

# CRS Issue Brief for Congress

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## National Park Management and Recreation

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## National Parks and Recreation

### SUMMARY

The 107<sup>th</sup> Congress is considering legislation on and conducting 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 undertaking efforts to define, quantify, and eliminate its backlogged maintenance. Congress included money for some NPS maintenance backlog needs in the FY2002 Interior appropriations law (P.L. 107-63).

**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, in 2000, the NPS prohibited PWCs in 66 NPS areas and is reevaluating such use in another 21 areas. Clinton Administration actions to enforce regulations limiting snowmobile use in national parks were controversial. The June 29, 2001, settlement of a lawsuit by the current Administration to overturn a phase-out of snowmobile use in Yellowstone and Grand Teton National Parks and the John

D. Rockefeller, Jr. Memorial Parkway requires NPS to take certain actions to decide whether to keep or modify the ban. Grand Canyon National Park is at the center of a conflict over whether to limit air tours over national parks. Lawsuits over regulations that restrict air traffic in that Park have not been resolved. Also, bills have been 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 some 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 are under consideration, 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 is considering 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

*In his FY2003 budget, the President 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 facilities maintenance. The Administration also proposed making the Recreational Fee Demonstration Program permanent and intends to propose legislation to provide such permanent authority.*

*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 June 2001 settlement of a suit over a rule banning snowmobiling in Yellowstone and Grand Teton National Parks and the Rockefeller Parkway required NPS to reexamine the ban. A draft supplemental environmental impact statement released in February 2002 reviews four options without designating a preferred alternative.*

*S. 498, which would 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" the first coast-to-coast trail, passed the Senate on August 3, 2001, and was referred to the House Committee on Resources on September 5, 2001.*

## 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.<sup>1</sup> 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. Formal NPS policy favors preservation as 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 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

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<sup>1</sup> 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.

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 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 early years, Yellowstone was guarded by the Army. 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. Parks have always been popular. In addition to the desire to preserve nature, there has also been 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).

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 107<sup>th</sup> Congress is considering legislation or conducting oversight on several NPS-related issues. Four major issues are covered in this report: funding for NPS maintenance; motorized recreation access; the Recreational Fee Demonstration Program, through which the NPS (and the Forest Service, Bureau of Land Management (BLM), and U.S. Fish and Wildlife Service (FWS)) collects recreation user fees and uses these revenues to supplement appropriated funding; 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 RL31006, *Appropriations for FY2002: 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 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 attractions, including many of the monuments in Washington, D.C., and is thus undertaking anti-terrorism activities 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 national monuments, enhanced preparedness for possible attacks, and constructed security improvements at Washington D.C. monuments and memorials. Additional funding for anti-terrorist activities was included in the regular annual FY2002 Interior appropriations law (P.L. 107-63). (For more information on anti-terrorism funds and activities, see “Funding to Combat Terrorism” in CRS Report RL31006).

## 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. In addition to protecting its natural resources, 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. Park facilities receive heavy public use, and without regular maintenance are subject to deterioration. In the past, agency budget requests and implementation plans as well as appropriated funds have not covered all of the repair and maintenance needs of the NPS. The NPS defines “deferred maintenance” or “maintenance backlog” as maintenance that could not be done when scheduled or planned. In submitting its FY2002 budget, the agency estimated its maintenance backlog at \$4.9 billion. The estimate is based on initial reviews and other partial information, making the precise amount of its backlog difficult to determine. Another agency source estimated the backlog in FY2001 as ranging roughly between \$4 and \$7 billion.

Although other federal land management agencies also have maintenance backlogs, the NPS backlog has received the most attention. The Interior Department and some environmental and park advocacy groups attribute the multi-billion dollar backlog to decades of funding shortfalls and budgetary constraints. Other factors contribute to the maintenance backlog. In the past, the Administration and Congress sometimes favored new park programs and units over maintenance when making funding decisions. When the NPS assumes responsibility for new units and facilities, whether by acquisition, donation, or transfer, there is not necessarily a commensurate increase in funds. In addition to adding new units, Congress has expanded the management responsibilities of the NPS, thus increasing operation costs, without necessarily increasing funding. Funding allocated for facilities maintenance also may get diverted to other programs. When combined with increased visitors, these factors have stretched funds and contributed to operation and maintenance difficulties.

The FY1996 temporary government shutdowns included temporary closure of NPS units. Strong public objection to the park closures and concern about deteriorating facilities led Congress to increase overall NPS appropriations each year since FY1996 and to attack the maintenance backlog with new funding sources. (See “Recreational Fee Demonstration Program” below.)

**Administrative Actions.** In his FY2003 budget, President Bush restated his commitment to eliminating the NPS’s multi-billion dollar maintenance backlog by FY2006, but did not specify the amount of funds for this purpose. Rather, the President proposed a total of \$663 million for FY2003 for all NPS construction and maintenance, which would include both regular (cyclical), as well as deferred maintenance. The FY2003 request includes an increase of \$17.6 million in the Operations account for repairs and rehabilitation, and a \$25 million increase for cyclic maintenance to ensure that backlogged maintenance does not increase.

The elimination of the NPS maintenance backlog, a campaign promise, was first proposed by President Bush in his FY2002 budget when \$4.9 billion was requested 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.

Some park and environmental advocacy groups had voiced concerns regarding the Administration's funding sources and priorities, and criticized as insufficient the new funds for eliminating the backlog. Critics also express concern that the Administration's maintenance priorities favored roads and structures over programs to protect the historic, cultural, and natural resources. Others advocate meeting more of the NPS's maintenance needs with existing funds or seek new funding from other government programs.

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 begun two efforts to define, quantify, and eliminate its deferred maintenance needs. First, the agency is developing 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 currently use this system, and the NPS estimates that all park units will be using the system at the end of FY2003. Second, in December 1999, the Interior Department required all 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 comprehensive assessment will be completed in FY2006 and may reveal a higher cost of deferred maintenance than is currently estimated, and that 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 a single 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.** The FY2002 Interior and Related Agencies Appropriations Act (P.L. 107-63) contains an appropriation for the maintenance backlog of \$363 million for the NPS. Together with \$100 million from Fee Demo revenues, there is \$463 million in FY2002 to address the NPS maintenance backlog. Other 107<sup>th</sup> Congress legislation (H.R. 359, S. 224, and S. 930) proposes to 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.** The NPS Organic Act of 1916 set forth a dual mission that embodies the ongoing conflict between preservation and recreation: to protect, preserve and leave unimpaired the natural and cultural resources in the agency's care while promoting visitor use

and enjoyment of them. Motorized recreation, notably the use of personal watercraft (PWC) and snowmobiles on NPS lands and commercial air tours over them, has fueled the preservation/recreation debate. Critics of motorized recreation point out that many types of non-motorized recreation are allowed in park units and 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. While the 106<sup>th</sup> Congress enacted a national policy for regulating commercial air flights over national parks (P.L. 106-181), subsequent regulatory actions by the Federal Aviation Administration in cooperation with NPS have angered tour operators. The Clinton Administration’s regulatory actions on snowmobile and PWC use in NPS units (see following sections) provoked further controversy. The Bush Administration and Interior Secretary Gale Norton are viewed generally as more receptive to forms of motorized recreation, pleasing user and manufacturer groups but alarming the environmental groups who fought for the more restrictive regulations. The general dispute on how to balance the use of parks for recreation with protection of park resources, and conflicts over particular park uses, continues. The possible outcome of regulatory reviews and the resolution of lawsuits filed by environmental and/or industry groups are pending.

**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 published a final rule on March 21, 2000, effective April 20, 2000, prohibiting PWC use from 66 of the 87 NPS-administered parks, seashores, and recreational areas where motorized boats are allowed (65 *Fed. Reg.* 15077). The rule allowed PWC use to continue until April 22, 2002, at 21 areas where it was already occurring while the NPS evaluated whether to permanently authorize PWC use and develop and finalize special regulations, as appropriate. 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 not 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. Eight National Recreation Areas have until September 15, 2002 to finalize PWC regulations. A federal district court approved the settlement and dismissed a motion to intervene from two watercraft industry associations.

At 4 of the 21 NPS units cited in the settlement agreement – Indiana Dunes National Lakeshore, Cumberland Island National Seashore, Cape Lookout National Seashore, and Delaware Water Gap Recreation Area – park superintendents already had used their authority to prohibit PWCs. On April 20, 2001, Interior Secretary Gale Norton ordered a review of the four bans, halting their implementation.

**Legislative Activity, Personal Watercraft.** The House Resources Committee approved a technical corrections bill (H.R. 3853) on March 20, 2002. The bill includes a provision that allows PWC use to continue in 21 park units until December 31, 2004, providing NPS a two-year deadline extension to complete environmental impact assessments. Bill supporters argue that the Clinton Administration did not provide funds for the assessments. Critics contend that the Resources Committee failed to call any hearings on the PWC controversy and that a technical corrections bill is not the appropriate vehicle for a controversial PWC provision. There is broader legislation (H.R. 702) to encourage safe, responsible use of personal watercraft generally. It would direct the Secretary of Commerce to withhold up to 10% of grant money that a coastal state receives under the Coastal Zone Management Act unless the state regulates the use of PWCs by prohibiting their operation in excess of no-wake speed in designated areas. It would direct the Transportation Secretary to establish guidelines and standards for PWC operation, to include mandatory state registration, a minimum PWC operator age of 16, and a training program. No action has been taken on this legislation.

**Administrative Actions, Snowmobiles.** In January 1999, a coalition of environmental organizations filed a rulemaking petition to ban snowmobiles from all park system units. NPS reviewed the level of snowmobile use and the extent of compliance with existing statutes and regulations in 42 NPS units that allowed recreational snowmobiling. The survey indicated a history of non-enforcement and prompted the April 26, 2000, announcement that NPS would begin immediately the strict enforcement of existing, long-standing regulations on snowmobile use. With limited exceptions, this renewed enforcement would have substantially reduced snowmobile use in national parks units. 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. Snowmobile practices prior to the April 2000 announcement would continue throughout the 2000/2001 fall/winter season.

The Clinton Administration issued final rules on snowmobile use in Yellowstone and Grand Teton National Parks and the John D. Rockefeller, Jr. Memorial Parkway (66 *Fed. Reg.* 7260, January 22, 2001) that would phase out snowmobile use at the end 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 requires 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. The environmental study [<http://www.nps.gov/grte/winteruse/intro.htm>], released in February 2002, reviews four options for action without designating a preferred alternative: implementing the phase-out, delaying implementation for one additional year, allowing continued unguided snowmobiling, or allowing limited guided snowmobile tours. The later alternatives include noise and emissions restrictions.

In related regulatory developments, in September 2001 the Environmental Protection Agency proposed emission standards to reduce pollution from nonroad recreational vehicles. The proposed standards would require snowmobile manufacturers to reduce hydrocarbon and carbon monoxide emissions by 30% in 2006 and 50% in 2010. (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 two 107<sup>th</sup> 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. No action has been taken on these bills. 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.

The 106<sup>th</sup> Congress responded to the Clinton Administration's regulatory activity with three separate hearings – on snowmobile recreation, DOI's decision to restrict snowmobile use by enforcing existing regulations, and the impact of the ban on small businesses. Congress added a directive in the FY2001 Consolidated Appropriations Act (P. L. 106-554, text of law printed in H.Rept. 106-1033) to block NPS from spending funds prior to July 31, 2001, on any rulemaking or rule enforcement that would reduce snowmobile use in park units below current use patterns during either the 2000-2001 or 2001-2002 winter seasons.

## **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...." This law led to early acoustic research on aircraft noise-related impacts. Following the collision of two tour aircraft over the Grand Canyon a decade later, Congress enacted the National Parks Overflights Act of 1987 (16 U.S.C. 1a-1 note). It 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.

**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 overflight requirements in the National Parks Air Tour Management Act of 2000 (49 U.S.C. 40128 note), have segued into an ongoing and contentious rulemaking process. Controversial park-specific 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) [<http://www.nps.gov/grca/overflights/index.html>]. 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, but the regulatory standards for this technology are still in the development stage. The FAA put together a working draft on quiet aircraft (66 *Fed. Reg.* 64778, Dec. 14, 2001), and anticipates preliminary rules on this subject in early 2002.

The FAA has proposed regulations to require a 5,000 ft. above ground level altitude to complete the definition of “commercial tour operation” (66 *Fed. Reg.* 21264, April 27, 2001) and announced the membership of the National Parks Overflights Advisory Group who provide recommendations and advice on air tour operations over and near national parks (66 *Fed. Reg.* 32974, June 19, 2001).

**Legislative Activity.** A measure has been 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 National Parks Air Tour Management Act of 2000 requires the FAA and NPS to work with air tour operations, American Indian tribes affected by commercial overflights, and the public 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 as a way to supplement appropriated funding for park units. The NPS currently runs 100 fee projects. All the funds are retained by the NPS, with 80% of the money kept at the collecting park. The money is available to be spent by the NPS without further appropriation, and may be used for 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 NPS collected receipts under the program of \$126 million for FY2001 and estimates receipts at \$132 million for FY2002. The NPS typically collects far more revenues than the other three agencies combined. Some sites collect just enough revenue to cover the costs of the increased services associated with the fee, while other sites collect significant sums for addressing the backlog of maintenance needs and other purposes. 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 fees. The NPS reports that the public supports the additional fees, and some supporters would like to make the Fee Demo Program permanent or extend it to other agencies. Critics counter that the fees discriminate against those less able to pay and result in a double tax on the recreating public. Some assert that the public should not pay to recreate if commercial land users, such as miners, do not pay the market value of their land uses. Some low-impact recreationists, such as hikers and campers, fear that priority will be given to developed recreational uses that generate more revenue. Critics further assert that the public is confused by the variety of fees charged by federal and state land management agencies, and that a nationally consistent program with tighter coordination is needed. The Forest Service’s Fee Demo Program has received most of these criticisms.

The NPS charges fees for recreation and other land uses under a number of other laws and programs, which are, or might be, the subject of legislation or oversight this Congress. For instance, under P.L. 106-206 (16 U.S.C. 460l-6d), fees may be collected for commercial filming and certain still photography and related commercial activities on NPS (and other federal) lands, with the fees available to be spent in accordance with the formula and purposes established for the Fee Demo Program. NPS concessions contracts, issued to those who provide accommodations, facilities, and other services to park visitors, require payment of fees to the government (P.L. 105-391, 16 U.S.C. 5951-5966). Eighty percent of the funds collected are retained and used by the collecting unit for visitor services and resource management, while 20% are used to support activities throughout the NPS.

**Administrative Actions.** The Bush Administration’s FY2003 budget proposes making the Fee Demo Program permanent. The NPS has been working with the other land

management agencies to develop a proposal for a permanent program, and the Administration intends to propose such legislation. For the National Park Service, the FY2003 budget states that half of the monies collected will be used to address the agency's deferred maintenance needs.

The Bush Administration's FY2002 budget proposed extending the Fee Demo Program for 4 years, and stated that at least 60 percent of NPS receipts would be used for deferred maintenance. This was part of the President's initiative to eliminate the NPS maintenance backlog, estimated at \$4.9 billion. The NPS reports that in the past approximately 60% of Fee Demo funds have been allocated to the maintenance backlog. Specifically, since the outset of the Program, 1,671 of 2,940 approved projects, and \$259.8 million of \$417.4 million have been identified as addressing deferred maintenance needs; these figures include 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) collaborating with other agencies to simplify fee payments; (2) reducing the cost of fee collection; (3) expanding the number of automated fee collection locations; and (4) improving the rate of obligating funds.

**Legislative Activity.** 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. The law does not specify a percentage of the funds to be used for maintenance.

Other legislation in the 107<sup>th</sup> Congress relates to the Fee Demo Program. Provisions of S.1011 would create a permanent recreation fee program with 60%-80% of the funds retained at the collecting site. Another Senate bill, S. 2015, would exempt residents of counties containing Fee Demo Program areas from paying fees imposed under the program. Program impact on local committees has been a particularly sensitive issue for the Forest Service. 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 also has been introduced to extend the Fee Demo Program to other agencies or to remove the Forest Service from the program. (For a description of these bills, see CRS Report IB10076, *Public (BLM) Lands and National Forests.*)

In the past, Congress has considered bills to make the Fee Demo Program permanent, extend the program to other agencies, or remove the Forest Service from the program. Congress 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 focus, including their use for projects rather than general agency

operations; the amounts of money spent on deferred maintenance, new construction, preservation of resources, and other needs; and which particular projects are funded. Some Members also have expressed a concern that Fee Demo was established and has been extended through appropriations laws, and a preference for the appropriate authorizing committees to determine whether to continue the program, and in what form. A new 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. Thirty-three years after its inception, issues remain regarding funding, quality, and quantity of trails. The 107<sup>th</sup> 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 National Trails System.

**Administrative Actions.** On May 30, 2001, President Bush announced his National Parks Legacy Project — a comprehensive preservation program for the 385 park units. 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.

**Legislative Activity.** On March 7, 2002, hearings were held on the Willing Seller Amendments of 2001 (H.R. 834, S. 1069). Reintroduced in the 107<sup>th</sup> Congress, 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, even by condemnation. This legislation would allow the federal agencies administering nine specified trails to obtain land from willing sellers only, which 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. In the 106<sup>th</sup> Congress, a Willing Seller bill passed the House but was not taken up for Senate floor consideration.

Legislation 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 was also re-introduced in the 107<sup>th</sup> Congress. 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 105<sup>th</sup> and 106<sup>th</sup> Congresses.

## LEGISLATION

### **H.R. 36 (Bereuter); S. 498 (Murkowski)**

Set forth requirements for the establishment and administration of national discovery trails and designates the American Discovery Trail as the first national discovery trail. H.R. 36 introduced January 3, 2001; referred to Committee on Resources. S. 498 passed Senate August 3, 2001; referred to House Committee on Resources September 5, 2001. March 7, 2002, Subcommittee on National Parks hearings held.

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

Amend the National Trails System Act to direct the Secretary of the Interior to undertake a study to determine 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; referred to Senate Committee on Energy and Natural Resources June 7, 2001. S. 213 introduced January 30, 2001; referred to Committee on Energy and Natural Resources.

### **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. 702 (Saxton)**

Seeks to encourage safe, responsible use of personal watercraft. It directs the Secretary of Commerce to withhold up to 10% of grant money that a coastal state receives under the Coastal Zone Management Act unless the state prohibits PWC operation in excess of no-wake speed in designated areas. 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. 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; referred to Senate Committee on Committee on Energy and Natural Resources March 14, 2001. S. 1069 introduced June 20, 2001; referred to Committee on Energy and Natural Resources. Subcommittee on National Parks hearings held March 7, 2002.

### **H.R. 1384 (Udall)**

Designates the Navajo Long Walk National Historic Trail, located within the corridor extending through Canyon de Chelley, AZ to Fort Sumner, NM. Passed House October 2, 2001; referred to Senate Committee on Energy and Natural Resources October 3, 2001. Subcommittee on National Parks hearings held March 7, 2002.

**H.R. 1465 (Holt)**

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

**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 passed House October 23, 2001; referred to Senate Committee on Energy and Natural Resources October 24, 2001. S. 1609 introduced November 1, 2001; referred to Committee on Energy and Natural Resources.

**H.R. 1963 (Costello)**

Requires study of the route taken by American soldier and frontiersman George Rogers Clark and his men during the Revolutionary War to capture the British forts at Kaskaskia and Cahokia, IL, and Vincennes, IN, for study for addition to the National Trails System. Placed on Union Calendar December 5, 2001. Referred to the Committee on Energy and Natural Resources March 7, 2002.

**H.R. 2217 (Skeen)**

P.L. 107-63, 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.

**H.R. 3691 (Wilson); S. 817 (Domenici)**

Designates the Old Spanish Trail as a National Historic Trail. H.R. 3691 introduced February 6, 2002; referred to Committee on Resources. S. 817 introduced May 2, 2001; referred to Subcommittee on National Parks, Recreation and Public Lands February 12, 2002.

**H.R. 3936 (Hansen)**

To designate and provide for the management of the Shoshone National Recreation Trail, and for other purposes. Introduced on March 12, 2002; Executive Comment requested from USDA, Interior on March 15, 2002.

**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. 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. 1151 (Reid)**

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. Introduced June 29, 2001; referred to Committee on Commerce, Science, and Transportation.

**S. 1946 (Campbell)**

Seeks to designate the Old Spanish Trail as a National Historic Trail. Introduced on February 14, 2002; referred to the Committee on Natural Resources. On March 7, 2002, Subcommittee on National Parks hearings held.

**S. 2015 (Smith, Bob)**

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

## CONGRESSIONAL HEARINGS, REPORTS, AND DOCUMENTS

U.S. Congress, House Committee on Resources, Subcommittee on National Parks and Public Lands, *Issues Regarding the New NPS Methodology Used to Evaluate the Achievement of Natural Quiet Restoration Standards in Grand Canyon National Park*, hearing, 106<sup>th</sup> Cong., 1<sup>st</sup> sess., May 25, 1999, Washington, D.C., 1999.

U.S. Congress, House Committee on Small Business, *Protecting Small Business and National Parks: The Goals Are Not Mutually Exclusive*, hearing, 107<sup>th</sup> Congress, 2<sup>nd</sup> sess., January 26, 2002, West Yellowstone, MT  
[\[http://www.house.gov/smbiz/hearings/107th/2002/020126/index.html\]](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. Report 107-26, 107<sup>th</sup> Cong., 1<sup>st</sup> 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, 106<sup>th</sup> Cong., 2d sess., May 18, 25, 2000, Washington, D.C., 2000.

## FOR ADDITIONAL READING

CRS Report 98-794 ENR, *Federal Recreation Fees: Demonstration Program*, by Rosemary Mazaika.

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, Washington, D.C., November 2001.

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

— *National Park Service, Efforts to Identify and Manage the Maintenance Backlog*, GAO report GAO/RCED-98-143, Washington, 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](http://www.aqd.nps.gov/ard/pubs/snowmobile_report.htm)].

— *Director's Order #47: Soundscape Preservation and Noise Management*, [<http://www.nps.gov/refdesk/DOrders/DOrder47.html>].

— *Report to Congress: Report on Effects of Aircraft Overflights on the National Park System*, Washington, D.C., September 12, 1994.

— 2001 Management Policies, [<http://www.nps.gov/refdesk/mp/>].

— 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*. Washington, D.C., January 31, 2001.