

FEDERAL PARKS & RECREATION BULLETIN #9: October 1, 2007

Dear Subscriber:

This is a bulletin from Federal Parks & Recreation newsletter that reports on the following:

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- * HOUSE REPUBLICANS ATTACK NHAs, TO LITTLE AVAIL
- * YELLOWSTONE APPROVES SNOWMOBILE EIS WITH REDUCED USE
- * NPS AIR TOUR PLANS MAY NOT BE NEEDED IN NEW LAW
- * CONGRESS FINALLY APPROVES WRDA/EVERGLADES BILL; VETO?

NOTE: This bulletin is a supplement to your regular edition of Federal Parks & Recreation. It is NOT your regular issue. The next issue will be published October 5.

The Editors

CONGRESS RUNS OUT OF TIME ON APPROPS; GOP ASKS FREEZE

President Bush signed into law September 29 a temporary spending bill that will keep agencies in money from the beginning of fiscal year 2008 on October 1 (today) until November 16.

The House approved the temporary spending bill (HJ Res 52) September 26 and the Senate followed suit September 27.

President Bush and Congressional Republicans made it clear they would be perfectly happy if the Democratic majority reached gridlock on domestic appropriations bills throughout fiscal 2008 and was forced to extend fiscal 2007 spending levels. That would head off big new increases in park and rec spending that the House and Senate Appropriations Committee have approved.

President Bush September 24 in a speech to business leaders recommended that Congress write individual money bills and send them to him one-by-one, a near political impossibility. And he rejected the notion of an omnibus, 12-bill appropriations measure. "If they think that by waiting until just before they leave for the year to send me a bill that is way over budget and thicker than a phone book, if they think that's going to force me to sign it, it's not," he said.

Espousing the same philosophy as the President, 41 House Republicans and 15 Senate Republicans introduced legislation September 19 that would freeze spending in fiscal year 2008 at fiscal 2007 levels (HR 3583, S 2070.)

Such a freeze would prevent Democrats from increasing spending in fiscal 2008, as they have proposed. The freeze would last until Congress completed individual spending bills.

Rep. Jeb Hensarling (R-Texas), lead sponsor of the House bill, attacked. "Despite promises of fiscal responsibility, Democrats have spent the year wastefully spending taxpayers' money," he said. He painted his bill as a middle ground designed to prevent a shutdown of government services.

"What we are offering today is a compromise that we hope can bring Democrats, who want a huge increase in spending, and conservatives, who want

more accountable Washington spending, together," he said. "Any member of Congress who honestly wants to avoid a government shutdown should support this bill."

Sen. Jim DeMint (R-S.C.) is the lead sponsor of the Senate bill, which includes among its cosponsors Senate Minority Leader Mitch McConnell (R-Ky.) and Sen. Larry Craig (R-Idaho), ranking Republican on the Senate subcommittee on Interior appropriations.

Domestic appropriations bills are trapped between the desire of the new Democratic majority in Congress to reward its backers with significant programmatic spending increases and the Bush administration's desire to limit domestic spending. The main hang-up is the Senate floor where the filibuster allows the Republican minority to prevent appropriations bills from being considered.

The administration objects to the Interior bill because it would increase spending far above President Bush's request. The House approved its version of an Interior bill (HR 2634) June 27 with \$2 billion more than the President recommended, \$27.6 billion compared to a request of \$25.6 billion. The Senate Appropriations Committee approved a counterpart to HR 2634 (S 1696) June 21 with \$1.5 billion more than the administration request.

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

Recent history suggests that final fiscal 2008 domestic bills will be late, very late. Of the past five Interior money bills, even when Republicans controlled both the White House and Congress, only one was completed on time. A fiscal year 2006 bill was signed on Aug. 22, 2005. Of the other four one was a month late, one was two months late, and two were more than four months late. Now the White House and Congress are controlled by different parties.

HOUSE REPUBLICANS ATTACK NHAs, TO LITTLE AVAIL

The House Natural Resources Committee September 26 approved an ambitious national heritage areas (NHAs) bill, but not without a major protest from some Republican members.

The measure would expand federal spending for nine existing NHAs, establish six new NHAs and establish national standards for future NHAs, including the ones in the bill.

Although the committee approved the legislation by an overwhelming 23-to-12 margin, Republican members charged the measure is excessively expensive and fails to protect private property. The Republican protest does spell trouble for the bill when it reaches the House floor and, particularly, on the Senate floor, if any senator chooses to filibuster.

HR 1483, introduced originally by Rep. Ralph Regula (R-Ohio), would increase the spending cap on nine NHAs from \$10 million to \$15 million. (See areas affected below.)

In addition the bill would establish six new NHAs: Journey Through Hallowed Ground NHA in Pennsylvania, Maryland, West Virginia and Virginia (HR 319); Niagara Falls NHA in New York (HR 713); Mucsle Shoals NHA in Alabama (HR 1145); Freedom's Way NHA in Massachusetts and New Hampshire (HR 1297); Abraham Lincoln NHA in Illinois (HR 1625); and Santa Cruz Valley NHA in Arizona (HR 1885.)

Led by Rep. Rob Bishop (R-Utah), ranking Republican on the House subcommittee on National Parks, the Republican critics offered a major amendment that would allow any landowner within an NHA to opt out of any management restraint imposed by NHA managers.

"This does not require everyone being contacted," said Bishop, "It simply requires that, if any property is going to be used for preservation or conservation management, the property owner has the right to be notified before that use takes place. That property owner should have the right to withdraw his property if the use does not meet with his particular needs at that particular time."

But the chairman of the Parks subcommittee, Raúl Grijalva (D-N.M.), said the bill already offers private property protections. "The protections we are talking about I think not only are they sufficient but there has been a considerable effort made to insure that heritage areas are not going to impinge on private property rights and I think those protections are abundant in the substitute," said Grijalva. He said the bill includes language to protect private property that Congress has included in numerous other NHA bills in recent years.

Bishop also complained of the price tag: "What makes it worse these heritage areas have not only fallen out of the sky but have fallen into a financial windfall because whereas the original bill only has a request for \$10 million for some inexplicable reason we are giving these new heritage areas a \$5 million bonus for a total compensation of \$15 million, which makes us one generous committee. The total cost of this overall bill is now up to \$135 million."

But Rep. Wayne Gilchrest (R-Md.) defended the investment. "The dollars issue and the property rights issue have been debated and discussed and in my mind resolved through the subcommittee and full committee. . .," he said. "The small paltry pittance we are trying to produce today in this place has the potential to be enormously positive in increasing an understanding so young people can have more initiative and ingenuity."

The Senate is also moving on NHAs. The Senate Energy Committee September 18 cleared for Senate action legislation to establish the national NHA program, as well as a half-dozen individual NHA bills.

The Senate committee action consisted of committee reports that sum up the need for legislation. In the package the committee is ready to proceed to the Senate floor with a bill (S 278) that would establish national standards and a national policy.

The Bush administration has long demanded that Congress establish national standards before approving individual NHAs. When the Senate and House committees have held hearings on individual bills, Park Service witnesses have said the administration insists that Congress approve a national bill before moving individual bills.

So now this both the Senate and House committees have approved the national standards bill that has been introduced over the years by the late Sen. Craig Thomas (R-Wyo.) The House committee said all NHAs in HR 1483 conform to the national standards bill.

The five individual NHA bills approved by the Senate committee would designate an Abraham Lincoln NHA, S 955; Journey Through Hallowed Ground NHA, S 289; Niagara Falls NHA, S 800; Sangre de Cristo NHA in Colorado, S 443; and a South Park NHA in Colorado. The first three were also passed by the House committee.

The House bill would also extend and increase spending for a National Coal Heritage Area in West Virginia, the Tennessee Civil War Heritage Area, the Augusta Canal National Heritage Area in Georgia, the Steel Industry American Heritage Area in Pennsylvania, the Essex National Heritage Area 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 National Heritage Area in New York.

Sen. George Voinovich (R-Ohio) has introduced a counterpart bill (S 817) to extend the life of the nine NHAs. The Senate committee has not acted on it yet.

YELLOWSTONE APPROVES SNOWMOBILE EIS, GEARS UP FOR THIS WINTER

The Park Service managed to infuriate virtually all interested parties September 24 when it proposed major compromises in a snowmobile plan for Yellowstone National Park.

In releasing a final EIS September 24 NPS said it would:

- * defer the implementation of a final new policy until the winter of 2008-2009, leaving the existing level of snowmobile use in Yellowstone capped at 720 machines per day for this winter of 2007-2008 (NPS had earlier planned to implement the final policy this winter),

- * decrease the cap on snowmobile use in Yellowstone from 720 to 540 when the new policy kicks in during the 2008-2009 winter.

Snowmobile advocates were furious. Environmentalists were furious. Sen. Mike Enzi (R-Wyo.) was furious. And Gov. Dave Freudenthal (D-Wyo.) was "disappointed."

For this winter the Park Service proposed an extension of a winter use policy that has been in effect for the last three winters for Yellowstone, Grand Teton National Park and the John D. Rockefeller, Jr., Memorial Parkway.

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 would also limit the number of snowcoaches in Yellowstone to 78 per day. Snowcoaches would not be required in Grand Teton and the John D. Rockefeller parkway.

Beginning in the winter of 2008-2009 NPS would allow 540 snowmobiles per day in Yellowstone and 83 snowcoaches. All snowmobiles and snowcoaches would have to use best available technology. All snowmobiles would have to be led by commercial guides.

NPS would allow 65 snowmobiles per day in Grand Teton and the parkway. In addition NPS would discontinue grooming (effectively blocking snowmobile use) on a stretch of the Continental Divide Snowmobile Trail between Moran Junction and Flagg Ranch.

The final EIS does not represent a final decision by NPS. That won't be made until early November, followed by a regulation to implement the decision, so NPS still has time to accommodate its critics. Even though NPS would like to extend its interim policy through this coming winter, it still must complete the new regulation before the season begins December 19.

The big question now is, who will sue? Litigation has dogged NPS's snowmobile policy for the Wyoming parks beginning in the Clinton administration. The snowmobile industry then persuaded a federal judge in Wyoming to block a Clinton plan to eliminate snowmobiles altogether in the parks. Then environmentalists persuaded a federal judge in Washington, D.C., to block a Bush administration plan to maintain snowmobile use. Finally, Congress entered the picture the last three winters to forbid the courts from blocking interim NPS rules.

Snowmobile advocates hinted strongly last week they would sue. "(W)e are very disappointed by the level and nature of the access outlined in the FEIS preferred alternative," said Jack Welch, president of the BlueRibbon Coalition. "We maintain ample reserves for the coming fight, which we deem unfortunate but inevitable, over this issue."

Environmentalists laid out their own casus belli. The Greater Yellowstone Coalition and other groups said the preferred NPS alternative in the EIS (the new plan) violates Park Service management Policies adopted last year. "Yellowstone's winter use policy has been widely cited as a first major application of the new policies and test of the Administration's commitment to uphold them," said the coalition.

The Greater Yellowstone Coalition then itemized violations it sees in the FEIS, including failure to follow good science, failure to listen to EPA complaints, failure to protect wildlife, violation of the Clean Air Act, and failure to listen to the public's objections to noise in the park.

Sen. Enzi and Gov. Freudenthal objected to an NPS proposal to close the east entrance of the park through Sylvan Gate to motorized transportation beginning in the winter of 2008-2009. Said Enzi, "The Park Service appears hell-bent on closing Yellowstone in winter. They have steadily and strategically worked toward this goal for years. Unfortunately for the people of Wyoming, the Park Service is going where they intended all along."

But NPS said in a news release the expense and risk of avalanches in the eastern sector of the park argues against keeping the gate open. "The National Park Service has determined it is an unacceptable risk to use the howitzer like we have in the past or to continue use of the helicopter as we have in the past for avalanche control over a recreational transportation corridor that has historically been utilized by no more than 5,000 people a Winter," said NPS.

Gov. Freudenthal countered, "The Park Service has made this decision even though their own studies show that avalanche risks can be safely and affordably mitigated."

The Final EIS can be found at:
<http://parkplanning.nps.gov/documentsList.cfm?parkId=111&projectId=12047>.

NPS AIR TOUR PLANS MAY NOT BE NEEDED IN NEW LAW

In cooperation with the Bush administration, the House and Senate are developing legislation that would eliminate the need for National Park Service units to write plans to accommodate flights over their borders.

In addition a House-passed bill (HR 2881) would allow parks with fewer than 50 overflights a year to forego the plan. A bill passed by the Senate Commerce Committee (S 1300) would allow parks with fewer than 100 flights to forego a plan.

Instead of reaching agreement with air tour companies under plans, both bills would allow parks to negotiate "voluntary agreements" directly with the companies now. The voluntary agreements would have to meet the approval of the Federal Aviation Administration and the Interior Department.

Says the House-passed bill, "A voluntary agreement under this paragraph with respect to commercial air tour operations over a national park shall address the management issues necessary to protect the resources of such park and visitor use of such park without compromising aviation safety or the air traffic control system. . ."

The new provisions are included in comprehensive bills to reauthorize FAA operations. The House passed its bill September 20 and the Senate Commerce Committee approved its bill August 3. However, the House took a little pressure off the need to pass the legislation September 24 by passing a bill (HR 3540) to extend the existing FAA authorization through December.

In the seven years since Congress directed the FAA and NPS to write air tour management plans for all national parks that have received applications for overflights, none have been completed. Blame is placed on everything from the September 11 terrorist attacks to lack of money from Congress to interagency squabbling.

Congress wrote the National Parks Air Tour Management Act of 2000 (PL 106-181 April 5, 2000), to guide the FAA and NPS in coping with ever-larger numbers of air tours over the national parks, and in reaction to high-profile accidents. FAA says it has received applications to fly over more than 100 national parks and six tribal lands from 91 different air tour operators.

The act exempted Grand Canyon National Park and parks or tribal lands in the state of Alaska because a separate law guides them. The act also prohibits air tours over Rocky Mountain National Park.

CONGRESS FINALLY APPROVES WRDA/EVERGLADES BILL; VETO?

The Senate joined the House September 24 in approving a 2007 Water Resources Development Act (WRDA) by a veto-proof margin, 81-to-12. The House approved the bill (HR 1495) August 1 by a veto-proof 381-to-40 vote.

Still, if President Bush vetoes the measure, an unknown number of Republicans may be persuaded to oppose the bill.

Sen. James Inhofe (R-Okla.), ranking Republican on the Senate Environment and Public Works Committee, supports the bill. He warned that the 81-to-12 vote "sends a clear message to the President: don't veto this critically important infrastructure bill." Inhofe calls himself "the most fiscally conservative member of the United States Senate."

Committee chairman Barbara Boxer (D-Calif.) said, "If the President chooses to veto the bill, as he has threatened to do, we are committed - on a bipartisan basis - to move to override his veto."

The Heritage Foundation among others disagrees and is urging Bush to veto the bill to set an example for appropriations bills to come. "With a showdown looming between Congress and the White House over appropriations bills, a veto of WRDA would send an important signal: True fiscal responsibility requires spending discipline on every piece of legislation, not just the 12 annual spending bills," said the foundation. The statement was put out under the names of Nicola Moore and Alison Acosta Fraser, foundation staff members.

The Office of Management and Budget (OMB) told both the House and Senate before HR 1495 went to conference the Bush administration opposed the legislation because of its \$15 billion price tag.

The WRDA bill would authorize almost \$900 million of federal money for the first two major construction projects under a Comprehensive Everglades Restoration Project.

Other park and rec areas besides Everglades National Park would get help from the bill. The measure would authorize a demonstration project to test the benefits of enhanced recreation facilities in Corps of Engineers lake projects in Oklahoma.

And the bill would make a small down payment on a massive project to convert the Los Angeles River from a cement ditch to enhanced parkland in Los Angeles. The bill would provide \$25 million for a study and for pilot projects.

In addition the bill would authorize dozens, if not hundreds, of water projects around the country with recreation implications. All told the bill would pre-authorize \$15 billion in projects. However, Congress would have to appropriate money in a separate step to actually pay for work on the projects.

The conferees did NOT include in HR 1495 authority for the Corps of Engineers to charge entrance fees to recreation areas.

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