the Complex is unsanctioned by law and unprecedented," he wrote. "The future of the National Bison Range and other refuges may be seriously affected by the AFA. It demands well-reasoned justifications."

The FWS termination decision also effectively rejected a proposal from the tribes to take over virtually all management functions in the refuge over the next three years.

Hard feelings have marked the disagreement between FWS and CSKT. In a Dec. 11, 2006, letter to the tribes FWS Mountain Region Director J. Mitch King essentially said the tribes had failed a two-year trial that had delegated to them about half the management positions for the refuge.

But the tribes in response to a report card from FWS said that problems

at the Bison Range were caused by the as much by FWS as by the tribes themselves.

Under the Indian Self-Determination Act Amendments of 2004 FWS contracted with the CSKT tribes to perform about half of the management chores in the refuge and to receive about half the budget, or \$500,000. Implementation of the joint management program began on March 15, 2005. HR 3994 would extend the 2004 law's AFA authority to many new programs.

Law board forbids double dip of recreation fees by BLM

Federal land managers suffered a setback November 19 in their implementation of a new recreation fee program when administrative law judges charged the Bureau of Land Management (BLM) with double dipping fees.

The Interior Board of Land Appeals (IBLA) ruled that BLM may not charge both a fixed recreation permit fee and a cost-recovery fee for the same event. The fixed fee is charged under the Federal Lands Recreation Enhancement Act of 2004 (FLREA.)

"When BLM seeks to compel by a stipulation a permittee to pay the Government's actual expenses which are recouped in (special recreation permit) fees charged under the fee schedule, it is engaging in the double charging it explicitly repudiated in (a) 2002 rulemaking," said IBLA.

In the facts of the case BLM issued a permit for an annual Burning Man festival in the Black Rock Desert in Nevada covering 2006 through 2010. Since 1990 the Burning Man festival has been held in the West around the Labor Day holiday. It now attracts 35,000 or more people to an alternative life-style festival for eight days.

Prior to last year the sponsor of the event, Black Rock City LLC, paid BLM a fixed fee. In 2005 it paid \$710,000. In those previous arrangements BLM contracted separately for local law enforcement.

In 2006, however, BLM changed its contract and, in addition to a fixed fee of \$4 per festival attendee per day, required Black Rock City to contract with the local government for law enforcement.

Black Rock City (BRC) argued, and IBLA agreed, that FLREA doesn't authorize BLM to require a permittee to pay a fixed fee AND a fee for police powers.

Said IBLA, "We recognize BLM's argument that it is not charging a cost recovery fee (for law enforcement), and that it is requiring BRC to contract with the County for services. While this is true, (the law and BLM regulations), and even BLM's past practices confirm that the central aspect of the stipulation is to transfer a cost recovery element supplemental to the (fixed) fee charged to BRC. This BLM cannot do."

Ever since Congress enacted FLREA in 2004 some recreation users of federal lands have contested implementation policies of the Forest Service and BLM. Among other things the users have objected to paying fees to enter areas that contain several sites, rather than for just developed sites in the areas.

Notes

Canada moves toward mammoth park.

The Canadian government took a major step November 21 toward designation of a new national park in the country's northern boreal forest that would be three times as large as Yellowstone National Park. At the same time the government moved toward designating a 3.7 million-acre wildlife refuge and a 15 million-acre conservation area in the boreal forest. The steps consisted of an administrative land withdrawal that removes the lands from mining, timber cutting and oil and gas development. That will preserve the great boreal forest - one of the last remaining intact forest ecosystems - until the Canadian government formally makes the conservation designations. That action will probably take many years to accomplish while the government negotiates with native groups - called First Na-

tions - on what lands to include in the designations and how to preserve native inholdings. The withdrawal action will prevent new development while the negotiations take place. Canadian Minister of the Environment John Baird and Canadian Minister of Indian Affairs Chuck Strahl announced the withdrawals. The proposed Great Slave Lake National Park would cover 6.5 million acres, just about three times as large as the 2.2 million-acre Yellowstone. The withdrawal was the largest in Canadian history.

Farm bill delay gets serious.

With the Senate unable to even begin discussing a five-year farm bill (HR 2149) prior to Thanksgiving, House Republicans are attempting to move legislation to extend the existing law through next year. The Republicans, led by the ranking Republican on the House Agriculture Committee, Rep. Robert Goodlatte (R-Va.), said they introduced legislation that would extend a 2002 farm bill through 2008. Goodlatte and 22 other Republicans said that would insure that farm policy was fairly current. Without the extension the Department of Agriculture would be forced to rely on 1938 and 1949 laws. The House approved its farm bill July 27. The Senate Agriculture Committee approved its version October 25. However, Senate Democrats and Republicans have subsequently trapped the legislation in a dispute over how many and what sort of amendments to consider on the floor. Both the House and the Senate committee versions contain most of the provisions desired by outdoor interests, such as a conservation reserve program, a wildlife habitat improvement program, a wetlands reserve program, a grasslands reserve program, and an environmental quality incentives program. The bills also include a new, \$20 million per year program called Open Fields to encourage private landowners to open their property to hunters and fishermen.

Major hearing on wetlands set.

The House Transportation Committee has scheduled a hearing for December 6 on legislation that would require a permit for dredging activities in all waters of the United States. In a landmark deci-

sion the Supreme Court has ruled that the Corps of Engineers in most cases should limit permits to navigable waters, and not all waters. Private property rights advocates are already rousing their troops to oppose the legislation. "This is a massive threat to all private property in America," said the American Land Rights Association in a bulletin to its members urging opposition to the legislation. House Transportation Committee Chairman James Oberstar (D-Minn.) and 172 cosponsors introduced the bill (HR 2421) in May that is aimed at reversing the June 19, 2006, Supreme Court decision, *Rapanos v. U.S. Nos. 04-1034 and 04-1384*.

Kempthorne says books balance.

Secretary of Interior Dirk Kempthorne said November 14 that an annual audit of the department's books by an independent accounting firm determined the department is clean. He praised the department's financial managers, saying, "Any large corporation of our size would be justly proud of what you have accomplished. It is a significant and substantive achievement." Kempthorne noted that in the last year of the Clinton administration the audit took five months and found 17 "material weaknesses." In 2007 he said Interior did it in 43 days with no material weaknesses.

Crapo would protect packhorses.

Sen. Mike Crapo (R-Idaho) introduced legislation (S 2283) early this month that endorses packhorse use by outfitters on federal lands. S 2283 would also require an environmental review before land managers could reduce the use. When similar legislation came before the House last year, Democrats faulted the bill but did not oppose it. They complained the bill would give outfitters preferential treatment and would limit the flexibility of land managers to reduce outfitter numbers. The legislation is intended to arbitrate an ongoing dispute between environmentalists and outfitters. Environmentalists demand that the use be cut back to minimize damage, particularly in wilderness areas. Outfitters say the bill would prevent agencies from arbitrarily reducing use. The Bush administration, at least in its early years, opposed the

bill because it said the mandatory NEPA review was redundant.

Conference calendar

DECEMBER

5-7. **America Outdoors** marketing and management conference in Reno, Nev. Contact: <http://www.americaoutdoors.org/confluence.htm>

JANUARY

21-23. **RV Resort & Campground** conference and expo in New Orleans. Contact: Dawn Jenkins 2008 RVRC, 64 Inverness Drive East, Englewood, CO 80112. 888-399-4590.

22-24. **National Ski Areas Association** western conference in Snowbird, Utah. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

23-25. **U.S. Conference of Mayors** winter meeting in Washington, D.C. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, D.C. 20006. (202) 293-7330. <http://www.usmayors.org>.

23-26. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.

FEBRUARY

5-6. **National Ski Areas Association** eastern conference at Mount Snow, Vt. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

10-13. **National Association of Conservation Districts** annual meeting in Reno, Nev. Contact: National Association of Conservation Districts, 509 Capitol Court, N.E., Washington, D.C. 20002. (202) 547-6233. <http://www.nacdnet.org>.

24-28. **Association of Partners for Public Lands** annual convention in Denver. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.