

# Federal Parks & Recreation

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Volume 26 Number 1, January 11, 2008

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## Congress completes money bill that meets Bush budget

Congress last month gave in to President Bush's demands and completed a fiscal year 2008 appropriations bill (HR 2764) that maintains total domestic spending at roughly fiscal 2007 levels. The President signed the bill into law December 26 as PL 110-161.

Within the overall cap the Democratic Congress ignored the President's priorities and shifted money around as it saw fit. It did meet the administration's request for money to begin a \$3 billion Centennial Initiative that would renovate the National Park System for its 100th anniversary in 2016. (See following article.)

The House approved an initial version of HR 2764 December 17. The Senate added Iraq war money to HR 2764 December 18. The House then gave final approval to the Senate version December 19.

For major park and rec programs HR 2764 provides the following (the amounts cited herein do not include a 1.56 percent across-the-board deduction Congress applied to the bill):

- \* an appropriation for PARK SERVICE OPERATIONS of \$2.002 billion, or \$55.3 million below the administration request of \$2.057 billion (includes operations maintenance),

- \* an appropriation for the STATE SIDE OF LWCF (the Land and Water Conservation Fund) of \$25 million, or \$25 million above the administration request of no money,

- \* an appropriation for the FEDERAL SIDE OF LWCF of \$131.8 million, or \$74.6 million above the administration request of \$57.2 million,

- \* an appropriation for state HISTORIC TRUST FUND grants of \$40 million,

or \$4.3 million more than an administration request of \$35.7 million,

\* an appropriation for HERITAGE AREAS of \$15.5 million, or \$5.5 million more than an administration request of \$10 million,

\* an appropriation for SAVE AMERICAN TREASURES of \$25 million (from the Historic Preservation Fund), or \$15 million more than an administration request of \$10 million,

\* an appropriation of \$7.5 million for PRESERVE AMERICA grants, or \$7.5 million more than an administration request of no money,

\* an appropriation for FOREST SERVICE RECREATION of \$266.8 million, or \$35.4 million above the administration request of \$231.4 million,

\* an appropriation for FOREST SERVICE TRAILS of \$77.6 million, or \$11.1 million above the administration request of \$66.4 million,

\* an appropriation for FOREST LEGACY GRANTS of \$53.1 million, or \$23.8 million above the administration request of \$29.3 million,

\* an appropriation for STATE AND INDIAN WILDLIFE grants administered by the Fish and Wildlife Service of \$75 million, or \$5.5 million above the administration recommendation of \$69.5 million,

\* an appropriation for the MANAGEMENT OF WILDLIFE REFUGES by the Fish and Wildlife Service of \$441 million, or \$46 million above the administration recommendation of \$395 million, and

\* a total appropriation for the CORPS OF ENGINEERS of \$5.6 billion, or \$700 million more than an administration request of \$4.9 billion.

The breakthrough in the fiscal 2008 budget impasse came when Senate Majority Leader Harry Reid (D-Nev.) and Speaker of the House Nancy Pelosi (D-Calif.) made their least bad choice. They could either continue a battle with the President that risked shutting down the federal government or disappoint their constituencies by acquiescing to the President's budget demands.

Reid and Pelosi chose to meet the President's bottom line budget demand and give up on \$22 billion in domestic increases. At the same time they ig-

nored the President's spending priorities and substituted their own priorities within the President's cap. And they added selective riders to HR 2764.

Americans for Responsible Recreational Access (ARRA), which represents recreation users, praised Congress for increasing the Forest Service recreation and trails accounts. "(ARRA) applauds Congress for keeping its commitment to recreation by increasing funding for these programs despite a difficult budget situation," said ARRA Executive Director Larry Smith.

The Wilderness Society praised Congress for increasing allocations for conservation programs. Of LWCF and Forest Legacy, Tom Gilbert, director of the society's Eastern Forest Conservation program, said, "There is clearly enormous need for these programs. It is good to see that Congress remains committed to conservation funding, . . ."

Congress took the following final actions on riders approved by either the House or Senate in various versions of HR 2764:

\* YELLOWSTONE SNOWMOBILES: Did NOT include a provision approved by the Senate Appropriations Committee that would have directed the Park Service to maintain snowmobile use under existing ceilings for the coming winter in Yellowstone National Park. A report accompanying HR 2764 acknowledges lawsuits against NPS's regulations that allow use, but said the lawsuits don't address this winter's limits. (See related article page 10.)

\* TRANSPORTATION ENHANCEMENTS: Did NOT include a provision approved by the House that would have required states to treat transportation enhancements equally with other programs when rescinding past allocations.

A conference report accompanying HR 2764 tells the Federal Highway Administration "to administer the rescission by allowing each State maximum flexibility in making adjustments among the apportioned highway programs, as proposed by the Senate. The House had

proposed to apply the rescission proportionally to each highway program, including funds set aside for transportation enhancements and within the state for population areas."

\* CHANNEL ISLANDS: DID include an order to the Park Service to remove non-native elk and deer from Santa Rosa Island in Channel Islands National Park.

Sen. Dianne Feinstein (D-Calif.), who sponsored the provision, said, "This marks the end to a long battle over Santa Rosa Island. The language included in this year's omnibus package will ensure that the court-approved settlement (to remove the elk and deer) will be carried out and the public will have full, year-round access to the island by 2011." The provision repeals a previous law sponsored by Rep. Duncan Hunter (R-Calif.) that protected the deer and elk for sport hunters.

The Vail family that holds a hunting lease on Santa Rosa through 2011 said in a statement, "It is unfortunate that Sen. Feinstein and her colleagues would leverage their power to eradicate these healthy and magnificent hers. Instead of giving park visitors and the American public an open process, they acted in the dark of night to insert a legislative rider that is in violation of the House and Senate rules which were enacted earlier this year."

\* NORTH DAKOTA FORESTS: DID include direction to the Forest Service to sell 5,200 acres of National Forest System land in Billings County, N.D., to complete an agreement that led to the acquisition of a 5,200-acre Elkhorn Ranch.

\* COMPETITIVE SOURCING: DID include direction to the Forest Service NOT to conduct any competitive sourcing work in fiscal 2008. (The bill does include \$3.45 million for competitive sourcing by the Interior Department.)

Said Jeff Ruch, executive director of Public Employees for Environmental Responsibility, "Congress just put a bullet into the heart of the Bush administration's strategy to commercial-

ize resource management. The Forest and Park Services need a respite from these expensive and disruptive outsourcing exercises."

PL 110-161 concludes a year of battles between Congress and the President over domestic spending. By shifting money among departments Congress managed to provide significant spending increases for an Interior bill, an Energy and Water bill, and a Transportation bill.

For an Interior and related agencies appropriations bill the House in its version would have hiked spending over the President's request by \$2 billion. In the end HR 2764 increases spending for the Interior bill by \$1.2 billion over the administration's request, providing \$26.9 billion compared to a request of \$25.7 billion. For an Energy and Water appropriations bill HR 2764 exceeds the President's request by \$1.4 billion, providing \$31.9 billion compared to a request of \$30.5 billion. For a Transportation appropriations bill HR 2764 exceeds the President's request by \$1.1 billion, providing \$49.1 billion compared to a request of \$48 billion.

## **Congress approves \$125M boost for NPS Centennial program**

Despite austere spending ceilings, Congress managed to include a major down payment on a Park Service Centennial Challenge program in a comprehensive spending bill (HR 2764) last month. President Bush signed the bill into law December 26 as PL 110-161.

Congress met a Bush administration request for an extra \$100 million for core Park Service operations in fiscal 2008 designed to complement the challenge program. And it provided \$25 million (to be matched by \$25 million in non-federal contributions) to launch a Centennial Challenge program for non-core initiatives.

The appropriators said they anticipate the House Natural Resources Committee will complete legislation next year to establish a permanent, 10-year

Challenge program. That legislation would provide detailed recommendations on how partnership grants should be handled, such as insuring that small parks without wealthy "friends" groups get a piece of the pie. (See separate article on the 2008 Hill agenda on page 8.)

For now Congress in a report accompanying HR 2764 directed NPS to use existing policy to administer the \$25 million matching grant program. Congress said that "the Park Service should be aggressive in structuring its partnership agreements to avoid projects which commercialize the parks and ensure that projects are chosen through a transparent and completely apolitical process."

The National Parks Conservation Association (NPCA) praised Congress for providing the Centennial money. "This is an exciting and important step toward restoring the national parks by their centennial," said NPCA President Thomas C. Kiernan in a statement, "and is a result of Congress and the administration recognizing that taking care of our national parks should be a national priority."

Three different Centennial Challenge bills have been held over for the next session of Congress to wrestle with this year.

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.

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. Rahall and Grijalva did not address partner contributions.

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.

When Congressional leaders were putting together HR 2764 last month Secretary of Interior Dirk Kempthorne and the National Park Centennial Network reportedly asked appropriators to add a truncated version of the Centennial Challenge bill to it. However, the train was too far out of the station for the Challenge to get aboard.

### **Senate gives go-ahead to new omnibus bill with three NHAs**

The Senate has opened the way for floor consideration of a package of nearly 60 individual natural resources bills approved last year by both the Senate Energy Committee and the House.

A Republican senator, believed to be Sen. Tom Coburn (R-Okla.), had placed a hold on almost all the committee's bills, preventing Senate consideration. Under an agreement with Senate Majority Leader Harry Reid (D-Nev.), Coburn will be allowed to offer five relevant amendments.

The package of bills, numbered S 2483, includes many of the individual bills the committee included in two separate omnibus bills, S 2179 and S 2180, last year but could not get to the Senate floor.

This time around some of the more controversial measures were left out, as were bills that the House had not also passed. The idea, said a Senate committee staff member, is to give swift final Congressional approval to the package, assuming the House will accept it.

"We would hope to get to the Senate floor late this month or early next month," said a committee spokesman. "We have made some minor clerical changes in the House bills but we have been in communication with the House on those changes."

Not included in the package is a somewhat controversial bill (S 1139) that would give Congressional blessing to the Bureau of Land Management's (BLM's) 26 million-acre National Landscape Conservation System (NLCS.) The committee approved S 1139 May 23, but the bill has not moved since. The NLCS was established by administrative fiat.

\* HERITAGE AREAS: The new omnibus bill includes several measures dealing with national heritage areas (NHAs.) S 2483 would designate a Journey Through Hallowed Ground NHA in Pennsylvania, Maryland, West Virginia and Virginia; an Abraham Lincoln NHA in Illinois; and a Niagara Falls NHA in New York.

The House approved a multi-faceted national heritage areas bill (HR 1483) of its own Oct. 25, 2007, that would designate six new NHAs including Journey Through Hallowed Ground, Abraham Lincoln and Niagara Falls.

Like HR 1483, S 2483 would increase a spending ceiling on these nine NHAs from \$10 million to \$15 million: National Coal Heritage Area in West Virginia, the Tennessee Civil War Heritage Area, the Augusta Canal NHA in Georgia, the Steel Industry American Heritage Area in Pennsylvania, the Essex NHA in Massachusetts, the South Carolina National Heritage Corridor, America's Agricultural Heritage Partnership in Iowa, the Ohio & Erie Canal National Heritage Corridor in Ohio, and the Hudson River Valley NHA in New York.

Not included in S 2483 are at least four NHAs that the Senate committee has approved but the House has not acted on. They are a Quinebaug and Shetucket Rivers Valley National Heritage Corridor in Massachusetts and Connecticut; Sangre de Cristo NHA in Colorado; South Park NHA in Colorado; and a Chattahoochee Trace National Heritage Corridor in Georgia and Alabama.

Also not included in S 2483 are at least three NHA bills approved by the House that would designate a Muscle Shoals NHA in Alabama; a Freedom's Way NHA in Massachusetts and New Hampshire; and a Santa Cruz Valley NHA in Arizona.

\* TRAILS: S 2483 would designate a Star Spangled Banner National Historic Trail in Maryland, Virginia and the District of Columbia. The House approved its bill (HR 1388) July 23, 2007.

\* RIVERS: S 2483 would designate the Eightmile River in Connecticut as a wild and scenic river. The House approved its bill (HR 986) July 31, 2007.

\* MISCELLANEOUS: S 2483 includes 21 other bills dealing with the Park Service, including boundary adjustments, studies, designation of commissions, and land conveyances. In addition the bill includes a Wild Sky wilderness bill for national forests in Wyoming, two land bills for BLM, 14 water resources bills, two Department of Energy bills and two territories bills.

## **Senate passes farm bill, kills park limit amendment**

The Senate approved its version of a multi-year farm bill (HR 2419) December 15 that would preserve most programs that involve outdoor recreation. But the measure ran out of time for enactment in December.

The legislation will face major obstacles this year. It must go through a House-Senate conference committee, the House and Senate must approve the conference bill, and Congress must overcome a probable veto.

The Office of Management and Budget (OMB) objects in particular to a provision in the Senate bill that would collect money for conservation through tax credits on conservation programs and make those revenues available for the entire farm bill. The tax credits would generate \$4 billion over ten years.

Said OMB, "The Administration opposes the option of shifting Conservation Reserve Program funding from the traditional cost-share and incentive payments to tax credits. Providing program participants this option will cost \$770 million more than current law without increasing the number of acres enrolled or obtaining the desired asso-

ciated environmental benefits."

The Senate did reject an amendment from Sen. Larry Craig (R-Idaho) that would have limited state and local government eminent domain authority to take agricultural lands for parks, open space or conservation. The vote was 37-to-58.

The Craig amendment would have forbid federal assistance to a state or local government if the state or local government attempted to obtain agricultural land "for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista, or similar purpose."

Said Craig on the Senate floor, "Additionally, many of our parks in this country are facing major budgetary shortfalls. To unnecessarily add more parks using eminent domain makes the problem worse, and to take private land to do so simply makes no sense. If the city wants to create a park, go find a willing seller and a willing buyer." Craig said the American Farm Bureau and the National Cattlemen Beef Association supported his amendment.

But Sen. Patrick Leahy (D-Vt.) said, "This amendment does nothing to prevent the government from seizing property in order to hand it over to private developers. Instead, it allows governments to seize farmland for a prison but non eminent domain for conservation purposes or a parkland." He said leading conservation groups opposed the amendment.

To form HR 2419 the Senate combined the recommendations of two committees - Agriculture and Finance. The agriculture committee provided the details of programs and the finance committee provided money to pay for them.

Past iterations of farm bills (each one usually covers five years) have removed millions of acres of open land from farming and devoted them to conservation purposes, preserving wildlife habitat across the country.

The version of HR 2419 approved by the Senate included basic conservation

programs 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. It also includes a new program to encourage private landowners to open their property to hunters and fishermen.

The House approved its version of HR 2419 July 27. It also included most of the conservation programs advocated by hunters and fishermen, including the private landowner program.

## **\$400 million park on drawing board for Governors Island**

The state and city of New York have chosen a firm to design a \$400 million park on Governors Island in New York Harbor just off the southern tip of Manhattan Island.

The architectural firm known as West 8 proposed a plan for the 172-acre island consisting of a new 40-acre-park on the southern end, a two-mile bikeway (with free bikes available to the public) around the circumference, and major renovations to open space on the northern end. Plans call for completion of the park and rec facilities by 2012.

The Park Service will continue to manage 22 acres in the north end of the island, including two 19<sup>th</sup> Century Army forts called Castle Williams and Fort Jay.

The selection of the West 8 firm represents a milestone event in the conversion of Governors Island from a largely abandoned Coast Guard facility to a major new park and recreation area for New Yorkers and tourists.

Conversion of the island to a visitor-friendly site will present a challenge to West 8 because the island is now flat and windswept. To give the park contour West 8 proposed to build hills in the southern park from landfill, some of which would come from tearing down old Coast Guard facilities.

New York State and New York City

hope to recapture revenues from resort and commercial development in sites set aside on the island for development.

The selection of the Dutch Firm West 8 - formally named West 8, Rogers Marvel Architects, Diller Scofidio & Renfro, Quennell Rothschild, and SMWM - was announced December 20 by Gov. Eliot Spitzer (D-N.Y.) and Mayor Michael Bloomberg (R-N.Y.) The Governors Island Preservation and Education Corporation selected West 8 from among five competing architectural firms.

At about the same time the Park Service December 21 announced the completion of a draft plan and EIS for the island that incorporates the West 8 proposal. Comment on the NPS plan/EIS to: *Superintendent Linda Neal, Governors Island National Monument, Battery Maritime Building, Slip 7, 10 South St., New York, NY 10004.* NPS say the draft plan is available at <http://parkplanning.nps.gov>, but we can't find it. More information is available at <http://www.govisland.com>.

Said Bloomberg, "New York is re-embracing the waterfront for the first time in more than a century. This park on Governors Island will be at the center of this new era of waterfront recreation for New York City, and will complement the city's other great parks and recreation spaces."

President Clinton designated the Governors Island National Monument in 2001 after the Coast Guard abandoned its facilities there. In 2003 the federal government sold the site to the state and city for \$1. The Bush administration provided most of the island to the state of New York, after initially saying the island would have to be sold at market price.

## **Enviros resume Big Cypress OHV fight they once won**

Environmentalists reopened an old battle over off-highway vehicles (OHVs) in Big Cypress National Preserve last month that they won seven years ago.

They filed suit to prevent the

Park Service from opening 20 miles of trails to OHV use. The environmentalists contend that a Feb. 21, 2007, NPS decision to open the trails violates the Endangered Species Act, among other laws, because OHVs could damage habitat used by the endangered Florida panther.

In 2000 the Park Service closed 23,300 miles of dispersed land in Big Cypress to OHV use. Now it is attempting to change course and add 20 miles of the Big Cypress unit at issue for OHV use.

Said Kristen Brengel, a staff member with The Wilderness Society, "The 2000 plan said NPS would discontinue all-terrain vehicle use in prairies in Bear Island because of the hydrology of the area. Grasses and soils can't sustain the use."

The environmentalists argued that NPS must prepare environmental documentation before allowing OHV use on Bear Island. The plaintiffs also argued that the action violates the Endangered Species Act by jeopardizing the panther.

The dispute over OHVs in Big Cypress marked one of the few occasions the Bush administration did not support its allies in the powered recreation establishment. The Wildlife Conservation Fund of America and six other parties, all OHV supporters, argued that the 2000 Park Service EIS backing the plan to reduce OHV use in Big Cypress was inadequate.

The OHV supporters said (1) a 1991 general management plan/EIS to which the 2000 plan was tiered was out of date, (2) NPS lacked solid scientific evidence and (3) the process was not open to the public because the final alternative was not evaluated in a draft EIS.

But the administration, which had negotiated settlements in favor of OHV users in other lawsuits, did not this time, allowing the Park Service plan to stand.

The law firm Meyer & Glickstein filed the new suit on behalf of Defenders of Wildlife, the Sierra Club, the

Humane Society of the United States, National Parks Conservation Association, the Florida Biodiversity Project, The Wilderness Society and Wildlands CPR.

But the BlueRibbon Coalition, which represents powered rec interests, painted the lawsuit idea as an attack on deer and hog hunters. "This is a clarion call to all sportsmen and off-road vehicle enthusiasts," said Brain Hawthorne, public lands director of the coalition, before the lawsuit was filed. "These groups will stop at nothing short of closing all hunting and vehicle access to Big Cypress and other public lands."

The Park Service prepared the new EIS and policy as part of a 1995 settlement of a lawsuit brought by the Florida Biodiversity Project. The NPS decision reduced OHV use from 1,200 miles of trails to 400 miles, reduced the cap on numbers of OHVs permitted to enter the preserve from 2,500 to 2,000, reduced access points to 15 (the plaintiffs said NPS could have gone with 30), and established an option for a 60-day closure to ORVs when the Park Service sees fit (compared to no closure before.)

Once the Park Service completed the plan, the ORV users filed their own lawsuit. They said the Park Service decision would close off recreational uses in the park. The plaintiffs use airboats and swamp buggies to obtain access to the inner reaches of the preserve for hunting, fishing, frogging and other recreational uses.

Big Cypress occupies 729,000 acres adjacent to the Florida Everglades, stretching to the southwest from the Everglades to Florida Bay.

## **NPS Centennial bill heads 2008 agenda for park and rec**

President Bush last year had only one real playing card in his spending war with Congress - the veto. But Bush used that card most effectively, forcing the House and Senate to meet his overall domestic appropriations demand.

In calendar 2008 the President

will undoubtedly play the veto card again. He is expected to use it to force substantial domestic spending cuts, including for park and recreation programs.

The administration isn't saying yet what those cuts will be (the fiscal 2009 budget comes out February 4), but word on the street has it that even the Park Service may have to take its lumps.

So in calendar 2008 park and recreation programs promise to be in the cross hairs again, with the White House trying to hold the line on spending and the Democratic Congress trying to reverse a decade of decreased spending.

In 2007 Congressional Republicans - particularly senators - followed Bush's spending recommendations. But 2008 is an election year and some of those senators may want new park and rec money for their states.

For specific proposals the 500-pound gorilla in the park and rec field will once again be the administration's \$3 billion Centennial Initiative. If the administration follows through on its initial recommendation, it will ask Congress to put up an extra \$100 million in fiscal 2009 to help NPS prepare core operations for the 2016 centennial of the National Park System (although we hear even that priority may be subject to the budget axe.)

Less sure is the future of a portion of the Centennial Initiative called the Centennial Challenge. Under it the White House has asked Congress to pony up \$100 million per year for non-core Park Service projects that would be matched by \$100 million per year in "friends" contributions. Congress failed to pass authorizing legislation in calendar 2007, although appropriators did put up a \$25 million down payment.

In calendar 2008 supporters will try again. They universally pronounce themselves "optimistic" that Congress will pass the Challenge legislation in an election year.

"I can make the argument that an



election year helps us," said Tom Hill, legislative representative for the National Parks Conservation Association. "Our item is not as controversial as big ticket items that won't make it, like immigration."

Indeed House Resources Committee Chairman Nick Joe Rahall (D-W.Va.) last month counted the Centennial Challenge as one of his top priorities for 2008. "Efforts will continue to pass legislation aimed at bolstering the budget of the National Park Service, approaching its 100th year, in order to allow the Park Service to effectively implement its mission and serve the needs of the American people," he said.

Here's the outlook for some other programs in 2008:

\* **FEDERAL RECREATION FEES:** Sens. Max Baucus (D-Mont.) and Mike Crapo (R-Idaho) introduced legislation (S 2438) last month that would remove the guts of a controversial 2004 federal recreation fee law. The bill would leave in place only Park Service entrance fees, with 80 percent of revenues still retained by collecting units. But it would not allow other agencies to retain fees.

Conventional thinking holds Congress will not want to eliminate \$70 million in revenues for the Forest Service (\$50 million), the Bureau of Land Management (\$15 million) and the Fish and Wildlife Service (\$5 million.) The Forest Service in particular has faced drastic spending cuts in recent years.

\* **SAFETEA-LU REPLACEMENT:** At the least the leaders of the House Transportation and Senate Environment and Public Works Committees are expected to lay out draft multi-year surface transportation bills. The measures would serve as the foundation for legislation that would eventually replace the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU.) That five-year law is scheduled to expire Sept. 30, 2009. Of crucial importance will be a source of revenues to supplement the existing gasoline tax that powers the program.

\* **RECREATION COMMISSION:** Sen. Lamar Alexander (R-Tenn.) last year said he may attempt to persuade Congress this year to establish a third outdoor recreation commission so that the next President can address its recommendations. Alexander's original plan was to wait until the next President was elected and begin work in 2009 on a bill, but by the time a new commission was formed and completed its work the next administration would almost be over.

When Alexander chaired the President's Commission on Americans Outdoors in the mid 1980s as then-governor of Tennessee, that panel recommended dozens of major strategies to revive park and rec programs. Perhaps most noteworthy the commission recommended in 1987 a \$1 billion trust fund to guarantee money for the Land and Water Conservation Fund.

\* **NATIONAL HERITAGE AREAS:** The Senate Energy Committee and the House Natural Resources Committee in 2007 began work on as many as a dozen national heritage area (NHA) bills. The outlook for the bills improved markedly last month when Sen. Tom Coburn (R-Okla.) reportedly removed a blanket hold he had applied to all park and rec bills. That opens the way for Senate action on an omnibus committee bill (S 2483) that includes as many as 60 individual bills the committee approved last year. Among the total are three new NHAs and the extension of nine other NHAs. (*See separate article page 4.*)

\* **TRAILS, RIVERS AND MORE:** The Senate Energy Committee omnibus bill (see previous item) would designate a Star Spangled Banner National Historic Trail in Maryland, Virginia and the District of Columbia to commemorate the War of 1812. Many other important trail bills have begun to move in the Senate committee and the House Natural Resources Committee.

Finally, HR 2483 would designate an Eightmile River Wild and Scenic River in Connecticut. Many other wild and scenic river bills have been introduced, either singly or in statewide land

bills, such as a California Wild Heritage Act (S 493, HR 860.)

## Wyoming, enviros sue NPS on Yellowstone snowmobiles

The State of Wyoming and a coalition of environmental groups have filed competing lawsuits against a Park Service decision to allow snowmobile use in Yellowstone National Park. However, both would allow NPS to implement its rule for this winter season.

The state contends the Park Service rule of December 13 does not accommodate enough snowmobiles in the park and the environmentalists contend it allows too many. Both argue that the science NPS used to back its EIS, plan and regulations is flawed.

The State of Wyoming lawsuit filed by Attorney General December Bruce Salzburg December 13 said NPS did not work closely enough with Wyoming. The state said NPS did not enable the state, "in its role as a cooperating agency in the NEPA process, to meaningfully participate in the development of the revised preferred alternative in the final EIS. Specifically, the Park Service did not confer with, or seek input from, the State when making the decision to decrease the number of daily snowmobile entries into YNP from 720 sleds per day ( ) to 540 sleds per day. . ."

From the other side Doug Honnold, senior attorney for the Earthjustice environmental law firm, said the Park Service had its environmental analysis on backwards. "The fundamental problem of the analysis and the decision-making process is that instead of looking at what was right for Yellowstone, the Park Service instead evaluated whether its decision to allow continued snowmobile use against the bad old days of unregulated snowmobile use when more than 1,000 machines per day entered the park," Honnold told *FPR*. "By that measure any decision looks good."

But Yellowstone spokesman Al Nash said the park believes its scientific analyses will stand up in court. "We're

very confident that we have a sustainable, long-term plan for winter use of the park," he said. "We believe we have put together a very comprehensive EIS that will pass muster."

Added Nash, "We feel very good about our proposal and the way it addresses historical, unregulated snowmobile use in the park. We've addressed all the impacts - wildlife, noise and air pollution."

Neither the state nor the environmentalist lawsuit would affect snowmobile use this winter. Both sets of plaintiffs, for different reasons, do object to snowmobile levels the NPS EIS, plan and regulations would allow beginning the winter of 2008-2009.

The Park Service issued a final rule December 13 that for this winter authorizes snowmobile use at the levels of the last three winters. That is, 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 will also limit the number of snowcoaches in Yellowstone to 78 per day. This winter's season began December 19.

For the 2008-2009 season and henceforth the rule allows 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.

The State of Wyoming filed its lawsuit in the U.S. District Court for Wyoming. The Wyoming court in February 2004 issued a decision on Yellowstone snowmobile use favorable to the snowmobile industry. The suit objects to the reduction in snowmobile use in out-years from 720 to 540, the requirement for a guide for each snowmobile and restrictions on entrance to the east side of the park through Sylvan Pass.

In re Sylvan Pass the rule leaves it 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. The state's Republican Congressional delegation, among others, has objected to Park Service proposals to close the pass.

Earthjustice first filed the environmentalists' lawsuit November 20 against the NPS EIS and record of decision. On January 9 Earthjustice amended the suit to include objections to the December 13 rule as well. The suit was filed in the U.S. District Court for the District of Columbia, which in December 2003 issued a decision on Yellowstone snowmobile use favorable to environmentalists.

Earthjustice filed the lawsuit on behalf of the National Parks Conservation Association, the Greater Yellowstone Coalition, The Wilderness Society, the Natural Resources Defense Council, the Winter Wildlands Alliance and the Sierra Club.

The environmentalists argue in their lawsuit that the NPS EIS, decision and rule violate NEPA. They summed up, "Rather than preserving the Parks as a sanctuary for wildlife, natural processes, and humans alike, the decision contravenes the Park Service's affirmative responsibility to protect wildlife and natural soundscapes, and to secure the best possible air quality. By granting damaging snowmobile use priority over other, less injurious forms of public access, the Park Service has impaired the park experience for all winter visitors."

## **Park Service retirees blast administration, seek change**

A coalition of Park Service retirees this week issued a wish list for 2008 that implicitly condemns Bush administration policies across-the-board.

The Coalition of National Park Service Retirees (CNPSR) effectively says the administration has politicized decision-making in the Interior Department and the Park Service and has underfunded the park system.

"There are too many decisions being made for political reasons and to satisfy special and commercial interests, and not enough decisions being made on principle and in accordance with the intent of the legislated mission of the NPS," said CNPSR.

Similarly, the retirees questioned the Bush administration's flagship recommendation to raise \$2 billion for the parks via a partnership with "friends" organizations. "Current initiatives involving substantial infusion of philanthropic funds are important, but worrisome in that they move the parks more toward privatization and to being disproportionately influenced by non-public interest groups," said CNPSR. "The role of philanthropy should not be one of funding basic, essential operations of parks."

When it was noted that the Bush administration promised to increase spending for both operations and maintenance of the National Park System, CNPSR Executive Council Chair Bill Wade took exception.

"The request the administration put in for 2008 was a substantial increase but it came after six years of flat or decreasing budgets," he said. "Although Congress approved more for the operations budgets, it was still \$800-to-\$900 million behind what is needed."

As for maintenance, he said, "At first they promised to eliminate the maintenance backlog and then they said it just wouldn't get worse. My guess is that it has not only not decreased but has gotten worse."

The Park Service retirees did make one relatively non-controversial recommendation - a National Park Service Centennial Commission to complement the Bush administration's \$2 billion Centennial Challenge proposal and a \$1 billion park improvement proposal.

The retirees said a commission should develop reports on the parks and issues facing the parks for the next century. Said Rob Arnberger, a member of CNPSR's executive council and former

regional director in Alaska, "The Commission will explore the importance of parks in our society and national life and determine the long term governance strategies that will meet the future needs of our nation and assure long term sustainability of our nation's system of parks."

Wade, a former superintendent of Shenandoah National Park, told us, "I think this may get some traction. This Centennial should be more than two things - birthday cakes and candles and secondly more money. We need a debate on what is best for the parks over the next 100 years."

Here are CNPSR's seven wishes for 2008: (1) NPS leaders make principled decisions; (2) NPS keeps entrance fees affordable; (3) NPS takes the lead in minimizing global warming; (4) Congress and the White House fund NPS adequately; (5) NPS relies on good science to make decisions; (6) Congress and the White House establish a Centennial Commission; and (7) NPS leads the world conservation movement.

## Notes

### **Bush drops FS planning appeal.**

The Bush administration January 7 ended its appeal of a federal court order to prepare an EIS to cover comprehensive national forest planning rules. The administration had appealed a March 30, 2007, decision of U.S. District Court Judge Phyllis J. Hamilton in Northern California to the Ninth Circuit Court of Appeals that requires the EIS. The on-the-ground impacts of the administration decision not to continue the appeal may be inconsequential. That's because the Forest Service proposed a new planning rule Aug. 24, 2007, that is essentially unchanged. The only change would be the writing of an EIS, expected to be completed this calendar year, to back the rule. Environmentalists objected to an original 2005 Forest Service rule for a number of reasons, including the removal of a requirement for an EIS to cover individual forest plans.

### **FS drafts Idaho roadless rule.**

The Forest Service January 7 took a major step toward implementing the spirit of a Bush administration roadless area rule that allows governors to petition for customized regulations for national forests in their states. It published a draft rule that would implement an Idaho petition and allow some road construction and timber harvesting in national forest roadless areas in the state. The Idaho rule would effectively overcome a 2001 Clinton administration rule that bars almost all road construction and timber harvesting in roadless forests. Technically, a 2005 Bush administration roadless area rule that established the state petition process is null and void because a federal court issued an injunction against it on Sept. 19, 2006. That injunction restored the 2001 Clinton administration rule that bars most roadwork and timber harvesting on 58.5 million acres of national forest. However, the administration is working around the court's ruling by processing state petitions under the Administrative Procedures Act. For the State of Idaho that means the service is processing a request by the governor to open up somewhat 9.3 million acres of roadless areas within 10 national forests. The proposed rule would allocate 1.3 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 600,000 acres to general forest use (the petition called for a half-million acres.) 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. Information is available at <http://roadless.fs.fed.us>.

### **FS begins on Colorado roadless.**

Much like the Idaho situation above, the Forest Service gave notice December 26 that it would prepare an EIS and rule to implement a Colorado roadless area petition. The Colorado petition would allow slightly more road construction than a Clinton rule that bars most roadwork,

but in carefully drawn circumstances. The Colorado petition was submitted by former Gov. Bill Owens (R), and modified by current Gov. Bill Ritter (D.) The petition would exempt approximately 300,000 acres of the 4.4 million acres of roadless national forest in Colorado from the Clinton rule. Information is available at <http://roadless.fs.fed.us>.

**Smoky road may be foregone.** Following the Park Service's lead Congress approved a \$6 million payment in a fiscal year 2008 omnibus appropriations bill to avoid construction of a \$600 million road in Great Smoky Mountains National Park. The \$6 million is a down payment on an expected \$52 million allocation Congress anticipates making to settle a 64-year old promise to build the road in Swain County, North Carolina. The money will be provided to Swain County. The road would run through inaccessible land on the north shore of Lake Fontana to old graveyards. In 1943 the inaccessible land was transferred to the National Park Service as part of Great Smoky. Sen. Lamar Alexander (R-Tenn.) and Rep. Heath Shuler (D-N.C.) secured the \$6 million in an omnibus money bill (PL 110-161 of December 26.) Said Shuler, "A full settlement is a common sense solution that will protect the integrity of the Great Smoky Mountains National Park, while also providing Swain County the resources it needs to invest in job creation and school improvement."

**NPS advisory board reactivated.**

Out of commission for a year the Park Service Advisory Board will be back in business in 2008. Secretary of Interior Dirk Kempthorne used his own authority to reestablish the panel and last month he appointed five new members to go with seven members he reappointed. Kempthorne named as chairman William F. Baker, CEO of Thirteen/WNET, public television in New York City. Kempthorne nominated these five new members: David R. Anderson, Natural Resources LLC, Arlington, Virginia; John Bridgeland, President and CEO, Civic Enterprises LLC, Washington, D.C.; Gerald T. Halpin, President and CEO, WestGroup Management LLC, McLean, Virginia; William T. Hardman, President and CEO, Southeast

Tourism Society, Atlanta, Georgia; Mary "Cisi" Canales Jary, P.E., Restoration Associates Ltd., San Antonio, Texas

**Senate/budget schedules set.** The Senate is tentatively scheduled to begin the second session of the 110<sup>th</sup> Congress on Tuesday, January 22. President Bush is scheduled to deliver the State of the Union address Monday January 28. Bush is scheduled to release his fiscal year 2009 budget request on Monday, February 4. The House has not established its schedule yet but its schedule is expected to parallel the Senate's.

**Yellowstone reports to world body.**

Yellowstone National Park last month announced it has completed a draft progress report on steps it has taken to stay off a World Heritage Committee "danger" list. In 2003 the World Heritage Committee removed Yellowstone from its In Danger List. As part of the deal Yellowstone was to prepare a report on steps it is taking to keep the park off the list. The report describes the status of issues such as mining, threats to wildlife, water quality and visitor overuse. The draft report is available at <http://www.nps.gov/yell/planyourvisit/world-heritage-committee-report.htm>. The Bush administration created a furor last spring when it persuaded the World Heritage Commission to remove Everglades National Park from the In Danger List. Sen. Bill Nelson (D-Fla.) charged that the delisting was the work of Bush administration officials critical of expensive Everglades recovery projects. He said the removal of the Everglades from the list "could jeopardize ongoing federal efforts to save this national treasure."

**Ethanol may harm duck habitat.**

Ducks Unlimited says that federal data show a massive loss of land last year that had been set aside for conservation purposes due to the conversion of the land to agricultural uses, particularly to grow crops that can be converted to ethanol. Ducks Unlimited says Fish and Wildlife Service data show the federal Conservation Reserve Program (CRP) contributes to the production of 2 million ducks per year. But, said Scott McLeod, Ducks Unlimited farm bill specialist,

"The rental rates paid for enrolling in CRP do not compete with what producers can get by renting out the land for cropping or by farming it themselves." Ducks Unlimited said that almost 420,000 acres of conservation reserves in North Dakota were converted to cropland in 2007.

## Conference calendar

### 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>.

### MARCH

1-4. **Recreation Vehicle Industry Association** annual meeting in Hawaii, Hawaii. Contact: Recreation Vehicle Industry Association, 1896 Preston White Drive, Reston, VA 20195-0999. <http://www.rvia.org>.

1-5. **National Association of Counties** legislative conference in Washington, D.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, D.C. 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

4-5. **National Forest Recreation Association** annual conference and trade show. Contact: National Forest Recreation Association, P.O. Box 488, Woodlake, CA 93286. (559) 564-2365. <http://www.nfra.org>.

8-12. **American Alliance for Health, Physical Education, Recreation and Dance** annual meeting in Fort Worth, Texas. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191. (703) 476-3400. <http://www.aahperd.org>.

11-14. **National Legislative Forum on Parks and Recreation**, in Washington, D.C. Contact: National Recreation and Parks Association, 1901 Pennsylvania Ave, N.W., Washington, DC 20006. (202) 887-0290. <http://www.nrpa.org/forum>.

25-29. **North American Wildlife** conference in Phoenix, Ariz. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

26-30. **Society for American Archaeology** annual meeting in Vancouver, B.C., Canada. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, D.C. 20002-3557. (202) 789-8200. <http://www.saa.org>.

27-30. **National Off Highway Vehicle Conservation Council** annual conference in Albuquerque, N.M. Contact: National Off Highway Vehicle Conservation Council, 4718 South Taylor Drive, Sheboygan, WI 53081. Ann Vance at (800) 348-6487. <http://www.nohvcc.org/>