

# Federal Parks & Recreation

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In this issue. . .

## **GOP singles out at-risk programs.**

*House sets major cuts for money subcommittees for this fiscal year. LWCF down for \$348M reduction. Details to come... Page 1*

## **Spadework for NPS 100 begins.**

*Support groups form steering committee and prep ideas. NPS kind of waits for AGO..... Page 3*

## **FS planning rule due out soon.**

*Rec interests hope agency will give rec greater priority than support documents suggest... Page 4*

## **ORV war joined on several fronts.**

*California court throws out BLM Mojave plan. Colorado FS suit filed. Users lobby Hill..... Page 5*

## **BLM 'wild lands' policy debated.**

*Western GOP assails, but some local officials support..... Page 6*

## **House GOP whacks transportation.**

*Proposes \$11.6B cut for money bill. New bill hearings.... Page 7*

## **NPS pitches Grand Canyon quiet.**

*Calls for expansion in draft EIS. Air tour companies miffed... Page 8*

## **FS roadless rule in Idaho backed.**

*Court upholds on all counts. Greens were divided on it... Page 10*

## **Court rejects power corridors.**

*Faults DoE work in designating ROWs in park, rec areas..... Page 11*

**Notes..... Page 12**

**Conference calendar..... Page 14**

## **House GOP gets down to brass tacks on FY 2011 spending**

House Republican appropriators February 9 gave substance to their demands that the federal budget be reduced sharply and immediately in fiscal year 2011.

Under the lead of House Appropriations Committee Chairman Hal Rogers (R-Ky.), the appropriators listed 70 specific cuts, compared to an Obama administration budget request, with more to come.

The Land and Water Conservation Fund (LWCF) is down for a major reduction of \$348 million. Although the appropriators didn't specify what part of LWCF they would reduce, the administration requested precisely \$348 for federal land acquisition.

Rogers said the committee would also make these general reductions, again compared to the administration request:

- \* NPS, \$51 million,
- \* Forest Service, \$38 million, and
- \* Fish and Wildlife Service, \$72 million.

Rogers said the list was "partial" and that more cuts would come when House appropriations subcommittees make specific recommendations to stay within spending caps. Once the subcommittees complete their recommendations Rogers said he will then wrap them into one bill, called a continuing resolution.

Congress must move fast. It is up against a March 4 deadline to complete fiscal 2011 appropriations bills. Congress approved a temporary continuing resolution (PL 111-332 of December 22) that extends fiscal 2010 levels until the March 4 deadline.

Rogers's hit list follows up on subcommittee spending caps the House set February 3. The Republicans proposed an eight percent reduction in spending for the Interior Department and related agencies appropriations bill. That's a \$2.644 billion reduction from fiscal 2010.

But the Interior drop is child's play compared to transportation appropriations. The House Appropriations Committee set a 302(b) allocation for that subcommittee that is almost \$12 billion less than a fiscal 2010 appropriation.

In a related matter the chairman of the House Appropriations subcommittee on Interior and related agencies, Rep. Mike Simpson (R-Idaho), said February 8 he "might" try to insert a provision in the continuing resolution to block the Interior Department's new 'wild lands' policy. *(See related article page 6.)*

The House 302(b) allocations would have particularly severe impacts, if they were enacted, because fiscal 2011 is already four months old and will probably be five or more months old when any appropriations bills are completed. Thus, the reductions would be taken out of the last six or so months of the year, effectively doubling their impact. Spending thus far in fiscal 2011 has been based on fiscal 2010 levels.

Other than the wild lands policy Simpson has not laid out his priorities yet for an Interior bill. In his only statement to date he assailed EPA spending in January. But he did not attack federal land management agencies.

EPA's budget made up almost one-third of the fiscal year 2010 Interior and related agencies appropriation - \$10.275 billion of the \$32.240 billion total.

But House Republicans don't operate in a vacuum. Any appropriations bills they pass must go through the Senate and President Obama. And a fiscal 2011 appropriations bill put together by Senate leaders December 14 would have maintained flat spending for the Interior bill of \$32.3 billion.

**FY 2012 budget looms:** While Congress and the administration are still wrestling with fiscal 2011 appropriations, the fiscal 2012 budget is right around the corner. The administration intends to lay out its fiscal 2012 budget request on Monday (February 12). President Obama said in his State of the Union address January 25 that he will seek flat funding in fiscal 2012.

**Major Senate shake-up:** In a big surprise both the chairman and the ranking Republican of the Senate Appropriations subcommittee on Interior last year have stepped down. In their stead Sen. Jack Reed (D-R.I.) will chair the subcommittee and Sen. Lisa Murkowski (R-Alaska) will serve as ranking Republican.

The previous chairman of the subcommittee, Sen. Dianne Feinstein (D-Calif.), and ranking Republican, Sen. Lamar Alexander (R-Tenn.), will move to comparable positions with the Senate Energy and Water appropriations panel. Both Feinstein and Alexander will continue to be members of the Interior subcommittee.

Murkowski in particular becomes a big player in park and rec policy because she has already been selected by Senate Republicans to serve as the ranking minority member on the Senate Energy Committee. The committee oversees authorization of most outdoor policy in the Senate.

**No Senate earmarks:** In another related matter Senate Appropriations Committee Chairman Daniel Inouye (D-Hawaii) said February 1 his committee will not include earmarks in appropriations bills in fiscal years 2011 and 2012. Inouye said that while he believed Congress had a Constitutional responsibility to inject earmarks in money bills, the political "handwriting is on the wall."

**The House action:** The dramatic fiscal year 2011 spending proposals from House Republicans are designed to carry out their November election promises to rein in federal spending.

The whole House took a first step January 25 when it approved a resolution

(H Res 38) that calls for a \$100 billion reduction in fiscal year 2011 discretionary domestic spending. The resolution, approved 256-165 with all 239 Republicans and 17 Democrats in favor, would return spending in this fiscal year to fiscal 2008 levels.

House Budget Committee Chairman Paul Ryan (R-Wis.) took step two February 3 when he established a House budget for the remainder of fiscal 2011 that would hack \$74 billion out of non-security discretionary domestic spending. (House Republicans in H Res 38 gave Ryan the extraordinary authority to establish government-wide spending limits, a job normally carried out by the House Budget Committee over many months.)

In step three, once Ryan's budget was relayed to the House Appropriations Committee, the panel assigned fiscal 2011 spending caps (302(b) allocations) to appropriations subcommittees.

## **NPS, friends lay groundwork for Centennial of system**

Both the Park Service itself and Park Service support groups are at the talking stage in developing campaigns to prepare the National Park System for its 100<sup>th</sup> Anniversary in 2016.

The support groups may be a little ahead. A broad alliance of interests has been meeting and is closing in on a vision statement for the anniversary. The alliance, which includes everyone from the National Park Conservation Association to concessioners to friends groups, is leaning toward a handful of guiding principles.

Those principles call for such basic policies as reversing a decline in visitation, increasing volunteerism and service, emphasizing advocacy, and more.

The Park Service is not as far along. "I don't think we are as far forward as the creation of a steering committee," said Jennifer Mummar, who is working on the groundwork for the Centennial. "We do have a lot of groups working on it."

Among other things she said NPS is waiting to see what the President's America's Great Outdoors (AGO) initiative recommends. That initiative, led by the Council on Environmental Quality, is expected to downplay any major economic investment in the Centennial because of the current political emphasis on balancing the federal budget. A report is due momentarily.

Despite all the unknowns about the AGO recommendations and the infancy of the Park Service steering committee, there may be some tensions between the recommendations of the outside groups and the Park Service's recommendations. Among other things the interest groups are not emphasizing new investments.

"We may not come out exactly where the Park Service is," said Derrick Crandall, counselor for the National Park Hospitality Association, a concessioner group. "I anticipate the Park Service will emphasize all programs, including the Land and Water Conservation Fund. Our recommendations are more focused. They are not necessarily in conflict, but they are different."

Crandall said the Centennial steering committee met in late January for the fourth time and is close to completing its vision statement. The committee intends to meet again this month and next. The game plan for all sides is to kick off a campaign this August, providing a five-year run up to the Centennial in 2016.

The Bush administration gave great visibility to the Centennial in February 2007 when it proposed to spend \$3 billion over 10 years to spruce up the national parks. The proposal would have Congress appropriate an extra \$100 million per year for 10 years to improve core operations. Congress has come close to that the last three years in appropriations bills.

The other part of the program would have Congress put up \$100 million per year in partnership money for non-core operations, with the \$100 million matched by partner groups. Congress has put up seed money a couple of times in

appropriations bills of much less than \$100 million cumulatively. And it has failed to act on comprehensive legislation to formally establish the program.

### **FS draft planning rule is imminent; will rec be happy?**

The Forest Service is expected to publish next week a landmark draft planning rule that would guide individual national forests in writing planning rules.

The rule would serve in effect as nationwide policy direction for the agency.

The service has not provided hints as to how it will respond to complaints from the recreation community that early agency poop sheets demonstrate a bias against recreation.

Representatives of the recreation community are not optimistic about receiving equal treatment but they do intend to give the Forest Service the benefit of the doubt, said Larry Smith, executive director of Americans for Responsible Recreational Access.

"They keep telling us that we will be pleased, but until we read the fine print we just won't know," said Smith.

The service had planned to publish a draft rule at the end of December, but before publication 26,000 comments had to be analyzed and the draft had to be approved by both the Department of Agriculture and the Office of Management and Budget.

While commodity users and their critics differ sharply on virtually all elements of a planning rule, the most noise has been made by recreation users and the recreation industry. They fear that Forest Service back-up documents relegate recreation to a secondary priority in planning rather than a first priority.

The recreationists have allies in the House, where 41 members wrote Forest Service Chief Tom Tidwell November 18 urging a strong role for recreation.

"It is important to note the Multiple-Use Sustained Yield Act of 1960 and the National Forest Management Act both require that USFS manage lands for a variety of purposes, with 'outdoor recreation' listed first," wrote the House members, led by Republican Reps. Kevin McCarthy (Calif.) and Rob Bishop (Utah).

The House members then encouraged Tidwell to "ensure any national planning rule that is proposed allows for robust and diverse public access to and recreation on our national forests so current and future generations can enjoy their public lands." Most signatories are Republicans, but a few Democrats also signed such as Rep. Dan Boren (Okla.)

Both Tidwell and Under Secretary of Agriculture Harris Sherman last fall reportedly assured recreation leaders in meetings that recreation will be given its due in a planning rule.

As required by the National Forest Management Act of 1976 (NFMA) the Forest Service has since 1976 prepared 127 forest plans to guide land uses in 155 national forests and 20 grasslands (some plans cover more than one forest and/or grassland.)

Under NFMA forest plans are to be revised every 15 years. However, the agency said dozens of the existing plans are overdue for revision because they should have been rewritten between 1998 and now.

While the Forest Service prepares the new rule it will use a 2000 Clinton administration rule to guide planning by individual forests. However, that 2000 rule also allows forests in turn to use a 1982 rule. The 1982 rule may be the choice of most forests because the 2000 rule was so complex, the agency said.

The Bush administration struck out twice in trying to write a master-planning rule. On January 5, 2005, it completed a first set of regulations, without preparing an EIS. And on April 21, 2008, it tried again with a perfunctory EIS. Two federal judges held separately that the Forest Service failed to adequately evaluate the environmental impacts of the rules.

## **Enviros fight ORV use on BLM, FS land; ORVers return fire**

Environmentalists are mounting legal attacks to minimize off-road vehicle (ORV) use on lands managed by the Bureau of Land Management (BLM) and the Forest Service.

But ORV allies are fighting back with weapons of their own, including legislation from House Republicans.

The environmentalists won a big battle January 29 when a federal judge in San Francisco ordered BLM to write a new environmental analysis for a West Mojave ORV plan. And to make levels of use consistent with a 1980 California Desert Conservation Area Plan. U.S. District Court Judge Susan Illston gave BLM until March 14, 2014, to complete the plan and environmental documentation.

Illston's order follows up on her previous Sept. 29, 2009, decision finding BLM's 2003 plan on ORV use inadequate. In her original decision she faulted an EIS because all five alternatives included the same 5,098-mile ORV network.

In her more recent order Illston said, "This remand specifically will require the BLM to reconsider the OHV route designation process and network for the West Mojave Plan area. . . and issue a revised decision that complies with (BLM's planning law) and with BLM's regulations that establish 'minimization criteria' for OHV routes."

She went on, "BLM is also directed to prepare a supplemental NEPA analysis that reconsiders the 'no action' alternative and considers a broader range of alternatives, including at least one alternative that analyzes a less extensive route network for the Western Mojave area."

Said Lisa Belenky, a senior attorney with the plaintiff Center for Biological Diversity, "The BLM has been ordered back to the drawing board on off-road vehicle route designations in the West Mojave to take into account the significant damage these vehicles

cause to our public lands and the wildlife that depend on those lands to survive." The original lawsuit was brought by the Center, the Sierra Club, Public Employees for Environmental Responsibility and Desert Survivors.

In separate litigation a different coalition of environmentalists filed a lawsuit January 28 against a Forest Service travel management plan in the Pike and San Isabel National Forests in Colorado. The suit, filed in U.S. District Court in Colorado, says the service completed the travel management plan before it had conducted an environmental review of the routes.

The plaintiffs, including the Quiet Use Coalition, Great Old Broads for Wilderness, Center for Native Ecosystems, Wildlands CPR and The Wilderness Society, object to inclusion in the plan of 500 miles of unreviewed old routes. They are represented by the Earthjustice law firm.

Said Melanie Kay, an attorney for Earthjustice, "Once (ORV routes are) on the map, it's sort of official permission from the Forest Service to use them. The problem with opening these routes before analyzing them is we really don't know what impact these routes are going to have on native fish and wildlife and the land."

The House Republican bill (HR 242) addresses recent travel management plans completed by the Forest Service in California that close ways to ORVs. The bill would bar implementation of travel management rules in national forests in California until the Forest Service completed trail planning in areas not yet authorized for ORV use. California Republicans Reps. Tom McClintock, Wally Herger, Daniel Lungren and Kevin McCarthy introduced the bill.

Said McClintock, "Most recently, the Forest Service has placed severe restrictions on vehicle access to the Plumas National Forest, despite volumes of public protests."

Said Don Amador, western representative for the BlueRibbon Coalition, "This is the type of legislation that

outdoor voters asked for in the last election. Congress has a duty to defend the public's right to access federal lands in a responsible manner."

## **BLM 'wild lands' policy draws fierce criticism, defense**

Western Republican officials are complaining bitterly about an Obama administration policy that would have the Bureau of Land Management (BLM) designate 'wild lands' that would be off limits to development.

But the Republicans are being met by a determined counterattack from local elected officials, the outdoor recreation industry and conservationists.

At issue is a December 22 Secretarial Order #3310 that directs BLM to designate wild lands through its land use planning process. The order becomes controversial because those wild lands would have many of the characteristics of wilderness, and only Congress has the authority to designate wilderness.

To this point the western Republicans have not filed a lawsuit to carry out their bottom line argument that BLM has no authority to designate wilderness.

In a related development Rep. Mike Simpson (R-Idaho) said December 8 he "might" try to block the program in a fiscal year 2011 appropriations bill by shutting off funding for it. Simpson, who chairs the House subcommittee on Interior appropriations and opposes the program, was reportedly responding to questions from Capitol Hill reporters.

On paper the two Republican senators and two Republican House members who make up the Idaho Congressional delegation (including Simpson) asked January 25 that the people of Idaho be consulted.

"In a state like Idaho — where two-thirds of the land is owned by the federal government — we have unique insight into the impacts that overly-prescriptive, inflexible land management policies can have on people and communities, as well as local and state govern-

ment," the delegation wrote Secretary of Interior Ken Salazar. "That is why we believe that while increased levels of protection may be warranted for certain lands in certain circumstances, the people and parties that are most impacted must be at the center of the policy-making process."

Signing the January 25 letter were Sens. Mike Crapo and Jim Risch and Reps. Simpson and Raúl Labrador.

Separately, Wyoming Gov. Matt Mead (R-Wyo.) questioned Salazar's legal authority in a January 27 letter to the secretary. "Only the elected Congress is given the power, by law, to designate official Wilderness areas," he wrote. "But, the policy seeks such designations by administrative fiat. With all due respect, the BLM cannot achieve these ends through this means."

In the counterattack 70 local elected officials in Colorado said Secretarial Order 3310 was good for business. "Wild lands provide an important economic engine in the West and across the entire United States — visitors come from around the nation and world to visit our prized landscapes and tourism has remained a reliable economic driver for generations," said the officials, which included mayors, state legislators and county officers.

The Colorado elected officials addressed the legality issue. "Since the passage of the Federal Land Policy and Management Act (FLPMA) in 1976, identifying and protecting wilderness values has been part of the BLM's mandate," they wrote Salazar. "Secretarial Order 3310 recognizes this mandate and ensures that wilderness qualities on critical landscapes throughout the West will be considered in public lands management decisions."

The human-powered outdoor recreation industry also endorsed the policy. When it was announced, Peter Metcalf, CEO of Black Diamond Equipment, said, "For too long the availability of the American landscape for recreation has taken a back seat to oil, gas and mineral extraction. The economic value of outdoor recreation has not been consid-

ered in land management decision making."

And Jennifer Dickson of The Wilderness Society said last week, "We here at The Wilderness Society are continuing to see growing support for this policy. The more folks learn about the true guidance being handed down from DOI, the better they understand how this is good for Colorado, and the West as whole."

But that is not what the National Association of Conservation Districts (NACD), which has a conservation role, thinks. "The designation of wilderness areas has a tremendous impact on the natural resource management and conservation programs implemented by conservation districts," NACD President Steve Robinson said. "As local governments, many districts have participated as co-operating agencies in the Resource Management Plan process; this order has derailed these planning processes."

In announcing the wild lands policy on December 23 Salazar and BLM Director Bob Abbey addressed both the consultation issue and the legality issue. On consultation Abbey said, "The designation of wild lands will occur only through a public process. We will routinely inventory public land as we are required to do under our planning process." He said BLM would consult with the public in the planning process.

On the legal front Salazar said BLM derives authority to designate and protect wild lands from the Federal Land Policy and Management Act of 1976. He said, "This approach takes into account authorities the BLM has under FLPMA and other sections of formal law that allows us to provide these protections." Further because BLM could at any time undo a designation, it would not really be a wilderness area.

As we reported in the last issue, 46 House Democrats January 21 gave Salazar a boost by endorsing his strategy.

In a letter to Salazar the sympathetic Democrats addressed the de facto wilderness area issue. "Such criticism is based on a misunderstanding of the Order and a misunderstanding of wilder-

ness. No law requires the federal government to transform unsuitable land into wilderness and that is not what the Order contemplates," says the letter. "Rather, the Order acknowledges Congressional intent that the Department conduct periodic assessments to determine where wilderness already exists and work to protect wilderness characteristics where appropriate."

The letter was prepared by Rep. Edward Markey (D-Mass.), ranking minority member on the House Natural Resources Committee.

### **House GOP targets roads, etc. for almost \$12B cut, now**

The severity of the promised House Republican budget cuts became a reality February 3 when House appropriators ordered an \$11.6 billion reduction in Transportation appropriations in fiscal year 2011.

In that fiscal 2011 probably will be half over before Congress approves a final money bill, the reduction would have to be taken out of the last six months of the fiscal year. Thus, the effect of the reductions would be far greater than the 17 percent projected by the appropriators.

In raw numbers the House Appropriations Committee Chairman Hal Rogers (R-Ky.) said the fiscal 2011 cap for the Transportation subcommittee would be \$56.3 billion, compared to a fiscal 2010 level of \$67.9 billion.

The next steps in the appropriations process will be taken by House appropriations subcommittees as they decide exactly which programs are to be cut to stay within the spending caps. After the subcommittees submit their recommendations Rogers said he will wrap the 12 subcommittee recommendations into one bill, called a continuing resolution.

Park and recreation programs, such as trail construction, are at particular risk in the Transportation subcommittee because Republican leaders have traditionally given first priority in transportation spending to highway construc-

tion. Rep. Tom Latham (R-Iowa) chairs the subcommittee.

In a separate development House Transportation Committee Chairman John Mica (R-Fla.) said February 2 that he will hold more than a dozen hearings across the country to solicit recommendations for a new surface transportation law. The existing law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), expired on Sept. 30, 2009, but Congress has kept it alive until March 4 with a temporary extension to buy time.

Mica said he will hold an initial hearing Monday (February 14) in West Virginia, the home state of the committee's ranking Democrat, Rep. Nick Joe Rahall (D-W.Va.)

How Mica and company will pay for a new law is not clear. SAFETEA-LU now "guarantees" \$42.6 billion per year for highways, but the Highway Trust Fund receives just \$35 billion from gasoline taxes. So the fund and SAFETEA-LU are already running a deficit.

Mica has rejected any suggestion that Congress increase the gasoline tax. He has talked instead of streamlining projects, increasing private investment and eliminating "fluff." He has not explained what fluff projects consist of, but a number of park and rec programs are expected to fill the bill.

For his part President Obama appears to be swimming against the budget-cutting tide. On January 25 in his State of the Union address he called on Congress to pass a big new surface transportation bill. Obama didn't say how the country could pay for the legislation, other than to promise to pay for it.

The President's call came just a week after Secretary of Transportation Ray LaHood said he believes Congress would complete a multi-year bill by early August.

LaHood appears to be relying on investment banks to parlay an initial federal investment of \$50 billion into

even greater transportation investments from nongovernmental interests. The administration last September proposed a \$50 billion down payment on a new, multi-year law. The \$50 billion would be divided among highways, railways and runways by an Infrastructure Bank.

At least some of the money could come from increased taxes on the oil and gas industry. That would be mixed with private money, the theory goes, and be spent by the Infrastructure Bank.

The administration is reportedly working on the details of a surface transportation bill and will submit its recommendations to the Hill soon. The administration intends to introduce its fiscal year 2012 budget on Monday (February 14), so that may be an appropriate time to propose the legislation.

## **NPS would curb air tours to increase Grand Canyon quiet**

The Park Service, risking the wrath of powerful Nevada and Arizona senators, proposed February 3 major new limits on air tour operations over Grand Canyon National Park.

The NPS proposal, set out in a draft EIS, would take a number of steps to increase areas of the park with natural quiet from 53 percent to 67 percent. Among other things the preferred alternative in the EIS would reduce the number of annual air tours over the park to 65,000 from 93,971 now; would raise the flight-free zone from 14,499 feet to 17,999 feet; and would change routes.

Grand Canyon Acting Superintendent Palma Wilson said, "We recognize this plan doesn't meet everybody's needs. We had some conversations not only with industry but with other people who are affected by this plan."

In response to a question from *FPR* at a press conference she said, "We feel we have tried to meet the needs of the air tour industry. We feel we have provided for growth of the air tour industry. We recognize they may not feel that way but we have done our best to provide as much air tour use as possible."



NPS said the number of existing flights is well below an annual allocation of 65,000 in the preferred alternative, even though existing rules allow 93,971. Also NPS said the daily cap of 364 exceeds the number of air tour flights now.

Steve Bassett, president of the United States Air Tour Association, blasted the Grand Canyon proposal. "The Park Service has done the unthinkable but not the unexpected; it has broken its public promise to the air tour community to not propose measures designed to drive the industry and the jobs that come with it out of existence in the Grand Canyon which this will do," he said. "It is an untenable breach of faith."

Bassett said his organization has not analyzed the draft EIS sufficiently to offer critiques of specific provisions.

The dispute over the number of flights has reached the ears of Arizona Sens. John McCain (R) and Jon Kyl (R) and Nevada Sens. Harry Reid (D) and John Ensign (R). Last summer they sponsored an amendment to a Federal Aviation Administration (FAA) reauthorization bill that would have forbid a reduction in air tours over Grand Canyon and would have frozen the natural quiet area of the park at 50 percent.

Congress failed to enact the FAA bill but a new version of the measure (S 233) is before the Senate right now. While S 233 includes a number of provisions affecting air tour operations in the national parks as a whole, it doesn't address the Grand Canyon situation in specific, yet.

The air tour industry's Bassett would like to see McCain and company offer a version of last year's amendment now. "We would certainly hope they would take another look at it," he said, "but we just don't know if they will." McCain's office did not respond to our questions about McCain's plans for a new amendment, if any.

The draft Grand Canyon EIS was prepared in response to a mandate of the

1987 National Parks Overflight Act (PL 100-91 of Aug. 18, 1987) that NPS and FAA insure quiet over the park. Due to differences between FAA and the Park Service, litigation, and political concerns FAA and NPS have been unable to complete a Grand Canyon air tour management plan in the last 23 years.

The Bush administration attempted to prepare a draft EIS to back a Grand Canyon overflight plan in 2006. As part of that effort NPS established a working group that sought a consensus approach. "We were never able to reach a final agreement," said Wilson, "but they gave us a lot of good information that we will be able to use as we go forward."

Environmentalists naturally favor any effort to expand quiet in Grand Canyon, but they want to read the fine print of the draft EIS first. Said David Nimkin, Southwest regional director of the National Parks Conservation Association, "While we have only just begun to analyze the draft plan, we are encouraged by various provisions contained in the preferred alternative."

The draft EIS is available at <http://parkplanning.nps.gov/grca>. Comment by June 4 to the web address or by mail to *Superintendent, Grand Canyon National Park, Attention: Office of Planning and Compliance, P.O. Box 129, Grand Canyon, AZ 86023*.

Meanwhile, the Senate is attempting to move the FAA reauthorization bill (S 233) that is packed with overflight provisions. It is on the Senate floor now. The House approved a very different bill last year without addressing air tours. The House Transportation Committee this week held hearings.

The Senate overflight provision, written largely by Sen. Ron Wyden (D-Ore.), addresses the old problem of the division of labor between FAA and NPS. According to some NPS officials and interest groups, disagreements between the two agencies have been partially responsible for the failure of the agencies to complete any air tour plans in the last decade.

The provision in the FAA reautho-

rization legislation essentially says FAA is responsible for controlling airspace over the country and the Park Service is responsible for protecting the parks, giving NPS more muscle in disputes with FAA.

The key bill wording says, "(FAA) has sole authority to control airspace over the United States. (NPS) has the sole responsibility for conserving the scenery and natural resources in National Parks and providing for the enjoyment of the National Parks unimpaired for future generations."

While Wyden was at it, he included language in his provision that would allow Crater Lake National Park to reject an application for air tours over the park even though an air tour management plan has not been written yet.

The Senate also included in its bill a provision that would assess fees on air tour operators large enough to pay for air tour management plans. The amendment was sponsored by Sen. Tom Coburn (R-Okla.), frequently a critic of initiatives to expand the National Park Service. His amendment simply gives the Interior Department authority to assess a fee, with the amount to be "deter-

## **Court backs FS roadless rule for Idaho on all counts**

A federal judge January 29 upheld a rule generated by the State of Idaho that governs management of 9.3 million acres of roadless national forest in the state.

Idaho District Court Chief Judge William Winmill rejected a lawsuit from environmentalists that contends the Oct. 16, 2008, rule prepared by the Bush administration illegally exposes to development 400,000 acres of roadless forest. The environmentalists said the rule failed to comply with the National Environmental Policy Act (NEPA) and the Endangered Species Act (ESA), among other laws.

But Winmill said in general the rule did not violate NEPA and the ESA.

Idaho Gov. C.L. "Butch" Otter said Winmill's decision should end the dispute over the Idaho roadless rule. "I believe this decision closes the chapter on a 40-year controversy and validates a new model for resolving natural resource issues across the West," he said.

Craig Gehrke, Idaho regional director of The Wilderness Society, criticized the rule. "The Idaho rule does away with protections guaranteed to roadless areas in all other states in the lower 48," he said. "It's a real shame that some of the most spectacular backcountry in America will be denied the level of protection enjoyed by other states."

The environmentalist plaintiffs had already suffered a blow Oct. 15, 2010, when the Obama administration effectively endorsed the Bush administration rule by refusing to support the lawsuit. Secretary of Agriculture Tom Vilsack said the rule "has support from many diverse interests, including the State of Idaho, Kootenai Tribes of Idaho, the Idaho Association of Counties, Idaho Conservation League and Trout Unlimited, who have joined the lawsuit as interveners in its defense."

Indeed the Idaho rule split conservationists/environmentalists with the Idaho Conservation League and Trout Unlimited supporting it and The Wilderness Society and the Greater Yellowstone Coalition opposing it.

The rule received the backing of the influential conservation coalition called the Theodore Roosevelt Conservation Partnership (TRCP). "The Idaho roadless rule conserves key backcountry fish and wildlife habitat and important sporting opportunities — outcomes that hunters and anglers wholeheartedly support," said Joel Webster, director of the TRCP Center for Western Lands. "Overall, the Idaho rule is as strong as the national roadless rule, which many sportsmen maintain has established a minimum standard for safeguarding these valuable public lands."

President Clinton established a nationwide rule in 2001 that barred

most new road construction in 58 million acres of roadless national forest. The Bush administration then modified the rule to allow states to apply for customized rules. Idaho was the only state that succeeded in obtaining a rule, although the State of Colorado also applied for its own rule. That application is still pending.

The Obama administration has not forged a new roadless area rule because it is waiting for federal courts to resolve competing rulings on the legality of the Clinton regulations. The legal situation is up in the air because on June 16, 2009, U.S. District Court Judge Clarence Brimmer in Wyoming held the Clinton rule illegal, but the Ninth U.S. Circuit Court of Appeals had earlier held the rule legal.

The ball right now is in the hands of the Tenth U.S. Circuit Court of Appeals, which is reviewing Brimmer's decision.

## **Court rejects giant ROW corridors through parks**

A federal appeals court February 2 threw out a major decision of the Department of Energy (DoE) that designated two giant power line corridors in the Mid-Atlantic and the Southwest. The corridors run through national parks, national forest and state parks, as well as non-conservation lands.

The corridors are designed to expedite the approval of rights-of-way (ROWs) to move electricity from renewable energy projects to urban areas, among other things.

But the Ninth U.S. Circuit Court of Appeals said DoE failed to consult adequately with states, as required by the law that ordered the corridors, and failed to comply with the National Environmental Policy Act (NEPA).

In a 2-1 majority decision, written by Judge Consuelo M. Callahan, the court rejected DoE's argument that a public comment period satisfied the law's requirement that it consult with the states on preparation of the decision.

The court said DoE failed to provide the states with essential information. "We note that, by failing to provide the affected States with the modeling data on which it based the Congestion Study, DOE prevented the affected States from providing informed criticism and comments," said the court.

The court also did not buy DoE's argument that it need not prepare NEPA documentation because the corridor designation did not actually approve projects. That was an argument the Bush administration often advanced in preparing other broad policy guidance documents.

The court said, "We are compelled to reject DOE's (NEPA) assertion because (1) its conclusory statement does not allow us to determine whether DOE took a 'hard look' at the potential environmental consequences; and (2) although the effects of the (corridors) may be uncertain and difficult to quantify, the potential consequences of such effects are significant enough to undermine DOE's conclusory determination that no EA need be prepared."

So the court ordered DoE to go back and begin again the multi-year process of designating corridors. DoE designated the two corridors on Oct. 5, 2007.

Dozens of states, power companies and environmental groups intervened in the lawsuit brought by the California Wilderness Association, the Natural Resources Defense Council and The Wilderness Society. The Southwest Corridor extends through Joshua Tree National Park, the Sonoran Desert National Monument, wildlife refuges, and 57 state conservation areas.

The Mid-Atlantic Corridor extends through four national forests, historical properties and other protected lands.

In a dissent Judge Sandra S. Ikuta broke with the majority on the need for NEPA documentation. Ikuta said, "As explained above, the Designation Order provided a reasoned discussion of the relevant factors and concluded that an EIS was not required because DOE could

not meaningfully evaluate environmental impacts at this juncture."

## Notes

**Big Cypress Plan signed.** The Park Service February 4 signed off on a management plan for 147,000 acres of Big Cypress National Preserve Addition lands that has a little something for everyone to criticize. For ORV users the plan would provide 130 miles of trails in the 147,000-acre Addition to provide access to backcountry hunting and fishing. But the plan, signed by NPS Southeast Regional Director David Vela, disagrees with a recommendation of sportsmen that no wilderness be designated in the backcountry; the plan calls for more than 47,000 acres of wilderness recommendation to Congress. For environmentalists the plan would gradually phase in the 130 miles of trail and would have NPS recommend the 47,000 acres for wilderness. But the plan offends the environmentalists by allowing any ORV use in the Addition. Said Kristen Brengel, director of legislative and government affairs for the National Parks Conservation Association, "The Park Service has chosen to open wilderness lands and Florida panther habitat to intensive motorized off-road vehicle use. For decades, these lands within Big Cypress National Preserve have been protected for the public to enjoy as a natural area - to hike and view wildlife among other activities." Congress expanded Big Cypress in 1988 when it approved the 147,000-acres Addition. The initial preserve was established in 1974 with 582,000 acres. Of the Addition land 128,000 acres are northeast of the original preserve and 18,000 acres extend along the western boundary. The plan assigns 96,413 of the 147,000-acre Addition to primitive backcountry, with 47,000 acres of that wilderness. Another 49,449 acres are to be allocated to backcountry recreation, 18 acres to development and 11 acres to front-country. To implement the plan would cost \$6.7 million in nonrecurring capital costs and \$7.9 million in recurring operations costs.

**Montana rec bill heats up.** Sens. Jon Tester (D-Mont.) and Max Baucus (D-Mont.) introduced legislation (S 268)

February 3 that would designate hundreds of thousands of acres of recreation management areas in national forests in Montana. The bill would also designate more than 600,000 acres of wilderness. Powered recreation users in the past have opposed the bill because of the loss of favored snowmobile areas. Hunters and fishermen have supported the measure. Adding spice to the debate Rep. Denny Rehberg (R-Mont.), who opposes the measure, announced February 5 that he will run for Tester's Senate seat next year. In December a previous version of the bill was added to an omnibus appropriations bill, but that measure was not enacted. The measure would designate more than 300,000 acres of special management/recreation areas in the Kootenai, Beaver Head-Deerlodge and Lolo National Forests.

### **Glacier NP protection bill back.**

Sens. Max Baucus (D-Mont.) and Jon Tester (D-Mont.) introduced legislation (S 233) January 31 that would protect Glacier National Park by withdrawing 300,000 acres of adjacent public lands from all forms of mining. Baucus and Tester introduced the bill last year, but the measure failed in December when the Senate was unable to move an omnibus lands bill. The senators say the legislation is part of a broader effort to protect the Flathead Valley on both the Canadian and American sides of the border. The bill forbids oil and gas leasing, geothermal energy leasing and hard rock mining in the North & Middle Fork of the Flathead drainage area. The area helps form the southwestern boundary of Glacier National Park. The withdrawal areas are located in the Flathead National Forest and the Lewis and Clark National Forest.

### **NPS shakes up leadership.**

The Park Service promoted National Capitol Region Director Peggy O'Dell to deputy director January 31 where she will oversee operations for the entire National Park System. O'Dell has been employed by NPS for 30 years, including stints as superintendent of Jewel Cave National Monument in South Dakota and two years as regional director in Washington. She replaces Dan Wenk, deputy director since 2007, who moves to a job as superintendent of Yellowstone National Park. The

deputy director for operations is one of two deputies reporting directly to NPS Director Jon Jarvis. The other is deputy director for communications Mickey Fearn.

#### **America's Treasures awards out.**

The Park Service and the President's Committee on the Arts and the Humanities (PCAH) jointly announced February 1 the award of \$14.3 million in Save America's Treasures grants to 61 projects. The projects are designed to protect significant cultural and historic sites, buildings, objects, documents, and collections. The announcement of the awards follows by a week the House approval of a nonbinding resolution January 25 (H Res 38) that would eliminate the Save America's Treasures grants program. National Trust for Historic Preservation President Stephanie Meeks, PCAH Executive Director Rachel Goslins, and NPS Director Jon Jarvis announced the awards at a news conference held in the Emancipation Room of President Lincoln's Cottage in Washington, D.C. Save America's Treasures received 338 grant applications from federal agencies; state, local, and tribal governments; and non-profit organizations. The list of grants is available at: <http://www.nps.gov/history/hps/treasures>.

#### **NPCA honors Valley Forge cadre.**

The National Parks Conservation Association (NPCA) February 7 presented its Stephen T. Mather Award to two leaders of Valley Forge National Historical Park - Superintendent Mike Caldwell, and chief of planning Deirdre Gibson. NPCA said it honored Caldwell and Gibson for their work in the last five years that included heading off potential development of an inholding and other accomplishments. Said NPCA President Tom Kiernan. "Because of their leadership and tireless efforts, Valley Forge will be protected and preserved for our children and grandchildren to enjoy." The Mather award, presented since 1984, is named after Stephen T. Mather, first director of the National Park Service.

#### **Senators go after EPA on GHGs.**

Eleven Republican senators and seven Democratic senators introduced competing bills January 31 that would do much the same thing - curb EPA's authority to

regulate climate change gases under the Clean Air Act. The Republican bill (S 228), with Sen. John Barrasso (R-Wyo.) the lead sponsor, would forbid EPA from regulating greenhouse gases (GHGs), period. The less-aggressive Democratic bill (S 231), with Sen. Jay Rockefeller (D-W.Va.) as lead sponsor, would forbid EPA from regulating carbon dioxide and methane for two years. Rockefeller said that would give Congress time to write a climate change bill. Separately, a powerful combination of Republican senators and House members released February 2 a draft bill that would also forbid EPA from regulating GHGs. The draft was written by Sen. James Inhofe (R-Okla.), ranking minority member of the Senate Environment and Public Works Committee, and Rep. Fred Upton (R-Mich.), chairman of the House Energy Committee. Climate change legislation never reached the Senate floor last year with a big Democratic majority. That suggests the chances of such a bill moving this year are slight.

#### **Fort Davis viewshed protected.**

The Conservation Fund said January 31 that it has transferred to the Park Service a 49-acre bluff to protect the viewshed of Fort Davis National Historic Site in Texas. Conservation Fund Texas Director Andy Jones said, "Although its fully-restored buildings and original ruins make Fort Davis National Historic Site one of the best preserved examples of a frontier military post in the American Southwest, there has always been one aspect of the fort that remained at risk - its view." Site Superintendent John Morlock said, "The purchase of this property is critical to preserve the viewshed of historic Fort Davis. The bluff dominates the view to the west from the historic core of the fort. Any development there would have significantly altered the visitor experience." Fort Davis is an example of an Indian Wars frontier military post in the Southwest. From 1854 to 1891, it protected travelers on the Trans-Pecos portion of the San Antonio-El Paso Road and on the Chihuahua Trail. It is located 200 miles southeast of El Paso.

**NPS board to meet in April.** The National Park System Advisory Board will meet next April 12-13 in San Francisco.

The agenda includes proposed actions involving National Historic Landmarks and the National Natural Landmarks. NPS said director Jon Jarvis will address the board and agency officials will brief the board on programs involving education, partnerships, and youth programs. In addition the board will consider recommendations for additions to the National Historic Landmarks Program and the National Natural Landmarks Program.

#### **Land managers criticized on bats.**

The Center for Biological Diversity said January 26 that federal land managers in the West have failed to act aggressively to prevent the spread of white-nose syndrome in bats. The center said BLM, the Forest Service and the Park Service should have closed caves and abandoned mines by now to halt the spread of the disease. White-nose syndrome has killed more than a million bats in the eastern United States.

## **Conference calendar**

### FEBRUARY

21-24. **Association of Partners for Public Lands** annual convention in Dallas. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.

### MARCH

7-8. **National Association of Counties** legislative conference in Washington, D.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

14-19. **75th North American Wildlife** conference in Kansas City, Kan. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

16-18. **NRPA 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/legforum/>.

29-April 2. **American Alliance for Health, Physical Education, Recreation and Dance** annual meeting in San Diego. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191. (703) 476-3400. <http://www.aahperd.org>.

30-April 3. **Society for American Archaeology** annual meeting in Sacramento, Calif. Contact: Society for American Archaeology, 900 2nd St., N.E., Suite 12, Washington, DC 20002-3557. (202) 789-8200. <http://www.saa.org>.

### APRIL

4-6. **National Hydropower Association** annual meeting in Washington, D.C. Contact: National Hydropower Association, One Massachusetts Ave., N.W., Suite 850, Washington, DC 20001. (202) 682-1700. <http://www.hydro.org>.

20-21. **Outdoor Industry Association Capitol Summit** in Washington, D.C. Contact: Outdoor Industry Association, 4909 Pearl East Circle, Suite 200, Boulder, CO 80301. (303) 444-3353. <http://www.outdoorindustry.org>.

### MAY

1-4. **National Sporting Goods Association** conference in Tucson, Ariz. Contact: National Sporting Goods Association, 1601 Feehanville Drive, Suite 300, Mt. Prospect, IL 60056-6035. (847) 296-6742. <http://www.nsga.org>.

4-5. **America Boating Congress** legislative conference in Washington, D.C. Contact: National Marine Manufacturers Association, 444 N. Capitol Street, NW Suite 645, Washington, DC 20001. (202) 737-9750. <http://www.nmma.org>.

4-7. **National Ski Areas Association** annual meeting in La Costa, Calif. Contact: National Ski Areas Association, 133 South Van Gordon St., Suite 300, Lakewood, CO 90228. (303) 987-1111. <http://www.nsaa.org>.

23-26. **National Association of Recreation Resource Planners** annual meeting in Breckenridge, Colo. Contact: National Association of Recreation Resource Planners, P.O. Box 221, Marienville, PA 16239. (814) 927-8212. <http://www.narrp.org>.