

Issue Brief for Congress

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National Park Management and Recreation

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National Parks and Recreation

SUMMARY

The 107th Congress considered legislation on and conducted oversight of issues related to lands managed for recreation, especially National Park Service (NPS) lands. The Administration also is focusing on park and recreation issues through budgetary, regulatory, and other actions. Several key issues are covered in this report.

Maintenance Backlog. One issue for Congress is determining the appropriate funding level to maintain park units, and whether to appropriate new funds or use funds from existing programs for park maintenance. In his FY2003 budget, President Bush restated his commitment to eliminating NPS's multi-billion dollar maintenance backlog by FY2006, and requested a total of \$663 million for FY2003 for all regular and deferred construction and maintenance. The NPS is continuing efforts to define, quantify, and eliminate its backlogged maintenance. Congress included money for some NPS maintenance backlog needs in FY2003 Interior appropriations bills; these measures were not enacted.

Motorized Recreation. Motorized recreation, notably the use of personal watercraft (PWC) and snowmobiles in NPS units and commercial air tours over them, has fueled debate over the balance between recreation on, and protection of, park lands. Recent controversies focused on regulatory actions that restrict use of these vehicles. For instance, the NPS prohibited PWCs in 66 NPS areas in 2000, 5 areas in 2002, and is reevaluating such use in another 16 areas. A November 12, 2002, NPS draft of a final supplemental EIS establishes daily access limits for snowmobiles and snowcoaches, and clean technology emission control requirements at Yellowstone and Grand Teton National Parks

and the John D. Rockefeller, Jr. Memorial Parkway. Grand Canyon National Park is at the center of a conflict over whether to limit air tours over national parks. An August 2002 appeals court decision directs the FAA to use NPS "natural quiet" standards and consider commercial flight-generated noise impacts in developing air tour overflight regulations. Bills were introduced to encourage safe use of PWCs; to ban snowmobile use, or to overturn the ban, in most parks; and to govern air tours at parks.

Recreational Fee Demonstration Program. The "Fee Demo" Program was created to allow the NPS and other land management agencies to test the feasibility of supplemental self-financing through new fees. In its FY2003 budget, the Bush Administration proposed making the program permanent. P.L. 107-63 extended the program for 2 years and gave agencies discretion to establish any number of fee projects, among other changes. Other measures were considered, including to establish a permanent program.

The National Trails System. While designation of trails is often popular, issues remain regarding funding, expansion, and quality of trails. Congress considered legislation to amend the National Trails System Act to include a new category of trails; to provide authority to acquire land for certain trails, but only from willing sellers; and to study certain routes, as well as authorize other studies, for possible additions to the System. As part of President Bush's National Parks Legacy Project, park trails would be increased, and under the President's Conservation Partners Initiative, teams of concerned citizens and NPS staff will restore and preserve parklands, including trails.



MOST RECENT DEVELOPMENTS

An omnibus measure emerged near the end of the 107th Congress which contained dozens of provisions affecting the NPS; it was not enacted. (See “Overview of Issues.”)

The settlement of a suit over a rule regulating the use of personal watercraft (PWC) prohibits PWCs from areas where they are now allowed unless the NPS takes certain actions. The NPS is re-examining the snowmobile ban in Yellowstone and Grand Teton National Parks and the Rockefeller Parkway. A draft of a supplemental final environmental impact statement (November 2002) provides for daily limits on snowmobiles, an emphasis on guided snowmobiling and snowcoaches, and use of cleaner, quieter four-stroke engines to reduce pollution.

An August 2002 appeals court decision directs the FAA to use NPS “natural quiet” standards and consider commercial flight-generated noise impacts in developing air tour overflight regulations. On October 25, 2002, the FAA issued final regulations implementing the National Parks Air Tour Management Act of 2000.

The full House and Senate Appropriations Committee agreed to measures (H.R. 5093 and S. 2708 respectively) providing higher levels of funds for NPS construction and maintenance in FY2003 than was requested by the President. However, those appropriations bills were not enacted.

On September 12, 2002, a bill (S. 1069) to allow the federal agencies administering 3 scenic trails to obtain land from willing sellers only, was placed on the Senate calendar. It was not considered by the Senate before adjournment.

BACKGROUND AND ANALYSIS

Introduction

The National Park System is perhaps the federal land category best known to the public. The National Park Service (Department of the Interior, DOI) manages 385 units, including 56 units formally entitled “national parks” and a host of other designations. The System has more than 84 million acres.¹ The NPS has an appropriation of approximately \$2.38 billion (FY2002), employs about 21,000 permanent and seasonal employees, uses an additional 90,000 volunteers, and has more than 285 million visitors yearly.

The NPS statutory mission is multi-faceted: to conserve, preserve, protect, and interpret the natural, cultural, and historic resources of the nation for the public and to provide for their use and enjoyment by the public. The mission’s dichotomy of use and preservation can sometimes be inherently contradictory, and NPS spokespeople have asserted that preservation is the ultimate priority. In general, activities which harvest or remove resources from units of the System are not allowed. The NPS also supports the preservation of natural

¹ This figure includes an estimated 4.3 million acres of private land. NPS policy is to acquire “in-holdings” from willing sellers or to create special agreements to encourage land owners to sell.

and historic places and promotes outdoor recreation outside the System through grant and technical assistance programs. The emphasis is on cooperation and partnerships with state, municipal, and local governments as well as foundations, corporations, and other private parties to protect National Park System units and to advance NPS programs. Congressional and management attention continually centers on how to balance the recreational use of parklands with the preservation of park resources. Another focus has been on determining appropriate levels and sources of funding to operate and maintain NPS facilities and to manage NPS programs.

History

The establishment of several national parks preceded the creation in 1916 of the National Park Service (NPS) as the park system management agency. Congress established the nation's first national park — Yellowstone National Park — in 1872. The park was created in the then territories of Montana and Wyoming “for the benefit and enjoyment of the people,” and placed “under the exclusive control of the Secretary of the Interior” (16 U.S.C. §§21-22). In the 1890s and early 1900s, Congress created several other national parks from western public domain lands, including Sequoia, Yosemite, Mount Rainier, Crater Lake, and Glacier. The effort to set aside more national parks intensified as wild nature and scenic and cultural areas were vanishing with the closing of the frontier. In addition to the desire to preserve nature, there also was interest in promoting tourism. Western railroads, often recipients of vast public land grants, were advocates of many of the early parks and built grand hotels in them to support their business.

At the same time, there were efforts to protect the sites and structures of early Native American cultures, particularly in the Southwest, along with other special sites. In 1906, Congress enacted the Antiquities Act to authorize the President to proclaim national monuments on federal lands that contain “historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest” (16 U.S.C. §431). (For more information on national monuments, see CRS Report RS20902, *National Monument Issues*.)

There was no system of national parks and monuments until 1916, when President Wilson signed a law creating the NPS to manage and protect the national parks and many of the monuments then in existence and those yet to be established. That law — the “Organic Act” — provided that the NPS “shall promote and regulate the use of the Federal areas known as national parks, monuments, and reservations . . . to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations” (16 U.S.C. §1). A major step in developing a system of park lands more national in scope occurred in 1933, when President Franklin D. Roosevelt transferred 63 national monuments and historic military sites from the Forest Service and War Department to the NPS.

Overview of Issues

The 107th Congress considered legislation or conducted oversight on many NPS-related issues. Four major issues are covered in this report: funding for NPS maintenance, regulation of motorized recreation, the Recreational Fee Demonstration Program, and issues related to the National Trails System. While in some cases the issues discussed here are

relevant to federal lands other than parks and to other agencies, this report does not comprehensively cover issues primarily affecting other federal lands. For background on federal land management generally, see CRS Report RL30867, *Federal Land Management Agencies: Background on Federal Land and Resource Management*. Information on BLM and Forest Service lands is contained in CRS Issue Brief IB10076, *Public (BLM) Lands and National Forests*. Information on appropriations for the NPS is included in CRS Report RL31306, *Appropriations for FY2003: Interior and Related Agencies*.

NPS-related issues not detailed in this brief include protection from outside threats, the Land and Water Conservation Fund (LWCF), heritage areas, the creation of new park units, and funding for anti-terrorism activities. First, while parks historically were “buffered” from much human impact by their remote locations and adjoining wild lands, the situation has changed. How to protect park resources from outside threats such as detrimental land uses, growing populations, contaminated water, and tourist attractions, while at the same time recognizing the benefits of growth, development, and tourism to surrounding communities, presents difficult issues for Congress. Second, the LWCF is the principal federal source of money for the NPS (and other agencies) to acquire new recreation lands. Policy issues include the size of the fund, need for an annual appropriation, and the congressional role in choosing lands to acquire. (For more information on LWCF, see CRS Report 97-792 ENR, *Land and Water Conservation Fund: Current Status and Issues*.) Third, the NPS assists non-federal efforts to protect and manage “heritage areas” which Congress designates on non-federal lands — sometimes in lieu of establishing NPS units. Whether to create heritage areas, and whether to establish a uniform program with procedures and criteria for heritage area designation, are among the issues. Fourth, how national park units are created and what qualities make a potential area eligible to be an NPS unit are of continuing interest. (For more information on creating NPS units, see CRS Report RS20158, *National Park System: Establishing New Units*.)

Fifth, the NPS manages high profile natural and commemorative sites, including many of the monuments in Washington, D.C., and is thus undertaking new security initiatives in response to the terrorist attacks of September 11, 2001. The agency received funds under the Emergency Supplemental Appropriation for FY2001 (P.L. 107-38) for emergency response costs in New York City and Washington D.C., and under the Emergency Supplemental Appropriation for FY2002 (P.L. 107-117) for increased security at nationally iconic “symbols of democracy” sites, enhanced preparedness for possible attacks, and constructed security improvements at Washington D.C. monuments and memorials. The agency received additional supplemental funds for security for FY2002 (PL 107-206). Additional funding for anti-terrorist activities is included in the regular annual appropriations laws. (For more information on anti-terrorism funds and activities, see “Funding to Combat Terrorism” in CRS Report RL31306).

A park and recreation initiative with wide implications for the NPS emerged near the end of the 107th Congress, but was not considered before adjournment. The Comprehensive Natural Resources Protection Act of 2002 (H.R. 5569), introduced October 8, 2002, includes most of the “noncontroversial” bills approved by the House Resources Committee in the 107th Congress. The omnibus bill contains a number of trail studies or creation provisions similar or identical to bills mentioned in the legislation section of this report, including: H.R. 37, H.R. 1628, H.R. 1814, H.R. 1963, H.R. 3765, H.R. 3936, and H.R. 5417.

Current Issues

Maintenance Backlog (by David Whiteman)

Background. One issue for Congress is determining the appropriate level of funds to adequately maintain park units and whether to appropriate new funds or to use funds from existing programs for park maintenance. The NPS has an extensive physical maintenance obligation, with an infrastructure that includes thousands of miles of roads, trails, bridges, tunnels, thousands of buildings (many historic), as well as scores of water and waste systems. In submitting its FY2002 budget, the agency estimated its maintenance backlog at \$4.9 billion. The estimate was based on initial reviews and other partial information, making the precise amount of the backlog difficult to determine. Another agency source estimated the backlog in FY2001 as ranging roughly between \$4 and \$7 billion. Causes of the backlog have been attributed to many factors, including decades of funding shortfalls and budgetary constraints, the creation of new park units, additional management responsibilities for the NPS, increased visitors, and aging infrastructure. Concern about deteriorating facilities led Congress to increase overall NPS appropriations each year since FY1996 and to provide the maintenance backlog with new funding sources. (See “Recreational Fee Demonstration Program” below.) Although other federal land management agencies also have large maintenance backlogs, the NPS backlog has received the most attention.

Administrative Actions. In his FY2003 budget, President Bush restated his campaign promise to eliminate the NPS’s maintenance backlog by FY2006, but did not specify each year’s funding for this purpose. Rather, for FY2003, the President proposed \$322.4 million for construction, and another \$529.4 million for facility operation and maintenance, for a total of \$851.8 million. Excluding facility operation, the President seeks a total of \$663 million for all NPS construction and facility maintenance, which would include both regular (cyclical), as well as deferred maintenance. The request includes an increase of \$17.6 million in the Operations account for repairs and rehabilitation, and a \$25 million increase for cyclic maintenance so that backlogged maintenance does not increase.

In presenting his FY2002 budget, President Bush had requested \$4.9 billion over 5 years to eliminate the backlog through a combination of transportation fund money, appropriated funds, and revenues from recreation fees. Of the total sought, \$2.7 billion was for park road and bridge needs, funded from gasoline taxes, while \$2.2 billion was for the nonroad backlog funded from annual appropriations and revenues from the Recreational Fee Demonstration Program. Of the \$2.2 billion, for deferred maintenance the President requested \$440 million per year for 5 years, beginning with FY2002. The FY2002 request was comprised of \$340 million in appropriations and \$100 million in revenues from the Fee Demo Program. Because the President’s FY2003 budget proposed only total funding for regular and deferred maintenance (\$663 million combined), it is unclear whether the President continues to seek \$440 million for deferred maintenance for FY2003.

A draft report of the Council on Environmental Quality (CEQ, September 24, 2002), lauds the President’s efforts to eliminate the NPS maintenance backlog. Park advocacy groups doubt that without substantial new funding the 5 year goal of backlog elimination can be met, particularly since the future of transportation fund money is uncertain.

The Clinton Administration's FY2000 budget proposal first highlighted an Interior Department-wide campaign to prioritize maintenance needs over a 5 year period. For each year since, the NPS has submitted a Five Year Maintenance and Capital Improvement Plan identifying deferred maintenance projects in priority order, with emphasis on critical health and safety projects and resource protection.

The NPS has two efforts underway to define and quantify its maintenance needs. First, the agency is implementing a computerized facility maintenance management system for planning and tracking facilities management, with baseline information on facility conditions. It will be used in part to list maintenance needs, assign repair work, and identify completed maintenance projects. Some park units are using the system, and the NPS anticipates use by all parks at the end of FY2003. Second, in December 1999, the Interior Department required bureaus to assess the condition of their facilities. NPS is undertaking a comprehensive review of its facilities to identify maintenance needs. The agency anticipates that the assessment will be completed in FY2006 and may reveal higher than estimated deferred maintenance costs. Similar assessments will be conducted every 5 years.

The Interior Department's Inspector General reported to the Congress in December, 2001 on the Department's facilities maintenance management. Among the report's recommendations is the establishment of a single maintenance budget funded through one appropriation for the entire department. As an intermediate step, the report proposes the establishment of single line item budgets for maintenance in each bureau, under the oversight of a Chief Maintenance Officer for all departmental maintenance budgets. The FY2003 request for the NPS partially consolidates maintenance accounts.

Legislative Activity. House-passed (H.R. 5093) and Senate Committee-approved (S. 2708) bills providing appropriations for FY2003 for Interior and Related Agencies contain higher levels of funds than the President's request for construction and for facilities operations and maintenance. However, Congress did not enact these appropriations bills. The House passed \$325.2 million for construction, and \$537.7 million for facilities operation and maintenance, for a total of \$862.8 million. The Administration asserted that the House-passed construction level includes unrequested construction projects which divert resources from priority maintenance needs. The Senate Committee on Appropriations approved \$361.9 million for construction, and \$533.8 million for facilities operation and maintenance, for a total of \$895.7 million.

The FY2002 Interior and Related Agencies Appropriations Act (P.L. 107-63) provided \$363 million for the NPS maintenance backlog. Together with \$100 million from Fee Demo revenues, there was \$463 million in FY2002 to address the NPS maintenance backlog. Other 107th Congress legislation (H.R. 359, S. 224, and S. 930) would fund some park maintenance with bonds secured by a surcharge over, or set aside from, park entrance fees.

Motorized Recreation: Personal Watercraft and Snowmobiles (by Kori Calvert)

Background. Motorized recreation, notably the use of personal watercraft (PWC) and snowmobiles on NPS lands and commercial air tours over them, has fueled the ongoing conflict between preservation of, and recreation on, NPS lands. Critics of motorized recreation cite environmental concerns with motorized uses, including noise, air, and water

pollution; damage to land, plants, and wildlife; and public safety. Supporters of motorized access argue that technological advances will enable manufacturers to produce cleaner, more efficient machines, and point to the economic benefits to communities serving users. Recent controversies have focused on regulatory actions that would restrict recreational use or “access” of these vehicles, often in specific park units.

Administrative Actions, Personal Watercraft. PWCs are high-speed, very shallow draft, and highly maneuverable watercraft “operated by a person or persons sitting, standing, or kneeling on the vessel rather than within the confines of the hull” (36 CFR §1.4). Often used to perform stunt-like maneuvers, PWCs include watercraft known by their brand and generic names as jet ski, sea doo, surf jet, water sled, wavejammer, wetjet, waverunner, and wet bike. Representing a small but fast growing segment of the recreational boat market, PWCs reportedly account for a disproportionate number of accidents. In an effort to manage their use, the NPS issued a final rule (effective April 20, 2000) prohibiting PWC use from 66 of the 87 units where motorized boats are allowed (65 *Fed. Reg.* 15077). The rule allowed PWC use to continue until April 22, 2002, at the remaining 21 areas while the NPS evaluated whether to permanently authorize PWC use and develop special regulations. The rule recognized that PWC use might continue in certain National Recreation Areas, such as Lake Mead and Glen Canyon, where the establishing legislation emphasized motorized water-based recreation as a primary purpose.

Bluewater Network and its parent organization, Earth Island Institute, filed a lawsuit against DOI and NPS over the PWC rule in August 2000. The negotiated settlement, finalized in April 2001, prohibits PWCs from the 21 NPS areas where they are now allowed unless the Park Service initiates a park-specific rulemaking process, prepares an environmental analysis as required by the National Environmental Policy Act (NEPA), and solicits public comment. PWCs may continue to operate in these 21 park units during the rulemaking process, which must be completed for 13 units by April 22, 2002, and by September 15, 2002, for eight National Recreation Areas.

Of the 13 units with April 22, 2002, deadlines, the NPS prohibited PWC use in five units (effective April 22, 2002). The five units had completed an environmental review process and favored PWC bans: Cape Cod National Seashore, Delaware Water Gap National Recreation Area, Indiana Dunes National Lakeshore, Cumberland Island National Seashore, and Whiskeytown National Recreation Area. A federal judge denied an injunction sought by PWC users and manufacturers to overturn these bans on April 19, 2002. The other eight units were required to close to PWCs on April 22, 2002, and remain closed until the PWC-use environmental assessments and regulatory rulemaking process is completed. The eight National Recreation Areas with the September 15, 2002, deadline were to close temporarily then if the public review process was not completed. On September 6, 2002, the NPS and Bluewater Network filed an agreement in federal court to extend the PWC usage deadline at these eight NRAs through November 6, 2002, when the recreational boating season ends. However, at specified Lake Mead areas, PWC use may continue until January 1, 2003. PWCs are banned after these dates unless and until the rulemaking process is finalized. Currently, the sixteen park units are working on special regulations and environmental reviews, which may not all be completed before the 2003 boating season.

Legislative Activity, Personal Watercraft. The House Resources Committee reported H.R. 3853 (April 9, 2002, H.Rept. 107-389), with a provision that allows PWC use

to continue in 21 park units until December 31, 2004. The bill provides NPS a two-year deadline extension to complete environmental impact assessments. Broader legislation (H.R. 702) encourages safe, responsible use of personal watercraft generally.

Administrative Actions, Snowmobiles. Based on a survey indicating a history of non-enforcement, on April 26, 2000, the NPS announced the strict enforcement of existing, long-standing regulations on snowmobile use. This renewed enforcement would have substantially reduced snowmobile use in those 42 national parks units that allowed recreational snowmobiling. Exceptions included Yellowstone and Grand Teton National Parks, park units in Alaska, Voyageurs National Park in Minnesota, and access to private land within or adjacent to a park. The NPS snowmobile prohibition was both praised and reviled in the press and prompted several congressional hearings. By July 2000 the Interior Department backed away from its strict enforcement stance with a clarification — there would be no snowmobile ban in park units pending a formal rulemaking and public comment period, which to date has not occurred for parks generally.

Instead, action has centered on snowmobile use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Memorial Parkway. The Clinton Administration issued final rules on snowmobile use in these areas (66 *Fed. Reg.* 7260, January 22, 2001) that would phase out snowmobile use beginning with the start of the 2003/2004 winter season, with limited exceptions, and phased in a replacement of snowmobiles with multi-passenger “snow coaches.” The Bush Administration announced in April 2001 that it would allow the rule to stand.

At the same time, the Administration continued to negotiate settlement of a lawsuit by the International Snowmobile Manufacturers Association and others to overturn the Yellowstone ban and re-open the rulemaking process. The June 29, 2001, settlement agreement required NPS to prepare a supplemental environmental impact statement (66 *Fed. Reg.* 39197, July 27, 2001) on snowmobile use in Yellowstone by early 2002 and to decide whether to keep or modify the ban by November 2002. An agreement announced on August 2, 2002, extends the NPS Record of Decision deadline to March 15, 2003.

An NPS draft of the final supplemental environmental impact statement (November 12, 2002) outlined a preferred alternative that allows continued snowmobile use within specific, phased-in parameters. These include daily limits on snowmobile numbers; use of cleaner, 4-stroke engines; commercially guided access for up to 80% of all snowmobiles; development of snowcoach technology for winter transit; and monitoring of long and short term effects on park resources.

Concurrently, on March 29, 2002, NPS proposed to delay implementation of the existing snowmobile phase-out regulations at all 3 park units until the end of the 2003-2004 winter use season (67 *Fed. Reg.* 15145). A final rule published November 18, 2002 (67 *Fed. Reg.* 69473), affirmed this delay.

In related developments, on September 13, 2002, the Environmental Protection Agency (EPA) issued final regulations limiting air emissions from nonroad recreational vehicles (67 *Fed. Reg.* 68241). They require snowmobile manufacturers to reduce hydrocarbon and carbon monoxide emissions about 50% below current levels by 2012. (For additional

information, see CRS Report RL31149, *Snowmobiles: Environmental Standards and Access to National Parks.*)

Legislative Activity, Snowmobiles. Legislative debate over snowmobile bans is reflected in several 107th Congress bills. A House bill (H.R. 1465) would prohibit snowmobile use in most national parks, with exceptions; and a Senate bill (S. 365) would overturn the snowmobile ban in most national parks and direct EPA and NPS to develop noise and emission standards for snowmobiling. H.R. 5044 and S. 2697, both introduced June 27, 2002, require implementation of the Clinton Administration final rulemaking to phase out snowmobiles in Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway. Two measures pertaining to snowmobile use in Denali National Park and Preserve (H.R. 4677 and S. 2589) also have been introduced. The House Small Business Committee held a field hearing in January 2002 on the economic concerns of Yellowstone area small businesses and communities that serve snowmobilers.

Motorized Recreation: Aircraft Overflights (by Kori Calvert)

Background. Minimizing noise to protect the natural condition is an important element of the NPS mission to preserve natural resources and enhance visitor enjoyment. However, the Federal Aviation Administration (FAA) has the authority to control airspace and the aircraft overflights that may jeopardize a park unit's natural quiet, impair visitor enjoyment, and raise safety concerns. This creates a conflict between resource protection and aviation access authorities (and their constituencies). Grand Canyon National Park, with some 90,000 scenic overflights a year, has been the focal point of the conflict between groups seeking to limit overflights and air tour operators whose economic stability (with ripple effects on local businesses) may depend on providing overflights. Air tour defenders argue that vehicular traffic accompanying some 5 million Grand Canyon visitors a year is more detrimental to the park environment than overflights.

The 1975 Grand Canyon National Park Enlargement Act (P.L. 93-620) directed the Secretary of the Interior to recommend regulatory actions to address aircraft activity that caused "a significant adverse effect on the natural quiet and experience of the park...." The National Parks Overflights Act of 1987 (16 U.S.C. 1a-1 note) directed NPS to recommend a flight control plan for Grand Canyon National Park that would provide a "substantial restoration of the natural quiet" and prohibited flights below the canyon's rim. It also mandated an NPS study on the effects of all aircraft overflights. The resulting 1994 report to Congress examined military flights, general aviation, and commercial air tours over national parks; measured overflight effects on natural quiet, wildlife, safety, park visitors, and cultural and historical resources; identified parks with significant overflight problems; and provided legislative and regulatory recommendations to resolve park and airspace use issues, including flight restrictions and use of quieter aircraft. An August 2002 appeals court decision directed the FAA to use NPS "natural quiet" standards and consider commercial flight-generated noise impacts in developing air tour overflight regulations.

Administrative Actions. In a presidential memorandum issued April 22, 1996 (61 *Fed. Reg.* 18229), President Clinton directed the Secretary of Transportation, in consultation with appropriate department and agency heads, to develop regulations to address the impacts of transportation, including overflights, on national parks. The memorandum also set 2008 as the date to substantially restore natural quiet at Grand Canyon National Park.

That mandate, and congressional directives, have segued into an ongoing and contentious rulemaking process. Controversial regulations include two FAA final rules published April 4, 2000, that cap the annual number of commercial air tour overflights at Grand Canyon at 90,000 (65 *Fed. Reg.* 17736) and impose increased flight-free zones and restrictive routing over the Canyon (65 *Fed. Reg.* 17708). New routes and airspace restrictions for the canyon's west end Special Flight Rules Area (SFRA) have been in effect since April 19, 2001. To address air tour operators' safety concerns, east end SFRA airspace changes are delayed until February 20, 2003 (66 *Fed. Reg.* 63294). The industry seeks exemptions to air tour caps, curfews, and air route restrictions if quiet aircraft technology is used. At October 2002 hearings, an FAA administrator said an agency draft on quiet technology is undergoing executive review.

The FAA issued a National Parks Air Tour Management Act final rule on October 25, 2002 (67 *Fed. Reg.* 65661) to complete the definition of "commercial air tour operation." The rule requires air tour operators to apply for authority, by January 23, 2003, to fly over national park and abutting tribal lands. This application process triggers the development of an Air Tour Management Plan (ATMP) by the FAA and NPS for each unit where none exists [<http://www.atmp.faa.gov/default.htm>].

Legislative Activity. A measure was introduced (S. 1151) that identifies quiet technology standards for air tour operators at Grand Canyon National Park. Retrofitted planes and helicopters with quiet engines and propellers would be allowed in newly restricted Grand Canyon areas. A second bill (S. 712) would ban all scenic commercial flights over Yellowstone National Park and Grand Teton National Park or within one mile of park boundaries. No action has been taken on these bills. The Senate Committee on Commerce, Science, and Transportation held a hearing on National Park Overflights on October 3, 2002, to review progress in the implementation of overflights legislation.

The National Parks Air Tour Management Act of 2000 requires the FAA and NPS to create management plans for air tours at individual park units and within a half mile of their boundaries. Each plan could prohibit or limit air tours, such as by route and altitude restrictions. Additional provisions required the FAA to establish quiet aircraft technology standards for the Grand Canyon within one year and to designate Grand Canyon routes or corridors for aircraft and helicopters using quiet technology. Quiet aircraft would not be subject to existing caps on Grand Canyon overflights.

Recreational Fee Demonstration Program (by Carol Hardy Vincent)

Background. Congress is considering whether to extend, amend, or make permanent the Recreational Fee Demonstration Program ("Fee Demo," 16 U.S.C. 460l - 6a note). The program allows the NPS (and the BLM, Forest Service, and FWS) to test collecting new or increased entrance and recreation user fees. All the funds are retained by the NPS, with 80% kept at the collecting park. The NPS collected receipts under the program of \$126 million for FY2001 and estimates receipts at \$132 million for FY2002—far more revenues than the other three agencies combined. The NPS may spend the money without further appropriation, on the repair and maintenance backlog; interpretation; signs; habitat and facility enhancement; resource preservation; maintenance and operation, including the costs of fee collection; and law enforcement. The program, originally authorized to begin in

FY1996 as a 3-year trial, has been extended through FY2004 for fee collection with the revenue available to be spent through FY2007.

The NPS (and other agencies) generally favors Fee Demo because it generates substantial revenue and allows discretion in setting fees, determining fee locations, and using the revenues. Critics counter that the fees discriminate against those less able to pay, are a double tax on the recreating public, and, together with other agency fees, confuse the public. The Forest Service's Fee Demo Program has received most of these criticisms.

Administrative Actions. The Bush Administration's FY2003 budget proposed making the Fee Demo Program permanent. The land management agencies have collaborated on developing a permanent program although no formal proposal has been submitted to Congress. For the NPS, the FY2003 budget states that half of the monies collected will be used for deferred maintenance needs. The Administration's FY2002 budget had proposed extending the Fee Demo Program for 4 years, and stated that at least 60% of NPS receipts would be used for deferred maintenance. The NPS reports that in the past approximately 60% of Fee Demo funds have been allocated to the maintenance backlog; this figure includes new construction which may result from deferred maintenance. The NPS has asserted that more analysis is needed to determine whether to shift the current 80/20 percent split in funds to increase monies for the agency's deferred maintenance needs.

In reports to Congress, the NPS has described efforts to improve program management. They include: 1) reducing the cost of fee collection; (2) expanding the number of automated fee collection locations; (3) improving the rate of obligating funds; and (4) collaborating with other agencies to simplify fee payments. The agencies recently created an Interagency Recreation Fee Leadership Council to facilitate coordination and consistency among the agencies on recreation fees. The Fee Council has developed seven guiding principles for a permanent fee program, and is developing its first annual work plan.

Legislative Activity. The 107th Congress considered, but did not enact, a number of measures related to the Fee Demo Program. Some measures sought to create a permanent recreation fee program. S. 2607 authorizes the collection of fees on certain lands administered by the DOI and DOA and seeks to standardize the collection of fees among agencies. It prohibits other recreation fees from being collected on these lands, superseding the fee program in the Land and Water Conservation Fund Act. The bill lists circumstances when fees may not be charged, including for general access to an area. It authorizes 80% of the fees to remain at the collecting site, except that the Secretary of Agriculture or the Secretary of the Interior could reduce that amount to 60% if the revenues collected by an area exceed its needs. S. 1011 provides that between 60%-80% of the collections be retained at the collecting site, as determined by the Secretary of Agriculture or the Secretary of the Interior. The money may be used for a variety of purposes, with priority for deferred maintenance projects. S. 2473 establishes a permanent program for the NPS only, with fees established based on a market analysis of factors including benefits and services to the visitor. In general, not less than 80% of fees are to be returned to the collecting site, but the Secretary of the Interior can change the amount to not less than 60% where revenues exceed an area's needs, or to not less than 90% for areas with revenue sharing agreements with states. The bill also seeks to coordinate fees collected under the Park Service's recreation fee program with fees collected for other purposes, such as the National Park Passport and

state agency annual passes. Administration witnesses testified (on S. 2473 and S. 2607) in favor of a permanent fee program for the four land management agencies.

Another bill (S. 2015) would exempt residents of counties containing Fee Demo Program areas from paying fees imposed under the program. Measures (H.R. 359, S. 224, S. 930) which would use certain park fees to secure bonds for park capital improvement might affect the Fee Demo Program. Legislation was introduced to extend the program to other agencies or to remove the Forest Service. (For a description of these bills, see CRS Report IB10076, *Public (BLM) Lands and National Forests*.)

The FY2002 Interior and Related Agencies Appropriations Act (P.L. 107-63) reauthorizes the Fee Demo Program for 2 years—through September 30, 2004, for collection and September 30, 2007, for expenditures. In the joint explanatory statement, the conferees state that the extension is intended to allow the authorizing committees to examine the program and decide whether, and in what form, to continue it. The law also gives agencies discretion to establish any number of fee projects, by eliminating the minimum (10) and maximum (100) number of test sites. It enhances the authority of the agencies to allow discounted or free admission or use of their lands, e.g., for school groups. Additionally, it makes permanent the requirement that the Appropriations Committees approve Fee Demo-funded capital construction projects costing more than \$500,000.

Congress also has been interested in opportunities for the agencies to expand their methods of collecting fees and to reduce the cost of fee collection. How the collections are accounted for and spent has been a congressional focus. Some Members assert that the authorizing committees (rather than appropriators) should determine whether to continue the program, and in what form. A GAO report (November 2001) finds that agencies in the program could increase innovation in setting and collecting fees, improve program coordination and consistency, and establish performance measures for program managers.

The National Trails System (by Sandra L. Johnson)

Background. On October 2, 1968, the National Trails System Act (P.L. 90-543), authorizing the National Trails System (NTS), became law. Today, the federal portion of the trails system consists of 22 national trails (8 scenic trails and 14 historic trails) covering almost 40,000 miles, more than 800 recreation trails, and 2 connecting and side trails. More than three decades since the trails system began, issues remain regarding funding, quality, and quantity of trails. The 107th Congress is considering legislation to amend the National Trails System Act to include a new category of trails, provide federal authority to acquire land from willing sellers, and study certain routes as well as authorize other studies for possible additions to the System.

Administrative Actions. On May 31, 2002, Secretary of the Interior Gale Norton promoted the use of trails as “pathways to health” by designating 26 new national recreation trails (NRTs) in 16 states. With these additions, the more than 800 NRTs throughout the United States and Puerto Rico total more than 9,000 miles. The National Trails System Act authorizes the Secretary of the Interior and the Secretary of Agriculture to recognize community trails that qualify as additions to the National Trails System. National scenic trails and national historic trails may be designated only through an act of Congress.

President Bush announced his National Parks Legacy Project — a comprehensive preservation program for the 385 park units, on May 30, 2001. Under the proposal, park trails would increase by 5,200 miles. The President also proposed a “Conservation Partners Initiative,” by which concerned citizens throughout America will team up with the NPS to restore and preserve parklands, including park trails. No further action has been taken on either proposal according to staff at the NPS.

Legislative Activity. As introduced, S. 1069 and H.R. 834 would amend the National Trails System Act to provide federal authority to acquire land from willing sellers to complete nine named national scenic and historic trails authorized under the Act. Under current law, the federal government generally can obtain land for national trail purposes by donation, purchase, or condemnation. The House passed H.R. 834. On July 31, 2002, the Senate Energy and Natural Resources Committee ordered S.1069 reported with an amendment to allow the federal agencies administering only three of the nine trails—the North Country, Ice Age, and Potomac Heritage National Scenic Trails—to obtain land from willing sellers only. This would exclude condemnation. The legislation would not commit the federal government to purchase any land or to spend any money, but would allow park managers to purchase land to protect the national trails as opportunities arose and as funds were appropriated. S. 1069 was placed on the Senate Calendar on September 12, 2002, but not considered by the Senate. In the 106th Congress, a Willing Seller bill also passed the House but was not considered on the Senate floor.

On May 16, 2002, House subcommittee hearings were held on H.R. 36, to amend the National Trails System Act, by adding “National Discovery Trails” as a new category of long-distance trails, and by designating the American Discovery Trail (ADT) the first coast-to-coast trail. The Senate bill (S. 498) unanimously passed the Senate on August 3, 2001, and was referred to the House Committee on Resources on September 5, 2001. According to proponents, the ADT is designed to connect many existing trails, and by crossing the major north-south trails it would allow hikers to travel almost anywhere in the country using trails, including urban areas. Some are concerned about the rights of private property owners adjacent to the ADT. Others have questioned the need for a new category of trails. ADT legislation also was considered in the 105th and 106th Congresses.

LEGISLATION

Motorized Recreation

H.R. 702 (Saxton)

Seeks to encourage safe use of personal watercraft. It directs the Commerce Secretary to withhold some state grant money under the Coastal Zone Management Act unless states prohibit PWC operation in excess of no-wake speed. It also directs the Transportation Secretary to establish guidelines and standards for PWC operation. Introduced February 14, 2001; referred to Committees on Transportation and Infrastructure and Resources.

H.R. 1465 (Holt)

Prohibits snowmobile use in most national parks, with exceptions. Introduced April 4, 2001; referred to Committee on Resources.

H.R. 4677 (Young, Don); S. 2589 (Murkowski)

Provide for the use of snowmobiles in certain areas of Denali National Park and Preserve. H.R. 4677 introduced May 7, 2002; referred to Committee on Resources. S. 2589 introduced June 5, 2002; referred to Committee on Energy and Natural Resources.

H.R. 5044 (Holt); S. 2697 (Reid)

Requires implementation of the final rule to phase out snowmobile use in Yellowstone and Grand Teton National Parks and John D. Rockefeller Jr. Memorial Parkway. H.R. 5044 introduced June 27, 2002; referred to Committee on Resources. S. 2697 introduced June 27, 2002; referred to Committee on Energy and Natural Resources.

S. 365 (Thomas)

Seeks to overturn the snowmobile ban in most national parks, and directs the EPA and the NPS to develop noise and emission standards for snowmobiling. Introduced February 15, 2001; referred to Committee on Energy and Natural Resources.

S. 712 (Thomas)

Bans all scenic commercial flights over Yellowstone National Park and Grand Teton National Park and establishes a one-mile park boundary buffer zone. Introduced April 5, 2001; referred to Committee on Commerce, Science, and Transportation.

S. 1151 (Reid)

Identifies quiet technology standards for air tour operators at Grand Canyon National Park, and allows certain "quiet" planes and helicopters in newly restricted areas. Introduced June 29, 2001; referred to Committee on Commerce, Science, and Transportation.

Recreational Fee Demonstration Program & Maintenance Backlog**H.R. 359 (Kolbe); S. 224 (McCain); S. 930 (McCain)**

Authorize national parks to collect a surcharge of up to \$2 over existing entrance fees, or set-aside up to \$2 from existing entrance fees, to secure bonds for park capital improvements. H.R. 359 introduced January 31, 2001, and referred to Committee on Resources. S. 224 and S. 930 introduced January 31, 2001, and May 22, 2001, respectively; referred to Committee on Energy and Natural Resources.

H.R. 2217 (Skeen); P.L. 107-63

The FY2002 Interior and Related Agencies Appropriations Act, extends the Recreational Fee Demonstration Program for 2 years, gives agencies discretion to establish any number of fee projects, and makes other changes to the program. It also contains funds for the maintenance backlog needs of the NPS. Signed into law November 5, 2001.

S. 1011 (Graham)

Contains provisions establishing a permanent recreation fee program, with 60%-80% of the funds retained at the collection site. Introduced June 11, 2001; referred to Committee on Energy and Natural Resources.

S. 2015 (Smith, Bob)

Exempts residents of counties containing fee demonstration areas from paying fees under the Recreational Fee Demonstration Program. Introduced March 14, 2002; referred to Committee on Energy and Natural Resources.

S. 2473 (Thomas)

Contains provisions establishing a permanent recreation fee program for the National Park Service, with 60%-90% of the funds retained at the collection site. Introduced May 8, 2002; Committee on Energy and Natural Resources held hearing on June 19, 2002.

S. 2607 (Bingaman)

Establishes a permanent recreation fee program. Introduced June 11, 2002; Committee on Energy and Natural Resources held hearing on June 19, 2002.

National Trails System**H.R. 36 (Bereuter); S. 498 (Murkowski)**

Set forth requirements to establish and administer national discovery trails and designate the American Discovery Trail as the first national discovery trail. H.R. 36 introduced January 3, 2001; a subcommittee of the Committee on Resources held hearings on May 16, 2002. S. 498 passed Senate August 3, 2001; referred to House Committee on Resources September 5, 2001.

H.R. 37 (Bereuter); S. 213 (Hatch)

Direct the Secretary of the Interior to study the feasibility of designating certain routes and cutoffs for inclusion within the Oregon, Pony Express, California, and Mormon Pioneer National Historic Trails. H.R. 37 passed House June 6, 2001; passed Senate (amended) November 20, 2002. S. 213 introduced January 30, 2001. A subcommittee of Senate Committee on Energy and Natural Resources held hearings on both bills on March 7, 2002.

H.R. 834 (McInnis); S. 1069 (Levin)

Amend the National Trails System Act to clarify federal authority for land acquisition only from willing sellers for the majority of the trails in the System. H.R. 834 passed House March 13, 2001. A subcommittee of Senate Committee on Energy and Natural Resources held hearings on both bills on March 7, 2002. S. 1069 placed on Senate calendar on September 12, 2002.

H.R. 1384 (Udall); P.L. 107-214

Designates the Navajo Long Walk National Historic Trail in areas of Arizona and New Mexico. Passed House October 2, 2001; passed Senate without amendment by Unanimous Consent, August 1, 2002. Signed into law August 21, 2002.

H.R. 1628 (Rodriguez)

Designates El Camino Real de los Tejas as a National Historic Trail. Passed House September 10, 2001; referred to Senate Committee on Energy and Natural Resources September 12, 2001.

H.R. 1814 (Olver); S. 1609 (Kerry)

Requires study of the Metacomet-Monadnock-Sunapee-Mattabesett Trail in NH, MA, and CT for addition to the National Trails System. H.R. 1814 cleared for White House on November 20, 2002. S. 1609 introduced November 1, 2001, and referred to the Committee on Energy and Natural Resources.

H.R. 1963 (Costello)

Requires a study of the route taken by American soldier and frontiersman George Rogers Clark during the Revolutionary War to capture the British forts in IL and IN, for addition to the National Trails System. Passed House March 6, 2002; referred to Committee on Energy and Natural Resources March 7, 2002.

H.R. 3691 (Wilson); H.R. 4111 (McInnis); S. 817 (Domenici); S. 1946 (Campbell)

Seek to designate the Old Spanish Trail as a National Historic Trail. H.R. 3691 introduced February 6, 2002 and H.R. 4111 introduced April 9, 2002; both referred to Committee on Resources. S. 817 introduced May 2, 2001; referred to Committee on Energy and Natural Resources. S. 1946 presented to President for signature on November 22, 2002.

H.R. 3936 (Hansen)

Designates and provides for the management of the James V. Hansen Shoshone National Trail. Passed the House June 17, 2002; referred to Senate Committee on Energy and Natural Resources on June 18, 2002.

H.R. 5368 (Murtha)

Requires a study of historic transportation routes in PA, MD, WV, and OH that led to forks of the Ohio River in Pittsburgh, PA. Introduced September 11, 2002; referred to Committee on Resources.

H.R. 5401 (Hill); S. 2952 (Bayh)

Would extend the Lewis and Clark National Historic Trail. H.R. 5401 introduced September 18, 2002; referred to Committee on Resources. S. 2952 placed on Senate Calendar on October 8, 2002.

H.R. 5417 (McCollum)

Requires study to designate the route of the Mississippi River from Minnesota to the Gulf of Mexico as a national scenic trail, national historic trail, or both, and for other purposes. Introduced September 19, 2002; referred to Committee on Resources.

CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

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U.S. Congress, House Committee on Small Business, *Protecting Small Business and National Parks: The Goals Are Not Mutually Exclusive*, hearing, 107th Congress, 2nd sess., January 26, 2002, West Yellowstone, MT
[<http://www.house.gov/smbiz/hearings/107th/2002/020126/index.html>].

U.S. Congress, Senate Committee on Energy and Natural Resources, *National Discovery Trails Act of 2001*, S.Rept. 107-26, 107th Cong., 1st sess., June 5, 2001, Washington, D.C., 2001.

- Subcommittee on National Parks, Historic Preservation, and Recreation, *Snowmobile Activities in the National Park System and Miscellaneous National Heritage Bills*, hearing, 106th Cong., 2d sess., May 18, 25, 2000, Washington, D.C., 2000.

FOR ADDITIONAL READING

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CRS Report 98-981 ENR, *The National Trails System: An Overview*, by Sandra L. Johnson.

CRS Report RL31149, *Snowmobiles: Environmental Standards and Access to National Parks*, by James E. McCarthy.

U.S. General Accounting Office, *Recreation Fees: Management Improvements Can Help the Demonstration Program Enhance Visitor Services*, GAO report GAO-02-10, Wash., D.C., November 2001.

- *Federal Lands: Agencies Need to Assess the Impact of Personal Watercraft and Snowmobile Use*, GAO report GAO/RCED-00-243, Wash., D.C., September 2000.

- *National Park Service, Efforts to Identify and Manage the Maintenance Backlog*, GAO report GAO/RCED-98-143, Wash., D.C., May 1998.

U.S. Department of the Interior. National Park Service. *Air Quality Concerns Related to Snowmobile Usage in National Parks*, Washington, D.C., February 2000, available on the world wide web at [http://www.aqd.nps.gov/ard/pubs/snowmobile_report.htm].

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—Office of Inspector General. *Audit Report on Deferred Maintenance, National Park Service*, report 99-I-959, Washington, D.C. September, 1999.

U.S. Department of the Interior and U.S. Department of Agriculture. *Recreational Fee Demonstration Program, Progress Report to Congress, Fiscal Year 2000*. Wash., D.C., January 31, 2001.