

Federal Parks & Recreation

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Reid said ready to put NPS Centennial in stimulus bill

Senate Majority Leader Harry Reid (D-Nev.) is committed to adding the \$2 billion Park Service Centennial Challenge legislation to an economic stimulus bill next month, according to several sources.

Reid told Secretary of Interior Dirk Kempthorne, a former fellow western senator, he would ask the Senate to approve the landmark legislation designed to upgrade the National Park System as it approaches its 100th anniversary in 2016.

"Dirk Kempthorne told me Wednesday (October 15) that he has talked to Harry Reid and Harry Reid told him that if the House comes back in and there is an economic stimulus bill, this will be included in the package," said Derrick Crandall, president of the American Recreation Coalition.

Aides to both Kempthorne and Reid confirmed that Reid is sympathetic to the Challenge initiative. "I know we've been talking with Sen. Reid to bring that legislation to the floor," said an aide to Kempthorne.

Reid's office did not respond to repeated requests for comment.

There are several obstacles. First, Reid must persuade 60 senators to take up the economic legislation when Congress returns for a lame-duck session November 17, if a senator or senators object to the legislation, a certainty.

Second, the House must agree to come back for a lame-duck session. Thus far, Speaker of the House Nancy Pelosi (D-Calif.) has refused to commit herself, although she has pledged to work for an economic stimulus bill, expected to amount to \$150 billion. Finally, the

House must agree to the Centennial Challenge provision and, in several recent House economic stimulus bills, has refused to do so.

Said one participant, "Harry Reid is only one person and he doesn't have a final say, but I believe he has a solid commitment to the legislation."

Although House Natural Resources Committee Chairman Nick Joe Rahall (D-W.Va.) is a key player and has moved a Centennial Challenge bill (HR 3094) through his committee, he is not among the House Democratic leaders who are putting together the economic stimulus bill. Pelosi and committee chairmen that oversee the economy are doing that.

In late September Reid and Senate Democratic leaders included the Park Service Centennial Challenge in a previous economic stimulus bill (S 3604) just as Congress was wrapping up for the elections. The bill died when the leaders failed to round up the 60 votes needed to defeat a hold. The vote was 52-to-42.

The House approved its own version of an economic stimulus bill (HR 7110) September 26 but it did not move after that. The House bill did not include the Park Service Centennial Challenge legislation

But with the American economy near collapse and with a newly-elected President, no matter which party, Congress in November will be under great pressure to act on an economic stimulus bill.

The NPS Centennial Challenge provision in the Senate economic stimulus bill in September did not contain a specific economic offset, the great obstacle in front of HR 3094 on the House floor, because it did not have to. All money in the stimulus is guaranteed, effectively no-year money that would be available for a decade. No annual appropriation would be needed to provide the \$100 million federal match to \$100 million in matching money.

The substance of the Senate economic stimulus provision followed Rahall's bill, HR 3094. That is, it

would give priority to projects that have a dedicated match, i.e. major parks with friends groups, but the bill would also authorize projects without matches.

The bill would allow NPS to spend money for seven kinds of projects with the only major limit that no more than 50 percent of the money could be spent on construction of facilities that cost more than \$5,000,000. The seven areas are: education, diversity, personnel, environmental leadership, natural resource protection, cultural resource protection, and health and fitness.

The provision would authorize the transfer of \$1 billion total to the Challenge program from general funds, with annual allocations beginning in fiscal year 2009 and lasting through fiscal 2018.

Obama and McCain do poorly in conservation scorecard

The League of Conservation Voters (LCV) October 17 gave both Presidential candidates a failing grade in the league's annual Environmental Scorecard.

But that is misleading because Sens. Barack Obama (D-Ill.) and John McCain (R-Ariz.) missed most of the 11 test votes, and the league counts absence as a bad vote. McCain missed all of the 11 test votes and Obama missed nine of the 11.

From the other side of the political fence the American Land Rights Association (ALRA) October 22 said McCain voted right far more often than Obama. On nine test votes McCain agreed with ALRA seven times and Obama none.

LCV and ALRA chose very different text votes, LCV concentrating on 2007 and ALRA concentrating on 2005 and 2006. LCV included votes on such things as an omnibus lands bill and ALRA included votes on such things as land acquisition.

Whether its Obama or McCain in the November 4 Presidential election, the winner will have little opportunity to increase conservation spending through

conventional appropriations. The financial "institution" bailout, coupled with economic stimulus legislation coupled with an everyday national debt of \$500 billion, could push the deficit to \$1 trillion in fiscal year 2009, the experts say.

But there are two X factors in financing conservation programs - new revenues from offshore oil and gas leasing, a reasonable possibility, and new revenues from climate change legislation, a longer shot.

Both Democrats and Republicans say they are committed to increased offshore oil and gas drilling. That includes Obama, although it is not clear how much leasing he would support.

Although conservationists oppose offshore oil and gas development, if it is inevitable they would at least want Congress to allocate some royalty revenues to conservation spending, particularly to the Land and Water Conservation Fund (LWCF.)

"It's a tough call in this budgetary climate," said Alan Rowsome, who handles budget and LWCF issues for The Wilderness Society. "We have to assume there are a lot of other people at the trough."

There is recent precedent. In 2006 Congress approved a Gulf of Mexico Energy Security Act that directs MMS to allocate to the state side of LWCF 12.5 percent of royalties from Gulf of Mexico offshore oil and gas lease sales from the 181 Area and the 181 South Area.

The fiscal year 2008 allocation from the act to LWCF is \$8 million. The program is to run through fiscal 2016. The money is guaranteed, does not rely on an appropriation and is in addition to any regular appropriation that Congress might make.

The lead author of the Sale 181 provision, Sen. Lamar Alexander (R-Tenn.), said at a Senate hearing this spring he wants to expand the program to future offshore oil and gas lease sales. And he said he would hope eventually to

secure guaranteed funding of \$900 million per year for LWCF.

But, said one lobbyist who supports LWCF, "My own assessment is you will not see a lot of land acquisition over the next four years. The Outer Continental Shelf will generate a lot of dollars, but whether any of that will come to LWCF is not clear. The demands are so great for that money for the U.S. Treasury."

Said Rowsome of The Wilderness Society, "People can make those deals such as Sen. Alexander. That could be good for conservation."

The climate change legislation is less predictable than the energy legislation. Congress may be loath to impose huge penalties on companies for producing climate change gases, if the predicted recession occurs next year. Still, both Sens. Barack Obama (D-Ill.) and John McCain (R-Ariz.) promise to propose major climate change initiatives next year, if elected President.

If the House and Senate do address climate change legislation next year, there are templates. On October 7 House Energy Committee Chairman John Dingell (D-Mich.) published a discussion draft bill that could provide billions of dollars for conservation programs.

His bill would provide money for LWCF as well as for other natural resources initiatives, in particular the Pittman-Robertson sport-hunting program and to line agencies for managing climate policy programs.

The Senate leadership attempted to take up a counterpart global warming bill (S 3036) June 6 but was unable to shut off a filibuster. The leadership mustered 48 votes, but 60 were needed. Thirty-six senators voted against the bill.

The Senate bill and the Dingell draft would allocate money to natural resources programs differently. The Senate bill would establish two separate funds (federal fund and state fund) while the House would combine them.

All the funds would receive a share of trillions of dollars garnered from the sale of emission allowances. According to a coalition of 170 environmental groups, the Senate provision would allocate an average of \$7.2 billion per year for 20 years to federal, state and local conservation programs.

As for Obama and McCain, as we reported last month, both are, on paper, strong advocates of park and rec programs. Both praise LWCF. And both say Congress should appropriate more money to reduce a maintenance backlog in the National Park System.

McCain has one major park and rec accomplishment under his belt: He wrote legislation in 2000 that became the National Parks Air Tour Management Act. As chairman of the Senate Commerce Committee, McCain wrote the bill that now governs air tours over national parks. However, the Federal Aviation Administration and the Park Service have not completed air tour plans for any parks yet. The law is cited as PL No. 106-181 of April 5, 2000.

The pollsters say one thing is predictable about the upcoming elections - Democrats will make significant gains in their House and Senate majorities. Committee and subcommittee chairmen are notorious for changing chairmanships but outdoor leaders are expected to remain the same.

In the House Rep. Nick Joe Rahall (D-W.Va.) is expected to continue as chairman of the House Natural Resources Committee and Rep. James Oberstar (D-Minn.) as chairman of the House Transportation Committee. A major change on the Republican side may be in the works where ranking natural resources committee Republican Don Young (Alaska) is reportedly in a tight race.

In the Senate Sen. Jeff Bingaman (D-N.M.) is penciled in to continue as chairman of the Senate Energy Committee and Sen. Barbara Boxer (D-Calif.) is expected to continue to pursue climate change legislation as chairman of the Senate Environment and Public Works Committee. A major change is certain on the Republican side of the energy com-

mittee where ranking Republican Pete Domenici (N.M.) is not running for re-election. Sen. Lisa Murkowski (R-Alaska) is the next ranking Republican on the committee, but some more senior outsider could trump her.

Senators may alter omnibus a bit as it approaches floor

Before an omnibus lands bill hits the Senate floor in November the measure may be modified slightly, a Senate Energy Committee staff member said this week.

The modifications may include an additional bill or two, pasted onto a package that already counts more than 150 individual bills. "When we go into the lame duck, we will have a new bill with a new S (as in Senate) number," said the staff member. "There will be minor tweaks here and there. There is a possibility one or two other measures may be added."

The omnibus is presently attached to a House-passed bill (HR 5151) that would designate wilderness in West Virginia. The Senate Energy Committee added to it bills that would designate three new national parks, authorize additions to 17 NPS units, designate several national trails, designate several wild and scenic rivers, designate 10 national heritage areas, and designate a Snowy River Cave National Conservation Area in New Mexico, to name a few items.

(FPR erred in the last issue in saying a stand-alone bill (S 3499) was added to the package that would allow visitors to carry firearms in national parks and national wildlife refuges, where states provide such rights to state parks and refuges. Although the Senate Energy Committee approved S 3499 on September 11 along with a number of other bills that were added to the omnibus package, S 3499 was not attached.)

The lame-duck session is scheduled to begin November 17. When Senate Majority Leader Harry Reid (D-Nev.) announced the lame duck earlier this month, it was assumed Congress would

only address the omnibus bill. Now Reid says he will also ask the Senate to work on a mammoth economic stimulus bill.

Speaker of the House Nancy Pelosi (D-Calif.) has not committed herself publicly to a lame-duck session of the House, but she too has said she wants to develop an economic stimulus bill. Of course, if the Senate approved an omnibus lands bill, the House too would have to approve it.

The Senate Energy Committee developed the omnibus lands package based on committee-passed bills. However, not all committee bills made the cut because both Democratic and Republican committee leaders enjoy a veto, said the committee staff member. Thus, the firearms in parks and refuges bill didn't make the cut.

Still, the omnibus Senate package is a fairly well-balanced political package. For instance, it includes a provision much desired by Alaska Republicans (S 1680) that would authorize construction of a road through the Izembek National Wildlife Refuge, thereby dedesignating wilderness. The road would connect the communities of King Cove and Cold Bay and provide an emergency exit route for citizens of King Cove.

At the same time the package contains a provision opposed by many western Republicans (particularly in the House) that would give Congressional certification to the National Landscape Conservation System (NLCS) managed by the Bureau of Land Management (BLM.)

In addition to the NLCS and Alaska road measures the Bingaman amendment:

* **NEW NATIONAL PARKS:** Would establish a Paterson Great Falls National Historical Park in New Jersey, a William Jefferson Clinton Birthplace Home National Historic Site in Arkansas, and a River Raisin National Battlefield Park in Michigan.

* **ADDITIONS TO NATIONAL PARKS:** Would authorize additions to 17 existing national parks.

* **STUDIES OF NATIONAL PARKS:** Would authorize studies of 12 sites, most as

possible additions to the National Park System.

* **NATIONAL HERITAGE AREAS:** Would designate ten new national heritage areas (NHAs) and authorize studies of two NHAs. The new NHAs would be: Sangre de Cristo National Heritage Area, Colorado; Cache La Poudre River National Heritage Area, Colorado; South Park National Heritage Area, Colorado; Northern Plains National Heritage Area, North Dakota; Baltimore National Heritage Area, Maryland; Freedom's Way National Heritage Area, Massachusetts and New Hampshire; Mississippi Hills National Heritage Area; Mississippi Delta National Heritage Area; Muscle Shoals National Heritage Area, Alabama; and Santa Cruz Valley National Heritage Area, Arizona. The study areas are Chattahoochee Trace in Alabama and Georgia and Northern Neck in Virginia,

* **PALEONTOLOGICAL:** Would establish stiff new penalties for disturbance of paleontological resources on federal lands.

* **NATIONAL TRAILS:** Would designate an Arizona National Scenic Trail; a New England National Scenic Trail; an Ice Age Floods National Geologic Trail in Montana, Idaho, Washington and Oregon; a Washington-Rochambeau Revolutionary Route National Historic Trail between Newport, Rhode Island, and Yorktown, Virginia; a Pacific Northwest National Scenic Trail from Glacier National Park, Mont., to the Pacific Ocean Coast in Olympic National Park, Wash.; and a Trail of Tears National Historic Trail in Alabama, Arkansas, Oklahoma, and Tennessee.

* **TRAILS - WILLING SELLER:** Would extend willing seller authority to the Oregon National Historic Trail; The Mormon Pioneer National Historic Trail; the Continental Divide National Scenic Trail; the Lewis And Clark National Historic Trail; the Iditarod National Historic Trail; the North Country National Scenic Trail; And the Ice Age National Scenic Trail.

* **WILD AND SCENIC RIVERS:** Would designate the following three, plus several in wilderness bills: Fossil Creek, Arizona; Snake River Headwaters, Wyoming; and Taunton River, Massachusetts.

* **WILDERNESS:** Would designate wilderness proposed in 14 different

wilderness bills, including wilderness in Sequoia and Kings Canyon National Park and in Rocky Mountain National Park.

* OWYHEE: Would not only designate more than 500,000 acres of BLM-managed wilderness in central Idaho, but also establish a travel management plan for off-highway vehicles.

* CONSERVATION AREAS: Would designate in BLM a Snowy River Cave National Conservation Area in New Mexico and a Prehistoric Trackways National Monument in New Mexico.

* BATTLEFIELD PROTECTION: Would extend an existing American Battlefield Protection program through 2013 (it was about to expire.)

* PRESERVE AMERICA: Would formally establish a Preserve America program to provide grants to communities and historic preservation for "soft" preservation activities.

* SAVE AMERICA: Would formally establish a Save America's Treasures program to provide grants to federal, state and local governments as well as nonprofits to physically preserve historic facilities and items.

DoI calls Hill withdrawal order at Grand Canyon illegal

Grand Canyon National Park has landed in the middle of a major legal battle over Congressional authority to order a withdrawal of federal lands from commodity uses.

In a daring move, the Bureau of Land Management (BLM) October 10 effectively declared an emergency withdrawal law enacted by Congress illegal and proposed to remove the provision from its regulations.

BLM said that because two federal courts had allegedly declared unconstitutional the emergency provision (Section 204(e)) of the Federal Land Management and Policy Act (FLPMA) it therefore could be ignored. However, those two court decisions are ambivalent at best about the legality of the provision.

The proposal follows a June 25 order to the Interior Department from

the House Natural Resources Committee to withdraw from possible development 1 million acres of uranium mining claims near Grand Canyon. When the department didn't act promptly, environmentalists September 29 filed a lawsuit demanding that BLM make the withdrawal.

Asked if the Interior Department has the authority to decide what acts of Congress are, and are not, constitutional, department spokesman Chris Paolino said, "We will evaluate what a court sends over and make the appropriate decision. The question is whether the law is constitutional."

Of the possibility of a lawsuit, if and when the regulation deleting the provision became final, he said, "It wouldn't surprise me."

Environmentalists almost assuredly would object if BLM deleted the emergency withdrawal provision and refused to follow the House committee's direction. "That would be illegal and we would challenge," said Taylor McKinnon, public lands program director for the Center for Biological Diversity. "The administration, instead of following the law and protecting Grand Canyon, said it would change the law."

The BLM regulatory proposal is but one event in a long string this year involving the bureau's emergency withdrawal authority. Chronologically:

March 12: The Center for Biological Diversity and other environmental groups brought a lawsuit against the Kaibab National Forest for granting a categorical exclusion from additional environmental review to uranium claims held by VANE Minerals LLC near Grand Canyon.

June 25: The House committee ordered Interior to withdraw 1 million acres of uranium claims around Grand Canyon. (FLPMA grants the Interior Department withdrawal authority, even on Forest Service lands.)

July 15: Secretary of Interior Dirk Kempthorne advised the House Natural Resources Committee that he would not implement the withdrawal.

September 25: The Forest Service, VANE Minerals and the Center for Biological Diversity settled the center's lawsuit. The Kaibab National Forest agreed to prepare a full-blown EIS on the VANE claims.

September 29: The Center for Biological Diversity and other environmental groups brought a second lawsuit, this time against the Interior Department for not implementing the House committee's emergency withdrawal order.

October 10: BLM proposed a regulation that would remove the emergency withdrawal provision of FLPMA, Section 204(e), from its regulations, pursuant to the September 25 agreement.

October 10: The Forest Service announced in the *Federal Register* it would prepare an EIS on the VANE Minerals uranium claims.

Interior's Paolino said BLM has other withdrawal authorities in FLPMA that it can deploy just as quickly as the emergency provision. "We have a number of regulations that refer to that law," he said. "We feel we can accomplish withdrawals through our standard practices."

Interior justifies its proposed deletion of the emergency rule on two federal district court decisions dealing with withdrawals and a Supreme Court decision dealing with Congressional authority in general. However, the House Natural Resources Committee cites the same two district court decisions to justify its emergency withdrawal.

The legal debate essentially comes down to a question of whether one House of Congress can direct a federal agency to act without the other House agreeing, i.e. a unicameral decision instead of a bicameral decision.

The legal underpinning for the Interior Department's case was set by a Sept. 12, 1983, Justice Department opinion from Ralph W. Tarr, deputy assistant attorney general at the time. He cited Supreme Court precedence for doubting the provision's legality. "There remains no doubt that the power to direct

withdrawal of lands granted to a single Congressional Committee by §204(e) is, by its terms, a legislative veto and is unconstitutional under *Chadha*," Tarr said. The *Chadha* decision, cited as *INS v. Chadha*, 51 U.S.L.W. 4907 (June 23, 1983) generally forbids one-House orders.

But both the House committee and the proposed BLM draft regulation draw on the same two district court decisions that attempt to interpret *Chadha* and FLPMA. In one case in 1983 the House committee withdrew lands in the Fort Union Coal Region in Montana and North Dakota. A committee analysis said that case demonstrates that the courts would uphold the withdrawal authority if Congress acted as a landowner. The analysis did warn that a withdrawal as an "exercise of power" by Congress would probably violate *Chadha*. That decision is identified as *National Wildlife Federation v. Watt*, 571 F. Supp. 1145.

The other precedent came in 1981 when the committee withdrew from mineral leasing portions of wilderness in Montana. A court upheld the resolution in *Pacific Legal Foundation v. Watt*, 529 F. Supp. 982.

However, Tarr argued that both decisions say that the FLPMA provision does violate *Chadha*.

In its lawsuit demanding that the Interior Department execute the emergency withdrawal of 1 million acres of uranium claims the environmentalists don't argue the niceties of the *Chadha* decision. Instead they simply say that the department's inaction violates Section 204(e) of FLPMA and the committee resolution.

Retirees say NPS, FWS vets oppose guns in parks proposal

It looks like an uphill battle. But retired Park Service and Fish and Wildlife Service officials are fighting to keep guns out of parks and refuges.

Last week the retirees led by the Coalition of National Park Service Retirees said in a new report that 77

percent of current and former members of the two agencies oppose an Interior Department proposal to allow guns in national parks and refuges. The provision would authorize the use to the same degree states allow guns in state parks and refuges.

At the same time the retirees wrote Secretary of Interior Dirk Kempthorne and asked him to withdraw the proposed rule. The October 8 letter effectively lays the groundwork for a lawsuit by alleging the department did not comply with environmental laws that require a detailed analysis of the impact of the rule.

"This change could have substantial impacts on parks and refuges, their resources and visitors, and park and refuge management," wrote William Wade, chairman of the executive council of the Coalition of National Park Service Retirees. "The proposed rule does not explain these changes, and no analysis of the potential impacts on the environment, cultural resources, public safety, or agency management has been provided by DOI."

But the proposed April 30 rule may not be the most formidable obstacles before the parks and refuges veterans; Congress may be. That's because the Senate Energy Committee approved legislation (S 3499) September 11 to authorize weapons in parks and refuges by an 18-to-5 margin.

(FPR erred in the last issue in saying a stand-alone bill (S 3499) that would allow visitors to carry firearms had been added to an omnibus Senate Energy Committee bill. Although the Senate Energy Committee approved S 3499 on September 11 along with a number of other bills that were added to the omnibus package, S 3499 was not included in the package.)

If S 3499 fails, and it has a tough row to hoe with Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) opposed, that would leave matters up to Kempthorne and a new regulation. And the NPS and FWS retirees would likely file a lawsuit for failure to comply with environmental rules.

For one thing Wade said in his letter to Kempthorne allowing guns in parks and refuges would have a major environmental impact and demands at least the preparation of an environmental analysis, if not an EIS.

Wade also argued that the proposed rule does not comply with a provision of the Endangered Species Act that requires consultation with FWS on the rule's impact on imperiled species, does not comply with the National Historic Preservation Act which requires consultation with states and localities on the rule's impact on historic properties, and does not comply with the Administrative Procedures Act which requires an explanation of the basis for the rule.

More substantially, Wade said the proposal is politically driven and will create more problems than it solves. "It is likely to alter, over time, the friendly atmosphere visitors look forward to in parks, where they go to get away from the day to day pressures and influences of their everyday lives, including worry about guns," he said.

In April seven former NPS directors opposed the administration proposal, including George B. Hartzog Jr. (now deceased), Ronald H. Walker, Gary Everhardt, Russell E. Dickenson, James Ridenour, Roger G. Kennedy, Robert Stanton and Fran Mainella.

House, Senate may consider additional money for highways

Congressional Democratic leaders are committed to providing a multi-billion dollar boost to surface transportation projects next month in an economic stimulus bill.

How much the House and Senate will recommend and what the money would be used for still must be determined, but there are several hints. Before Congress adjourned October 3 for the November elections the House approved a version of an economic stimulus bill with \$12.8 billion in highway projects and the Senate a bill with \$8 billion in highway projects.

Either bill would provide a huge boost to a fiscal year 2009 appropriation of \$41.2 billion for all highway programs.

But the Democratic leaders may shoot higher. The House bill with \$12.8 billion in highway projects, HR 7110, included a total of \$60.7 billion. As the nation's economy has struggled the estimates for the next round of stimulus legislation has zoomed to \$150 billion.

In a related development, the Rails-to-Trails Conservancy October 20 published a new report that says even a modest increase in bicycling and walking can save the country billions of dollars per year as well as improve the environment.

The report, "Active Transportation for America," says about 10 percent of all trips in America are by foot or bicycle, saving the nation \$4.1 billion per year in avoided driving, fuel savings, reduced pollution and physical benefits. An increase to 13 percent would save a total of \$10.4 billion and an increase to 25 percent would save a whopping \$65.9 billion in total.

The conservancy presented the report to House Transportation Committee Chairman James Oberstar (D-Minn.), who will probably be in charge of writing a new surface transportation law next year. The report says the federal contribution to bicycling and walking has totaled \$4.5 billion over the years, or "one thousand times less than total nationwide highway funding." The report concludes that "active transportation should be a higher federal priority."

The *Active Transportation for America* report is available at www.railstotrails.org/ATFA.

As to the economic stimulus legislation, the House and Senate have not begun to identify the details yet. Three House committees met this week to hear recommendations (and condemnations) of a rescue plan. After that Senate Majority Leader Harry Reid (D-Nev.) has scheduled a lame-duck session beginning November 17. While Speaker of the House Nancy Pelosi (D-Calif.) has refused to

commit herself to a lame-duck session, she almost certainly will if Sen. Barack Obama (D-Ill.) gains the Presidential nomination.

The details will matter to park and rec projects. If an emergency supplemental appropriation applies the assistance across-the-board, such programs as highway enhancements, recreational trails, scenic byways and Park Service roads will by definition gain.

If, however, Congress follows the lead of the American Association of State Highway Transportation Officials (AASHTO), new money will flow primarily to "ready-to-go" projects. And those projects will include primarily road and bridge construction.

AASHTO said last week states have identified 3,000 ready-to-go projects that could be started within 30-to-90 days totaling more than \$18 billion. "Funding these 'ready to go' projects offers Congress a tremendous opportunity to put Americans to work and help cash strapped states repair and replace our crumbling infrastructure," said John Horsley, executive director of AASHTO.

The House approved an initial \$60.7 billion economic stimulus bill (HR 7110) September 26 by a 264-158 margin. Senate leaders did not do as well with their initial bill (S 3604); it failed to reach the Senate floor on a 52-to-42 vote. The leaders needed 60 votes to break a filibuster.

Lest anyone forget, President Bush will still be President until next January and his administration has been highly critical of additional transportation spending. The Office of Management and Budget told the House and Senate that transportation projects take too long to gear up.

Besides, said OMB in a letter to the House on HR 7110, "The billions of dollars of previous year Federal transportation earmarks that are currently unspent is further evidence that Federal transportation spending outside traditional state and local processes is unlikely to produce meaningful benefits."

Time short on FS Colorado roadless rule; Idaho regs set

There is a possibility the Bush administration will not be able to complete a Colorado-specific national forest roadless area rule on its watch.

A Forest Service roadless area advisory panel did not complete its review of a proposed rule October 9 and anticipates considering the rule again in November.

Does that suggest the State of Colorado, which petitioned for the rule in the first place, will not reach final agreement with the Forest Service before the Bush administration leaves office in January? "From Colorado's perspective all along we are more committed to getting it right than to any time frame," said Mike King, deputy director of the Colorado Department of Natural Resources. "Whether that is in January or in March."

Separately, the Forest Service October 16 published a final statewide roadless area rule for Idaho (only Idaho and Colorado have submitted petitions for state-specific rules.) The Idaho rule, effective on publication, applies to 9.3 million acres of 10 national forests in the state.

The rule allocates 1.5 million acres to wild land recreation (the petition called for 1.4 million acres), 1.7 million acres to primitive use (the same as the petition), 5.3 million acres to backcountry (the petition called for 5.5 million acres) and 610,000 acres to general forest use (the petition called for a half-million acres.)

The Colorado situation is complicated: if by chance Sen. Barack Obama (D-Ill.) wants to reinstate a national Clinton era roadless rule, he may not be able to do so because a federal court has ruled the Clinton rule illegal.

Anyhow, the formal comment period on a proposed July 25 roadless area rule for Colorado ended October 23. A Forest Service Roadless Area Conservation Na-

tional Advisory Committee reviewed the proposal October 9 but did not reach a conclusion.

Colorado Gov. Bill Ritter (D) and the state may not necessarily submit comments because they are considered coauthors of the rule, said King. Ritter's administration has been generally supportive of the Forest Service proposal that would allow more development than the Clinton policy, which bans most uses on forests around the country.

The State of Colorado, which believes it has a veto of the plan, has expressed concerns that the Forest Service proposal may open for surface occupancy 57,000 acres of oil and gas leases and may open other facilities for road construction.

Environmentalists are asking Ritter to at least delay the rule, if not veto it. The Pew Environment Group said recently, "Governor Ritter can best serve Colorado and the nation by calling on the Bush administration to suspend its current rulemaking until there is a thorough assessment of the full impact of these new oil and gas leases on water quality, valuable fish and wildlife, outdoor recreation and the state's economic future."

On October 7 the group released a poll that said, "Coloradoans are strongly in favor of protecting undeveloped national forests from oil and gas production, with more than two-thirds believing that thousands of acres of unused energy leases provide a compelling reason not to open Colorado's backcountry to new drilling."

Hunters and fishermen as represented by the Theodore Roosevelt Conservation Partnership (TRCP) are demanding major revisions in the proposed rule. TRCP said that "loose management guidelines" could lead to the destruction of big game and trout habitat.

"Roadless areas on public lands are a very important component of big-game habitat," said John Ellenberger, a former Colorado Division of Wildlife biologist who lives in Grand Junction. "Studies show a direct loss of big-game

habitat due to road building, and the habitat effectiveness of adjacent areas is reduced as animals avoid them due to traffic or human activity. Preserving roadless areas as they currently exist is an excellent opportunity to protect wildlife and habitat - now and in the future."

There is a wild card involved here. Two federal courts have issued conflicting decisions on the validity of the Clinton roadless area rule and a 2005 Bush administration rule, effectively canceling each rule out. One court in California has ordered the Forest Service to follow the Clinton administration policy that bars most road construction and timber sales in 58.5 million acres of national forest. The judge has blocked a 2005 Bush administration roadless rule. But the other court in Wyoming held August 12 the Clinton policy was illegal.

On August 20 the Bush administration asked both judges to lift their competing decisions. Both cases have been appealed to applicable circuit courts.

The Forest Service proposed the Colorado rule and EIS July 25 and accepted comments until October 23. The proposed Colorado rule would apply to 4.013 million of 4.4 million acres of roadless areas in the state. The other roadless areas would not be managed under the Clinton rule, but would be managed by forest management plans.

The proposal would allow road construction for existing oil and gas leases, including construction of roads on 57,000 acres of backcountry. The proposal would also allow new oil and gas leasing but would forbid the construction of roads to the new leases; access would be restricted to directional drilling or helicopters.

King said recently that in regards to the oil and gas leases, the proposal might violate a Sept. 19, 2006, injunction from U.S. District Court Judge Elizabeth D. Laporte in Northern California that blocked a Bush administration roadless rule. However, on August 12 U.S. District Court Judge Clarence

Brimmer in Wyoming ruled the Clinton rule was also illegal.

The Forest Service August 18 told the field to do nothing that would violate either court injunction. "Right now, please defer taking action that would have the potential to create a conflict with either court's order," said a letter signed by associate deputy chief Gloria Manning for Joel D. Holtrop, deputy chief for the National Forest System. "Where action cannot be deferred, please contact the Washington Office for instructions." An agency official said last week no further guidance has been sent to the field since then on the subject.

Although the Bush administration's 2005 rule that established a state petition process was blocked by judge Laporte, the Forest Service is continuing to accept state petitions for state-specific rules. The service is processing them under the Administrative Procedures Act.

Former BLM Director Baca unloads on Utah OHV use

For the second time this year environmentalists and their allies last week blasted six resource management plans (RMPs) that the Bureau of Land Management (BLM) has completed in southern Utah.

At an October 14 press conference former BLM Director Jim Baca was particularly acerbic about off-highway vehicle (OHV) use. "The thing I'm most concerned about is the off-road vehicles and all terrain vehicles in essentially every corner of the great landscape," said the former Clinton-era BLM director. "They are the most damaging thing that can happen."

Baca said the OHV problem was not just confined to southern Utah but had spread across the West. "I think that overall they are probably making a bigger impact on western public lands than just about every other use to the detriment of everybody. These plans in Utah are going to open up just about every gully, every deer track, about every-

thing. You won't be able to go into any of these areas without hearing these things driving by."

Baca, Rep. Maurice Hinchey (D-N.Y.) and several environmental groups used the press conference to lay the groundwork for a major lawsuit against the plans that cover 11 million acres of the 23 million acres BLM manages in Utah.

Environmentalists, led by the Southern Utah Wilderness Alliance and The Wilderness Society, have filed massive protests against the six management plans that were completed over the last two months. BLM won't make the plans final until it has resolved the protests.

At the press conference Baca charged BLM with "malfeasance" for appointing Selma Sierra as Utah State Director because she lacked land management experience. "From a land management standpoint these things are really, really disastrous," he said. "I think there is malfeasance involved in the way they were put forth. I'm concerned that these things are being pushed by a state director who has no land management experience prior to becoming state director there."

He added, "By malfeasance I mean malfeasance not so much by the guys on the ground. They have to follow orders of this administration. I'd say we have state directors who do not have land management experience who are put there for expressly political reasons. If you are going to manage sensitive lands, you should have experience managing public lands." Sierra came out of the Washington, D.C., headquarters of BLM where she served as chief of staff.

The massive environmentalist protests (181 pages for the Vernal area alone) say the Vernal, Kanab, Monticello, Richfield, Price and Moab plans violate the National Environmental Policy Act, the Federal Land Policy and Management Act, the Endangered Species Act, the National Historic Preservation Act, the Clean Air Act, and the Clean Water Act.

Each plan would designate areas open to OHVs, areas where limited OHV use would be allowed and areas where OHVs would be closed. Environmentalists say the plans would designate as open to OHV use 20,000 miles of trails.

In a prepared statement at the environmentalist press conference Hinchey said, "I have filed letters of protest against each of these plans. I will continue to bring attention to the deficient policies of this agency. I will not give up until the land is protected permanently. I will urge the next administration to change these horrible plans."

Notes

Rec outlook for 2009 mixed. Despite a struggling economy and a surge in gasoline prices, the recreation industry sees some bright spots for the coming year. Perhaps the brightest is snowmobile use. Although a court may have barred snowmobiles from Yellowstone National Park, at least temporarily, the sport continues to gain by leaps and bounds, says the American Recreation Coalition in an annual outlook report. With 210,000 miles of trails now in North America consumers spent 17 percent more for snowmobiling accessories in 2008 than in 2007. The coalition reports that interest in consumer shows for the 2009 season has increased. The news for powered boats and recreational vehicles is not as good. Retail sales of boats are down this year by 15 percent and the sales of RVs are down by 14 percent, said the coalition.

NPS police chief position open. The Interior Department is accepting applications for one of the toughest jobs in the National Park Service - chief of police. The department is accepting applications until November 5. The most recent chief, Dwight Pettiford, left the position in March after the Interior Department Inspector General described security weaknesses on the National Mall in Washington, D.C. Pettiford's predecessor, Teresa Chambers, was removed from the job in 2004 after talking to the press about staff shortages, sparking litigation that is

still going on. The chief serves as the Park Service's top law enforcement officer. The environmental group Public Employees for Environmental Responsibility (PEER) says the Bush administration intends to fill the position before it leaves office, but PEER says the next chief should be chosen by the next administration. "This critical vacancy should be left for the next President and Interior secretary to fill," said PEER Executive Director Jeff Ruch.

Interior names 16 new landmarks.

The Interior Department October 14 announced the designation of 16 sites in 11 states as National Historical Landmarks. There are less than 2,500 such sites in the country. Among the new landmarks is a College of Physicians of Philadelphia. The facility was constructed in 1909. Physicians working there have contributed significantly to American medicine, the department said. "The building houses the headquarters, library, and museum of the oldest private medical society in the United States," said a department release. National Park Service staff members nominate historic landmarks. The nominations are then reviewed by the National Park System Advisory Board and are submitted to the Interior Department. Secretary of Interior Dirk Kempthorne formally designated the new sites.

NRPA honors five legislators.

The National Recreation and Park Association (NRPA) October 15 presented its annual Congressional award to three Democratic House members and to Sens. Olympia Snowe (R-Me.) and Jack Reed (D-R.I.) The three House awardees are Reps. Jesse Jackson, Jr. (D-Ill.), Donal Payne (D-N.J.) and Tom Udall (D-N.M.) The awards are presented to leaders in the park and recreation field. A panel of park and rec professionals makes the selections. NRPA made the awards at its annual Congress in Baltimore.

AARPA honors community parks.

The American Academy for Park and Recreation Administration (AARPA), a partner with NRPA, announced October 15 that it has selected Gwinnett County Parks and Recreation in Lawrenceville, Ga., to receive a Gold Medal for park management.

Gwinnett County received the award for a jurisdiction of more than 250,000 population. For jurisdictions between 100,001 and 250,000 Grand Prairie Parks and Recreation in Grand Prairie, Texas, won the prize. For jurisdictions between 50,001 and 100,000 Canton Leisure Service in Canton, Mich., won. For jurisdictions between 25,001 and 50,000 Carol Stream Park District in Carol Stream, Ill., won. And for jurisdictions of less than 25,000 Herndon Parks and Recreation Department in Herndon, Va., won. The winners were chosen by a judging committee from applications submitted by park and rec departments.

FS to write Roosevelt Ranch plan.

Now that it has acquired the 5,200-acre Elkhorn Ranch in western North Dakota, the Forest Service will write a land management plan for the ranch and the grasslands that go with it. President Theodore Roosevelt operated a ranch there in the 1880s. More than 50 conservation groups helped out with the \$4.8 million purchase. The Forest Service completed the acquisition in the Little Missouri National Grasslands on April 25, 2007. In a notice that it will write an EIS the Forest Service said earlier this month it intends to authorize pre-existing uses to continue, such as livestock grazing, hunting and oil and gas development. The Forest Service will attempt to convey a similar amount of land (about 5,000 acres) to the private sector in North Dakota.

Alaska OCS revenue a template?

The Minerals Management Service has begun to share revenues from Outer Continental Shelf (OCS) oil and gas development with states to use for conservation purposes. The State of Alaska and eight boroughs will receive \$80 million total over fiscal years 2007 through 2010, MMS said October 16. Congress approved a \$250 million Coastal Impact Assistance Program in 2005 to compensate states and communities for the impact of offshore oil and gas drilling. The revenues from the six-state, \$250 million program don't go just for conservation but also for other impacts from offshore drilling. But the program may serve as a prototype for broad conservation assistance, if Congress approves broad new OCS development next year.

Boxscore of Legislation

<u>LEGISLATION</u>	<u>STATUS</u>	<u>COMMENT</u>
Appropriations Interim 2009 HR 2638 (Price.)	President Bush signed into law September 30 as PL 110-329.	Interim spending law extends fiscal 2008 spending levels until March 6.
Appropriations 2009 (DOI and FS) No bill number yet.	House subcommittee approved June 11.	Would provide modest increases for most park and rec programs.
Appropriations 2009 (Energy & Water) No House bill number yet S 3258 (Dorgan)	House subcommittee approved June 25, Senate committee July 10.	Would increase Corp of Engineers and Bureau of Reclamation spending.
Appropriations 2009 (Transportation) No House bill number yet S 3261 (Murray)	House subcommittee approved June 20, Senate committee July 9.	Would provide funding for park are rec programs, as called for by SAFGTEA-LU.
Congressional Budget 2009 H Con Res 312 (Spratt) S Con Res 70 (Conrad)	House gave final okay June 5. Senate gave final approval June 4.	Would increase natural resources spending but mostly for Hurricane Katrina.
NPS Centennial Challenge S 1253 (Bingaman) HR 2959 (Rod Bishop) HR 3094 (Rahall) S 2817 (Salazar)	House committee approved HR 3094 May 7. Senate hearing Aug. 2, 2007.	S 1253 and HR 2959 would establish \$2 billion program to help the parks.
Omnibus Bill One S 2739 (Bingaman)	President Bush signed into law May as as PL 110-229.	Included 60 individual bills, including three new NHAs.
Omnibus Bill Two HR 5151 (Bingaman, Rahall)	Due on Senate floor in lame-duck session of Congress.	Includes 150+ individual bills, including NLCS, new national parks, rivers, trails.
NPS tax assistance HR 1731 (Baird)	Baird introduced March 28, 2007.	Would authorize NPS improvement fund financed by income tax check-off.
FLREA repeal S 2438 (Baucus)	Baucus introduced Dec. 10, 2007. House hearing June 18.	Would repeal most of 2004 federal agency recreation fee law.
Heritage areas national S 278 (Thomas) HR 1483 (Regula)	Senate committee approved July 25, 2007. House approved Oct. 25, 2007.	Would establish national standards for new NHA designations. HR 1483 Would designate six new NHAs.
Farm bill HR 2419 (Peterson)	Enacted May 23 as PL 110-2334 over President's veto.	Authorizes major conservation programs for five years, including new Open Fields program.
Conservation tax credits S 469 (Baucus) HR 1576 (Thompson)	Senate committee approved Sept. 20, 2007. Thompson introduced March 19, 2007.	Would make semi-permanent conservation tax credits Congress approved last year.
Wildlife conservation grants HR 3221 (Pelosi) HR 2338 (Dicks)	House approved August 4, 2007. Dicks introduced May 16, 2007.	Both would make grant program permanent, open way for new source(s) of money.
American Discovery Trail/National Discovery Trails HR 74 (Bartlett)	Bartlett introduced Jan. 4, 2007.	Would designate an American Discovery Trail and discovery trail system.
Trail acquisition authority S 169 (Allard) HR 1847 (M Udall)	Allard introduced Jan. 4, 2007. Udall introduced March 29, 2007.	Would authorize land acquisition authority for nine national trails.