

WSTPC NATIONAL ISSUES BULLETIN

July/August, 2004

An e-mail service for members of the Western States Tourism Policy Council by WSTPC Washington, DC, Representative Aubrey King (202.251.6845), who can provide more details on any of the issues reported here. Comments or suggestions are always welcome. New information added since the last edition of the NIB is in bold.

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Gateways Bill Approved by House Resources Committee

H.R. 1014, the Gateways Communities Cooperation Act, introduced by House National Parks Subcommittee Chairman George Radanovich (R-CA), passed the House of Representatives on July 19th. Under this bill, State tourism offices will have the responsibility of identifying communities that serve as gateways for millions of visitors to the national parks, forests and other Federal lands. Those gateway communities will then have a much greater role in the development of the critical multi-year plans that guide local Federal land units. This legislation has been a top WSTPC priority for the past three years.

We have been encouraged by our discussions with Senate staff about the legislation. No one has raised significant substantive concerns. Unfortunately, nothing is moving at this time through the Senate Energy and Resources Committee because of partisan differences and multiple “Holds” being placed on nearly all bills there. This is occurring in the face of a very tight Congressional schedule, with only about a month left in the 108th Congress once it reconvenes in September.

International Travel Facilitation Concerns

On August 22nd, the U.S. Senate passed a one-year extension of the October 26, 2004, deadline for requiring the 27 visa waiver countries to begin issuing passports with biometric identifications. Since the House of Representatives passed the same bill on June 14th, this one-year extension of the biometric passport requirement will become law when signed by President Bush as expected.

The Departments of State and Homeland Security had requested a two-year extension because they believe many, if not most, visa waiver countries will not be able to comply with the new 2005 deadline. This strongly suggests a return of this issue to the Congressional agenda next year.

In the past year, WSTPC actively communicated its concern over the potential impact on international tourism of the biometric passport deadline, first to the Secretaries of State, Commerce and Homeland Security and to key leaders in Congress. On April 21, 2004, the House Judiciary Committee held a hearing on the Administration's request for a two-year extension of the biometric passport requirement. The only two witnesses at the April 21 hearing were Secretary of State Powell and Secretary of Homeland Security Ridge. The WSTPC submitted a statement for the hearing supporting a two-year extension. In its statement, the WSTPC stressed the importance of international visitors to the economies of western states and concluded:

While the WSTPC strongly supports policies and programs to enhance homeland security, including more stringent border control measures, we trust the judgment of the Departments of State and Homeland Security that this requested two-year extension of the biometric passport deadline will have no negative impact and will even enhance homeland security by allowing their departmental resources to be allocated more efficiently and effectively.

Other border control issues continue to be followed by the U.S. tourism industry. The new U.S. VISIT (Visitor and Immigrant Status Indicator Technology) program was launched in January, 2004, and requires all arrivals from non-visa waiver countries to provide biometric identification (i.e., finger scans at present). When they depart the U.S., they are to be identified again to ascertain whether they have overstayed the time allowed by their visas.

On April 2, 2004, the Administration announced that no later than September 30, 2004, all travelers from the 26 visa waiver countries must be enrolled in the U.S. VISIT Program. This will mean another 13-14 million annual visitors will have to be processed through U.S. VISIT. **It should be noted that enforcement of U.S. VISIT requirements for visa waiver countries in essence renders the biometric passport requirement less essential because travelers with visa waiver country passports will be subjected to biometric identification requirements anyway.**

Reauthorization of Federal Highway Program

As we have predicted for the past year, it appears increasingly likely that there will be no long-term reauthorization of the Federal highway program this year. House and Senate conferees will not meet again until early September with no resolution in sight and little momentum towards a positive outcome. On June 30th Congress passed the fifth extension of TEA-21, this time until September 24th for highway programs and until September 30th for public transit programs. Although six-year

reauthorization proposals are on the conference table from the Senate for \$289 billion in guaranteed funding and \$301 in total authorization and from the House for \$284 billion in guaranteed and \$299 billion in total funding, there is no indication that the Administration is willing to budge from a \$275 billion figure. There is growing expectation that Congress will pass only a twelve months extension before it adjourns in October.

History, of course, tells us that where Congress is concerned, Yogi was right and the game is never over until it is over, and it is always possible that, in an election year, the White House and Congress will finally decide that the political costs of getting blamed for not passing this vital legislation are greater than the political costs of a bill that fails to satisfy completely either side. The fact that the economic recovery seems to be slowing down could mean that the Administration will be more willing to compromise but it could also mean that the Democratic leadership in Congress will be unwilling to accept any agreement for which the President can take credit on the eve of the election.

In the event of such a short term reauthorization, it is important that programs vital to travel, tourism and recreation not be short-changed. The WSTPC is working through the National Tourism and Recreation Coalition for Surface Transportation and other industry organizations to urge Congress to maintain current funding levels in the short term bill for such programs as transportation enhancements, scenic byways, trails and park and public land roads.

Congress was unable to pass a multi-year surface transportation reauthorization bill in 2003 although TEA-21, the current highway bill, officially expired on October 1, 2003. The difference over funding between the Administration and Congress over funding was too great. The Administration reauthorization proposal, the Safe and Flexible Transportation Efficiency Act (SAFETEA), called for \$256 billion over six years, while the Senate Environment and Public Works Committee wanted \$318 billion and the House Transportation and Infrastructure Committee believed no less than \$375 billion was needed.

The Congressional targets are simply not achievable without an increase in the Federal motor fuel tax, and the President has threatened to veto any such gas tax increase. Instead, Congress has extended TEA 21 four times, with the latest extension expiring on July 31, 2004.

Both the House T & I Committee (H.R. 3550 – The Transportation Efficiency Act: A Legacy for Users or TEA-LU) and the Senate Environment and Public Works Committee (S. 1072) in late 2003 produced separate versions of six-year reauthorization legislation, both far from the Administration on funding levels.

On February 12th, following a spirited debate over its budgetary impact, the Senate passed by 76-21 its \$318 billion reauthorization bill (H.R. 3550) with immediate threats of a presidential veto.

On April 2, 2004, the House backed away from the \$375 billion goal long urged by its Transportation and Infrastructure Committee and by a 357-65 vote passed H.R. 3550, known as TEA-LU (The Transportation Efficiency Act: A Legacy for Users) as a \$275 billion six year reauthorization bill after the T & I Committee accepted that figure as directed by the House Republican leadership. The Committee did, however, succeed in getting included in TEA-LU an automatic “reopener” provision, which will require Congress to revisit reauthorization before October 1, 2005.

The Administration through the Director of the Office of Management and Budget and the Secretary of Transportation said both House and Senate bills are unacceptable and that any figure higher than \$256 billion will be vetoed.

Although reauthorization legislation passed both the House and Senate by “veto proof” margins, it is unlikely that a Republican Congress will override a Republican President’s veto, especially in an election year. In that case, unless a figure no greater than \$275 billion is approved by the Conference Committee, Congress may choose to pass a one or two year reauthorization bill at funding levels acceptable to the White House and agree to take up reauthorization all over again after that period.

Both House and Senate bills, as well as the Administration proposal, treat tourism and recreation programs kindly, with respectable increases for scenic byways, recreational trails, park service roads and Federal lands highways, although the transportation enhancements program would be cut substantially (15% - 30%) by both the House Bill and the Administration proposal.

The WSTPC continues to give high priority to critical reauthorization developments as a founder and leader of the National Tourism and Recreation Coalition for Surface Transportation.

Federal Public Lands Budgets

With Congress unable to make much progress on the thirteen appropriations bills, passing only the Defense Department spending bill, it is now likely that there will simply be one omnibus appropriations bill at the end of the session that will lump together the Interior Department Budget, along with ten or eleven other departmental and agency appropriations measures into one very large bill.

On May 19th the House-Senate Conference Committee agreed on its recommended fiscal year 2005 Congressional budget with a small decrease in funding for the Federal lands. The House quickly approved the conference committee budget but it has stalled in the Senate. Although the conference committee action is advisory only and not binding on the appropriations committees, it is likely to be influential in shaping the final figures. The conference budget projects a \$200 million decrease in overall natural resources expenditures for fiscal 2005 to \$32.1 billion, compared to \$32.3 billion in fiscal 2004.

The conference committee natural resources figure is \$900 million higher than the earlier budget passed by the House, which only recommended \$31.2 billion.

At present, because of an impasse between the House and Senate, there will probably not be a Joint Congressional Budget, so the appropriations committees in each house have been proceeding while guided by their respective budget committee recommendations.

The President's Fiscal Year 2005 budget proposal for the land agencies includes essentially status quo requests for the National Park Service and for the Forest Service Recreation budget, with small increases that do not keep pace with the COL. Otherwise decreases are proposed for Forest Service Maintenance, BLM Recreation and the Fish & Wildlife Service's Refuge Management. Fire fighting programs receive a substantial increase and new recreation lakes are proposed for the Corps of Engineers.

On June 17th, the full House approved its 2005 Interior Appropriations bill. The Senate Appropriations Subcommittee on the Interior has also approved funding levels for several individual programs but these have not been referred to the full committee. Following are the more salient items regarding the land agencies from the President's 2005 budget and the corresponding House numbers:

- NPS Operations. President: \$1.686 billion for Park Service Operations, compared to the FY 2004 appropriation of \$1.610 billion. House: \$1.686 billion.
- NPS Maintenance. \$1.1 billion, compared to \$958 million in the final fiscal 2004 appropriation. Park roads maintenance would increase by \$52 million to \$310 million, compared to \$258 million in 2004, with both figures dependent on passage of SAFETEA, the Administration's highway reauthorization proposal. House: \$1.2 billion.
- NPS Construction. \$329 million, the same amount as 2004. House: \$297.6 million.
- NPS Recreation & Preservation. \$37.7 million, compared to \$61.8 million in 2004. Nearly all the difference is a \$24.6 million reduction in set-asides, earmarked funds for specific projects, especially heritage areas, which the Administration resists and individual Members of Congress love and usually wind up restoring to the budget. House: \$53.9 million.
- Forest Service Recreation. \$257.3 million, compared to \$255.1 million in 2004. House: \$262.3 million.
- Forest Service Maintenance. \$501.1 million, compared to \$555.2 million in 2004. This includes recreational trails, which are to be decreased \$3 million, from \$74.7 million in 2004 to \$71.8 million in 2005, along with set-asides for numerous construction projects, including recreation facilities. This budget cut for Forest

Service capital projects and maintenance continues the trend of recent years.
House: \$500.8 million.

- BLM Recreation. \$59.9 million, compared with \$62.3 million in 2004. **House:** \$62.5 million.
- FWS Refuge Management. \$387.7 million, compared to \$391.5 million in 2004.
House: \$389.4 million.
- Corps of Engineers Recreation Lakes. The President's 2005 budget would authorize six new recreation lake projects managed by the Corps in IL, IA, NC, TX, KY, and AK. Some view this as a start towards a national recreation lakes system.
- Fire Fighting. Following Congressional passage last year of the President's Healthy Forest legislation, overall fire fighting budgets for the Forest Service and the Interior Department in the President's budget are increased approximately 6.8 percent, to \$2.257 billion from \$2.104 billion in 2004. This includes reduction of hazardous fuels (\$401.3 million from \$211 million), fire suppression (\$906.9 million from \$790 million) and preparedness (\$949.2 million from \$945.9 million). The Forest Service has nearly two and half times as large a fire fighting budget (\$1.618 billion proposed for 2005) as Interior (\$640 million). The House increases funding for the National Fire Plan to \$2.543 billion.

Other relevant budget amounts (with 2004 comparable figures in parentheses) include President: \$220 million for the Federal Side of the Land Water Conservation Fund (\$177 million) and House: \$49 million; President: \$91.5 million for the State Side of LWCF (\$91.5 million) and House: \$91.5 million; President: \$80 million for State and Tribal Wildlife grants (\$70 million) and House: \$67.5 million; UPAR – Urban Parks and Recreation – no money requested (nothing appropriated in 2004) and House: nothing; President: \$37.5 million for Historic Preservation Grants (\$40.5 million) and House: \$34.6 million; President: \$30 million for Save America's Treasures (\$33 million) and House: \$30 million; and President: \$10 million for new Preserve America grants to be used for planning and other soft activities to complement Save America's Treasures and preserve the country's historic resources. House: nothing.

The Senate Appropriations Committee is now considering its recommendations.

Recreation Fee Demonstration Program

A fee demo “discussion draft” has been developed by House committee and circulated to Senate staff and to the Interior and Agriculture Departments. Planned meetings between House staff and Departmental representatives have been postponed until the week of August 23rd and we have been promised that the WSTPC will be sent a copy of the discussion draft following that meeting. It is very encouraging to see this level of determination by Congressional staff, but as already

noted, time is very short and there is little time available to move such complex legislation through both houses of Congress. It can also be anticipated that intense grassroots opposition to fee legislation will be mounted once draft legislation is actually introduced. Current fee demo authorization extends until the end of 2005, so it is important at least to establish a good base for a strong Congressional push next year.

Among the issues still to be resolved are: How can fees be restricted to areas with sufficient recreation opportunities to justify charging for public use? (We have suggested that state tourism offices can play a very useful role in identifying such areas.) What kind of review and approval advisory process can be established to provide meaningful oversight of the fee process? (We are urging that state tourism offices should be part of any such process.) Should fee legislation apply to multiple agencies or limited to one? (The WSTPC urges that any fee legislation should include at least the four land agencies now in the fee program.) **Should fee revenue be shared with counties and other local governments? (The WSTPC suggests that revenue should be shared only if it is mandated for uses that benefit visitors to the public lands or enhance the visitor experience.)**

On April 21st, the Senate Energy and Resources Subcommittee on Forests and Public Lands held a hearing on fee demo as administered by the Forest Service and the BLM. WSTPC Treasurer Carl Wilgus testified at this April 21st hearing in strong support of the fee demo program. On May 6th the House Subcommittee on National Parks and Recreation held a hearing on H.R. 3283 by Representative Ralph Regula (R-OH), which would make fee demo permanent for the four agencies now included and would add the Bureau of Reclamation. The National Alliance of Gateway Communities testified at this hearing. The NAGC and WSTPC fee demo positions are in agreement. On May 19th the Senate passed by voice vote S. 1107 by Senator Craig Thomas (R-WY), which would make fee demo permanent only for the National Park Service.

The Administration would like to make the current fee demo program permanent for the four agencies now included – National Park Service, USDA Forest Service, Bureau of Land Management and Fish & Wildlife Service – and expand the program to include the U.S. Army Corps of Engineers and the Bureau of Reclamation. The Administration is also willing to authorize establishment of intergovernmental, regional fees to encompass Federal, State and local lands; and give gateway communities more of a role in administering the fee program. The Administration has expressed support for H.R. 3283.

In fiscal 2004, it is estimated that the fee demo program will collect an estimated \$180.2 million, with the National Park Service receiving \$124.7 million, the Forest Service \$42 million, the Bureau of Land Management \$9.5 million and the Fish & Wildlife Service \$4 million.

The 2004 Interior Appropriations Bill extended fee demo for fifteen months until December 31, 2005, and once again urged the authorizing committees (the House

Resources Committee and Senate Energy and Resources Committee) to write permanent fee demo legislation.

The WSTPC is working with the Administration and Congress to support broader reform of Federal land agency fees, including a requirement that would allow revenue from special use permits to be retained and used at the location where they are collected. The WSTPC opposes S. 1107 because it would apply only to the National Park Service and would weaken support for fee demo at the other land agencies.

Yellowstone Snowmobiling

On June 17th, the House refused by a vote of 224-198 to restrict snowmobile use in Yellowstone National Park during consideration of the 2005 Interior Appropriations Bill.

On March 10th, the U.S. Court of Appeals for the Tenth Circuit upheld the jurisdiction of U.S. District Court Judge Clarence Brimmer in Wyoming in his February 10th decision that ordered the National Park Service to increase immediately the daily cap on snowmobiles in Yellowstone National Park from 493 machines to 780 per day, with all snowmobiles entering the Park required to be accompanied by a guide and using the best available technology. YNP Superintendent Suzanne Lewis raised the daily cap on February 11th.

Judge Brimmer's decision reversed an earlier order by U.S. District Court Judge Emmet Sullivan in the District of Columbia on December 16, 2003. Judge Sullivan had rejected new snowmobile regulations for Yellowstone National Park proposed last year by the National Park Service. The proposed NPS rules would have allowed no more than 950 snowmobiles per day into Yellowstone, compared to an average of 840 previously, with the current peak on some days in earlier years reaching 1500. Judge Sullivan's decision reinstated Clinton Administration regulations of January, 2001, that order reduced the number of snowmobiles admitted to Yellowstone this winter to 493, plus another 50 each for Grand Teton National Park and the John D. Rockefeller, Jr., National Memorial Parkway. Under the Clinton rule, next winter no snowmobiles would be allowed into the three units. Judge Sullivan also threatened to hold National Park officials in contempt of court for violating his order by complying with the decision of Judge Brimmer. **On July 28th, Judge Sullivan refused to issue an explicit ban on trail grooming because he concluded this would be redundant in view of his December 16, 2003, ruling banning snowmobiles, which ordered the NPS to fully consider the impact of trail grooming in any new rules.**

With the split between the Federal judicial circuits (what has been described as two Federal judges hurling thunderbolts at each other across the continent), this issue may be headed for a decision by the U.S. Supreme Court.

The National Park Service is also considering developing entirely new regulations, departing from both earlier sets of regulations in order to avert the judicial conflict.

Outfitter Policy Act

The Outfitter Policy Act of 2003, S. 1420, was introduced by Senator Larry Craig (R-ID), chairman of the Senate Energy and Natural Resources Subcommittee on Public Lands and Forests on July 16, 2003. The bill prohibits unauthorized outfitters from conducting commercial outfitted activities on Federal land, requires the Secretaries of Agriculture and the Interior to establish criteria for granting outfitter permits, sets forth procedures for issuing permits and describes permit requirements, with fees for outfitter authorizations. America Outdoors, the national trade association for outfitters, strongly supports the bill as a means of establishing more consistency and uniformity between the various Federal land agencies on permitting policies and practices. WSTPC Chairman Todd Davidson testified in support of S. 1420 before the Senate Energy and Natural Resources Subcommittee on Forests and Public Lands at a March 3rd hearing on S. 1420. The WSTPC testified in the 107th Congress in support of similar legislation.

Prospects are uncertain for Senate passage of the Outfitter Policy Act as majority and minority staff have been unable to reach agreement with America Outdoors, the outfitter and guide industry representative.

Commerce Department International Tourism Marketing Campaign

With an omnibus fiscal year 2005 appropriations bill appearing increasingly likely, the tourism industry is urging Senator Stevens to use that opportunity to restore the \$50 million international tourism marketing program in Commerce Department.

Following Congressional rescission of \$40 million of the \$50 million campaign to increase international visitors to the U.S., which had been enacted in February, 2003, the Department of Commerce cut another \$4 million from the campaign to meet Congressionally mandated departmental budget reductions.

The new \$6 million Commerce Department marketing campaign is now focused solely on the United Kingdom and is called the "Visit USA Alliance. It will be primarily implemented by three different private companies: Edelman Worldwide of Chicago will handle public relations, M&C Saatchi Worldwide of New York will be in charge of advertising and BVK of Milwaukee is developing cooperative partnerships.

Industry Bill for Permanent National Tourism Office Stalled

Industry efforts to draft legislation to establish a permanent national tourism office have been put on hold until the future of the international tourism campaign is settled.