

A REPORT  
on  
THE BUSH ADMINISTRATION ASSAULTS  
ON OUR NATIONAL PARKS, FORESTS  
AND PUBLIC LANDS  
(A PARTIAL LIST)



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## **The Bush Years: A Legacy of Failure for Our Public Lands**

Over the last seven and half years, the Bush Administration has pushed a concerted strategy of reducing the protections for our public lands, parks and forests, and opening up these lands for every type of private, commercial and extractive industry possible.

During the 110<sup>th</sup> Congress, I have served as the Chairman of the National Parks, Forests and Public Lands Subcommittee within the U.S. House Natural Resources Committee. Throughout my service in this position, I have conducted oversight and investigatory hearings on many of the Bush Administration's assaults on our natural environment.

In order to shine some sunlight on the Bush environmental legacy, I requested my staff compile a list of some of the more egregious assaults. But, this list only comprises a partial picture of all President Bush has done to harm conservation in America, as it is solely focused on some of the impacts within my area of jurisdiction as Chairman of the Subcommittee. A comprehensive list would also include discussion of the rampant illegal and unethical scandals in the royalty in kind office of the Interior Department where employees partied and enriched themselves at the expense of taxpayers, and the Julie McDonald scandal where a political appointee manipulated science for her own personal benefit and that of the homebuilding and oil and gas industries, or the formation and secret discussions of Vice President Cheney's Energy Task Force, among many, many other examples.

Overall, under Bush, dedicated career employees have been driven out because they refused to comply with unethical activities, science has been manipulated to enrich industry, and environmental laws and regulations have been subverted to push forward damaging activities.

While not highlighted in this report, the Bush Administration has a long-standing practice of releasing proposals that harm our public lands at times when the public is the least likely to notice. For example, on October 10<sup>th</sup>, 2008, the Interior Department published a notice that it intends to repeal regulations that give two congressional committees the authority to require the Secretary to temporarily withdraw lands from mining and other threats. The notice was published while Congress was out of session, before the start of a three-day weekend and only gives the public 15 days to comment.

The federal regulation at issue allows the House Natural Resources Committee and the Senate Energy and Natural Resources Committee to require the Secretary to withdraw certain lands temporarily in order to give Congress time to consider if permanent protection is warranted and to prevent harm before that occurs. The authority has existed for decades but has been used very rarely: only three times by Congressman Mo Udall in the 1970's and 1980's, and most recently, in the case of the Grand Canyon, where I successfully introduced a resolution in the Committee on Natural Resources to require the Secretary to withdraw certain lands from around the National Park due to the rapid increase in proposals for uranium mining nearby.

The Interior Department, however, has ignored our directive and broken the law that requires them to withdraw the lands, while continuing to allow uranium mining. The Department knows it is legally vulnerable in federal court where it is being sued over this same issue. Instead of simply complying with existing law, the Administration is going so far as to try to do away with the regulation entirely.

This practice is just the latest in Bush Administration attempts to enact by stealth and obfuscation what it cannot accomplish in the light of day. The very way these actions are carried out show that the Administration is well aware that its actions subvert the will of Congress and would not be supported by the American people.”

The enclosed list is merely a small part of the full story of Bush Administration's legacy of failure to our public lands, parks and forests.



Raúl M. Grijalva  
Chairman National Parks, Forests, and Public Lands Subcommittee

# *A Partial List of Bush Administration Assaults on our National Parks, Forests and Public Lands*

## **National Park System**

### *Serious Failures to Protect Park Resources*

#### **Efforts to Weaken Air Quality Standards for National Parks**

Through a rulemaking process, the U.S. Environmental Protection Agency (EPA) is seeking to weaken regulations protecting air quality in some national parks. The proposed rule would change the way EPA measures spikes in pollution levels, allowing companies seeking to locate industrial facilities near national parks and wilderness areas to circumvent Congressionally-established pollution limits. If adopted, additional power plants and factories could be sited near national parks leading to increased air pollution in “areas of special natural, recreational, scenic or historic value” specifically singled out by Congress for additional levels of air quality protection.

#### **Greatest Slaughter of Bison in the United States Since the 19<sup>th</sup> Century**

The Bush Administration has presided over the largest slaughter of bison since the Great Plains herds were slaughtered nearly to extinction by unscrupulous buffalo hunters in the late 1800s. Even more tragically, the 1,167 killed this year resided in Yellowstone National Park where their survival should have been protected. The Administration’s failure to formulate a plan allowing bison to roam freely within and outside Yellowstone National Park and lack of leadership on most ecological issues will likely lead to more bison deaths in the winter of 2008-2009. Bison are a symbol of the National Park Service and the Department of the Interior, both of whom should be ensuring the protection and survival of these animals rather than aiding in their slaughter.

#### **A Uranium Mine Permitted Adjacent to the Grand Canyon**

The Administration permitted a company to begin commercial uranium mining on public land dangerously close to the Grand Canyon. The decision was based upon minimal NEPA analysis using a categorical exclusion and with minimal opportunity for the public to comment on the decision. The House Committee on Natural Resources passed a committee resolution under a provision in the Federal Land Policy Management Act withdrawing the land from mining claims for a period of one year. The Administration has ignored this resolution and uranium exploration has begun.

### **Planned Grand Canyon Floods Ignore Science**

The Bureau of Reclamation's (BOR) five-year experimental release plan for the Colorado River ignores the concerns of the National Park Service and disregards potential impacts to the ecological and cultural integrity of the Grand Canyon. The BOR's plan calls for a single high-flow release into the Grand Canyon, which occurred earlier this year. The flood simulates natural spring flooding events seen in the canyon prior to the construction of Glen Canyon Dam in the 1960s. BOR's plan fails to allow for follow-up floods, which are critical for ensuring that endangered fish habitat, sandbars and streamside ecology are preserved. Instead, the plan calls for steady releases during September and October over the next five years which would lock in smaller flows from the dam in order to generate additional power. Input and concerns from the NPS have been ignored by BOR and gagged by the Secretary of the Interior in favor of serving power users.

### **Administration Attacks World Heritage Status of Yellowstone**

Administration officials urged the United Nations to remove Yellowstone National Park from a list of endangered World Heritage sites in a letter stating that "Yellowstone is no longer in danger." The "in danger" list is maintained by the U.N. World Heritage Committee and helps to trigger action on the part of the committee when a World Heritage Site is threatened with destruction or serious degradation. Nineteen World Heritage sites were on the list at the time and Yellowstone in particular is on the list due to continuing threats to water quality, air quality and wildlife.

Though the park has been on the "in danger" list since 1995, environmentalists say Bush Administration policies have actually placed the park and its resources in greater peril. The most significant threats to the park come from energy development and logging adjacent to the park, stripping sensitive species such as wolves and grizzly bears of their protections, the continued slaughter of the park's resident bison and the unresolved snowmobile winter use issue.

### **Advisory Board Faults Park Service Science**

The National Park Service was criticized by the National Park System Advisory Board over its dwindling science program in a recent report. The report criticizes the agency for disbanding groups of in-house scientists who were responsible for reviewing management priorities and researching the ecology of national parks. Since abolition of these groups, the Advisory Board has noted a diminished use of science in the parks and an inability to set long-term goals for improving the quality of national parks.

# ***Pandering to the OHV and Gun Lobbies***

## **Snowmobiles in Yellowstone National Park**

Before leaving office, the Clinton Administration completed an EIS that supported a decision to ban snowmobiles from Yellowstone National Park. Research found that noise pollution from snowmobiles disturbs wildlife during a time of the year when they are already stressed by harsh weather and lack of food. Additionally, snowmobiles emit exhaust which degrades air quality. Upon taking office, the Bush Administration overturned the proposal.

Next, the Bush Administration unveiled a plan to allow 1,100 snowmobiles in Yellowstone per day, a 35% increase over the average of 815 snowmobiles in the park daily in winter, prior to the ban. This decision was made despite a National Park Service study incorporating 10 years of scientific data that blamed snowmobiles for unhealthy noise levels and air pollution. The \$2.4 million environmental impact study concluded that a ban on snowmobiles "best preserves the unique historic, cultural, and natural resources" in the parks, and "yields the lowest levels of impacts to air quality, water quality, natural soundscapes, and wildlife." The decision has been in litigation since 2002 and the NPS has undertaken multiple studies and released multiple revised plans for snowmobile use since then. Currently, snowmobiles are still permitted in Yellowstone at much reduced levels and even this plan has been thrown out by a Federal judge.

## **Personal Watercraft in Parks**

In 2000, the National Park Service concluded that personal watercraft (PWC) use was inappropriate in most areas of the National Park System. The decision was based on unacceptable impacts on the environment, conflicts with other visitors, and safety issues. Among other units, PWCs were banned at Cape Lookout, Gulf Islands and Pictured Rocks. In 2006, however, the agency reversed itself and began finalizing new regulations allowing PWC use back in these three parks. These reversals contradict both the recently-adopted 2006 National Park Service *Management Policies* and a court-ordered settlement agreement reached by the Park Service and Bluewater Network in 2001.

## **Interior Department Changes Position on R.S. 2477**

Former Interior Secretary Gale Norton finalized a new process for recognizing purported highway rights-of-way under a Civil War-era loophole known as R.S. 2477. The policy shift would allow states and counties to perform widespread highway maintenance, construction and off-road vehicle use on protected federal lands in the West. Secretary Norton did not involve the public in developing the new policy, even though it will guide every agency under the Interior Department's jurisdiction, including the National Park Service, Bureau of Land Management, and U.S. Fish and Wildlife Service.

In August 2008, a Federal judge dismissed Inyo County, California's, R.S. 2477 claims within Death Valley National Park, perhaps signaling the illegality of the change in R.S. 2477 regulations.

### **Loaded Firearms in National Parks**

Contrary to the recommendations of all living former directors of the National Park Service, including Bush appointee Fran Mainella, political appointees at the Department of the Interior proposed allowing visitors to possess loaded, concealed firearms in National Park Service units and U.S. Fish and Wildlife Refuges subject to state firearm possession laws. Despite what proponents of the new regulation would have the public believe, firearms are not currently prohibited on Park Service lands; they simply must be unloaded and inaccessible. Though the regulation is supposed to prevent confusion over weapons possession rules, many parks are located in two or more states and many individual states (even states that share borders) lack reciprocity agreements. Such widespread inconsistency is not only contrary to the stated intent of the new regulation but will ultimately lead to confusion and entrapment of gun owners. The regulation is expected to be released in October.

## ***Undermining the NPS Work Force***

### **Outsourcing NPS Positions**

The National Park Service was forced, by Bush political appointees, to pursue plans for replacing thousands of its employees with private contractors. Early contracting reviews involved some 1,800 positions while later phases entailed potential replacement of 11,000 employees, more than two thirds of the Park Service's permanent workforce. In order to meet outsourcing goals, the NPS cut operations and services for the public in order to fund expensive outsourcing competition studies. Among the positions slated for review were archaeologists, maintenance and landscaping workers and human resource managers. Ultimately, after spending millions of dollars, the outsourcing studies only confirmed that Federal employees can do the government's work more cost-effectively.

### **Political Screening for NPS Civil Service Managers**

Under former Director Mainella, the National Park Service used a political loyalty test for selecting all its top civil service employees. Under the new order, the appointment of all mid-level and upper-level career managers had to be approved by a Bush Administration political appointee. The October 11, 2005, order required that the selection criteria for all civil service management slots (grades of GS-13, 14 and 15) include the "ability to lead employees in achieving the . . . Secretary's 4Cs and the President's Management Agenda." In addition, candidates must receive supplemental screening by Park Service headquarters and the Assistant Secretary for Fish, Wildlife, and Parks. The civil service positions covered by this edict are supposed to be non-political.

### **Political Appointees Seek to Rewrite NPS Management Policies**

Bush Administration political appointees sought to fundamentally alter the mission of the National Park service through a rewrite of the National Park Service *Management Policies*. The policies set precedents, guide NPS employees in making resource-based decisions and ensure that all units of the National Park System are managed as a cohesive whole. In particular, the rewritten policies would have placed visitor use above conservation, eased regulations against commercializing parks and removed most references to the NPS organic act from which the NPS garners its preservation authority. The proposed rewrite was abandoned only after public backlash.

### **NPS Employee Morale Near All-Time Low**

A poll of NPS employees conducted by the Campaign to Protect America's Lands and the Coalition of Concerned National Park Service Retirees found that, of 1,361 respondents surveyed, 84% expressed a "great deal of concern" about the effect of current policies on national parks; 59% said the situation had worsened over the last few years; and 79% said morale had declined over the same period.

### **Critical Staffing Shortages at the US Park Police**

The number of U.S. Park Police officers is the lowest it has been in twenty years. The Park Police is the oldest uniformed Federal police force and is tasked with protecting America's icons in Washington, DC, New York and San Francisco. In April of 2008, a new class of recruits was added to the force but the number of officers still fell to 576. The force has not been so small since 1987 and begs the question whether America's icons are receiving the protection they require.

The Park Police force has also been the center of controversy since the release of a investigative report by the Department of the Interior Inspector General which identified leadership deficiencies and fiscal mismanagement which has led to the suspension of the current chief of police and vindicated the former chief who was fired for pointing out many of the shortcomings outlined in the report.

### **Park Police Chief Fired**

Teresa Chamber, Chief of the U.S. Park Police was fired in 2003 after being quoted lamenting her force's budget and staffing shortages in the *Washington Post*. Chambers' wrongful termination lawsuit is still being fought in court.

## ***Woefully Inadequate Budgets***

### **Abandoning the Land and Water Conservation Fund**

Since 1965, the Federal LWCF program has provided essential funding for the acquisition of lands and waters to improve national parks, forests, wildlife refuges, and public lands. The program allocates a fraction of the enormous revenues generated by depletion of oil and gas resources in the Outer Continental Shelf to these purposes. Further, the Stateside LWCF program has provided states and localities with crucial funding to preserve open space and develop parks and recreational facilities.

Each year, approximately \$900 million is credited to the LWCF. The Fund is expected to end FY 2009 with a balance approaching \$17 billion. Inexplicably, the Administration's FY 2009 budget request includes only \$40 million for Federal LWCF programs (spread over the NPS, BLM, USFWS, and FS) and again proposes no funding for the Stateside program. This is a meager 4% of the revenue credited to the LWCF in the last fiscal year alone and only one quarter of one percent of the Fund balance. This request represents nothing less than the abandonment of this forty-three-year-old program and a full retreat from a presidential commitment to fully fund LWCF programs.

### **Backlogged Maintenance Doubled Under Bush**

Early in his first term, President Bush pledged to "eliminate" the National Park Service maintenance backlog, estimated at \$4.9 billion when he took office. Despite this promise, the Congressional Research Service estimates that, far from being retired, the National Park Service maintenance backlog has nearly doubled under President Bush, to \$9.7 billion in 2008 (with some estimates being as high as \$14 billion).

### **Administration Tells Parks to Prepare for 30% Across-the-Board Cut**

In recent budget cycles, the Bush Administration has directed the National Park Service to substantially decrease its reliance on tax-supported funding and increase fees. In a reversal from the last two presidential campaigns when candidate Bush promised greater funding for parks, "talking points" distributed to park superintendents urge them to begin "honest and forthright" discussions with the public about smaller budgets, reduced visitor services and increased fees. Using a new approach called Core Operations Analysis, each park is asked to develop budgets based on a 20% to 30% reduction in appropriated support. In this exercise, park superintendents decide which visitor services or other functions can be jettisoned. Any shortfalls that remain must be covered by fee hikes, cost shifting or increased reliance on volunteers.

### **Administration Robs Peter to Pay Paul**

While the Administration requested increases for NPS park operations accounts for its Centennial plans, those operational increases were proposed at the expense of other mission-critical programs such as the construction budget, national recreation and preservation programs (including a proposal to cut the budget for national heritage areas by more than half), urban parks, the Historic Preservation Fund, and land acquisition. It would appear from this budget request that the NPS Centennial, which has been hailed as a centerpiece of the president's conservation legacy, is merely a reallocation of funds from behind-the-scenes programs to more publically visible park operations.

### **Disguising the Budget Damage**

Instead of being truthful about the Administration's self-inflicted National Park budget crunch, a memo from National Park Service Headquarters revealed that the Bush administration ordered park superintendents to keep silent about the agency's budget troubles and avoid any program cutbacks that could "cause a public or political controversy [or]...end up in the media or result in congressional inquiries." The talking points also advise park staff to use oblique terminology such as "service level adjustments" to disguise cutbacks, closed visitor centers and mothballed campgrounds.

### **Failure to Protect Available Resources**

Inadequate funding is also threatening the National Park Service's historical and cultural treasures. The bulk of the artifacts collection at Little Big Horn is stored under poor conditions because that park does not have enough space to conserve and display the items; the spectacular fossil rockface at Dinosaur National Monument is unavailable to the public because the agency has been unable to afford to replace the unsafe visitor center. A July 2008 Inspector General's report found that the agency's own historical collection at Harpers Ferry is kept under lax security and poor physical conditions.

Further, steadily declining funding for acquisitions have forced the National Park Service to forego numerous purchases from willing sellers, including from sellers who could no longer afford to wait for the government to buy their property and were forced to sell elsewhere. In several cases, this has resulted in lands that are inside (Zion NP; Valley Forge NHP) authorized boundaries being sold, exposing those lands to possible detrimental development.

# **Bureau of Land Management**

## ***Pandering to the Energy Industry***

### **The Cheney Energy Task Force**

With Dick Cheney at the helm and under a veil of secrecy, the Bush Administration solicited input from utility companies and the oil, gas, coal and nuclear energy industries and then incorporated their recommendations, often word for word, into a “national” energy policy. When environmentalists later pushed to have access to the records from those meetings, they had to sue to attain the documents. In the spring of 2002, under order from a federal judge, the U.S. Department of Energy released roughly 13,500 pages relating to previously secret proceedings of the Bush Administration's energy task force. Although the government heavily censored the documents, they still showed disturbing evidence of the influence of the energy industry, including now-infamous companies like Enron, over government policy and regulations.

### **The “Streamlining” of Development and the Undermining of the BLM Mandate**

Under the Bush Administration, there has been a deliberate effort to expedite and prioritize oil and gas development over all other uses of public lands. This was made clear in a series of Interior Internal Memorandum beginning in 2003. These included directives to BLM to: “direct land managers to proceed with leasing even while applicable land use plans were being revised, even if those plans were considering protecting the natural values of the same lands, and to require that any deferrals of leasing be supported by detailed explanations and documentation, submitted to the state and national directors of the BLM.” Further, the memos made clear that BLM directors should: “not unduly restrict access to the public lands for energy exploration and development,” and should, “expedite review of permits or take other actions necessary to accelerate the completion of [energy-related projects].”

Further, BLM land managers were ordered to “review all existing lease stipulations to determine if they were still necessary and effective” and to direct that, if “lease stipulations are no longer necessary or effective, the BLM must consider granting waivers, exceptions, or modifications.” Managers were also told to “address NEPA compliance” in light of the new leasing priorities—such as categorical exclusions. The Administration recommended in these Internal Memos that the BLM, “develop an alternative of higher well density and development beyond that actually proposed by the operator with direction on how to make the maximum number of projects fit into categorical exclusions to avoid NEPA altogether.”

These policies achieved their aim. Between 1999 and 2007, the number of drilling permits issued for development on public lands increased 361%.

### **Implementing the Internal Memos:**

BLM formalized a policy that makes cleanup at oil and gas drilling sites purely voluntary for corporations which drill on public lands. Cleanup at drilling sites was previously not considered voluntary.

BLM hired "volunteer" consultants -- employed by oil and gas companies -- to process oil and gas drilling permits in Utah citing a need to reduce a backlog. The industry consultants were paid by energy companies specifically for the purpose of volunteering for the BLM.

BLM issued new rules making it more difficult for the public to have a say in energy development on federal lands. Under the new rules, protests filed against energy lease sales must be submitted at least 15 days before a planned sale and must be hard or faxed copies -- no electronically filed protests will be considered. The new policy, which the BLM finalized without public review, further limited the public's right to participate in decisions that involve oil and gas drilling on public lands.

The Government Accountability Office (GAO) found that the Bush Administration policy of streamlining oil and gas permits is hampering the Interior Department's ability to carry out environmental inspections. The GAO found that from 1999 to 2004, the number of oil and gas drilling permits issued by the agency more than tripled -- soaring from 1,803 to 6,399. Agency officials told the GAO that the increase in development has prevented staff, such as archeologists and biologists, from performing field inspections and oversight during this time. The GAO's report also noted that due to increased oil and gas development, various environmental effects ranging from vegetation depletion to habitat destruction, were occurring at a rapid pace.

### **Ignoring the Local Community: The Plan to Drill the Roan Plateau**

In 2002, the BLM pledged to write the Roan Plateau Resource Management Plan (RMP) as a "community-supported" proposal and invited public input. The local community, whose economy is largely recreation based (an estimated \$2.5 billion from hunting and angling industries), strongly favored an option that included prioritizing conservation of the Roan.

However, in 2004, BLM appeared to ignore those comments and released a Draft Plan which supported opening ALL of the area to oil and gas leasing. The local communities raised objections to this decision and by the time the comment period closed, nearly 75,000 comments were received, with 98.5% in support of strong protections. However, after the comment period closed, the BLM crafted a separate plan without public input and this became the preferred alternative in the proposed Final Plan issued in September 2006.

Local governments tried again, with area mayors endorsing a letter written by the City of Glenwood Springs urging that BLM reconsider its proposed plan to lease the entire Planning Area for oil and gas development. Further, Governor Bill Ritter, Congressman John Salazar, Congressman Mark Udall, and Senator Ken Salazar all indicated their support for protecting the Roan Plateau. However, in March 2008, the Bush Administration rejected the comments and the limited mitigation proposals suggested by the state of Colorado, and moved ahead with its plan to drill.

In June 2008, the BLM, at the direction of the Bush Administration, officially put all the undeveloped public lands atop the Roan Plateau on the auction block for an August lease sale and auctioned off more than 55,000 acres of oil and natural gas lease parcels.

## ***Pandering to the OHV Industry***

### **Unchecked OHV Use Threatens Public Lands**

In June of 2007, a newly formed coalition of rangers and public land managers alleged that unchecked off-road vehicles had become an overwhelming burden on law enforcement and asserted the activity is now “the single greatest threat to American landscapes.” They went on to contend that “off-road abuse is creating chaos on our public lands and . . . overburdening an already strapped ranger force.” Further, many public health and safety concerns are also at issue when ORV use goes unmanaged.

Before the House Subcommittee on National Parks, Forests and Public Lands, a panel of citizens and officials impacted by unchecked ORV use testified that ORV use had gotten out of control and the BLM and Forest Service were unable to properly address the problems. Even the federal officials admitted that lack of funding and resources had led to an inability to regulate ORV use on public lands.

Despite calls for tougher penalties for reckless riding, the BLM is set to open even more lands to ORV use through their planning process. For example, in August of 2008, the BLM released the Moab plan which will govern approximately 11 million acres of public lands in southern Utah. The plan designated nearly 4,000 miles of off-road vehicle routes, many on lands the agency has determined have wilderness character.

### **RS 2477: Giving Away Public Lands**

Revised Statute 2477 or RS 2477, is an arcane provision originally intended to encourage frontier settlement and road building. The law granted rights-of-ways on public lands for "the construction of highways across public lands not otherwise reserved for public uses." It was repealed in 1976 with the passage of the Federal Lands and Policy Management Act (FLPMA), but existing claims were grandfathered.

Several western states have tried to use RS 2477 to lay claim to thousands of so-called roads and trails -- including dubious "roads" such as old wagon tracks, cow paths, horse trails, or illegal off-road vehicle routes.

Under former Secretary Norton, not only was the Interior Department quick to settle RS 2477 claims with states -- as it did in a 2003 Memo of Understanding which was secretly negotiated with the state of Utah, who had sued Interior over rights-of-way claims in Canyonlands National Park and the Grand Staircase Escalante National Monument -- and relinquish large areas of protected federal lands to these states, it also promulgated a rule to codify this policy. In 2003, the Administration finalized this "Disclaimer Rule" which gives BLM the authority to issue "disclaimers of interest" to states, counties, and individuals for areas on public lands. This would essentially relinquish all ownership and interest in the land to the states. The Bush Disclaimer Rule was meant not only to "clarify" and expedite these RS 2477 claims but also to allow new claims which went well beyond those grandfathered under FLPMA.

In July of 2005, the BLM issued new guidance encouraging states and counties across the West to seek agreements with the Department of the Interior (DOI) similar to the MOU between Utah and DOI in 2003. The guidance encouraged implementation of the revised regulations providing for the federal government to disclaim its lands.

## ***RESOURCE MANAGEMENT FAILURES***

### **Mismanagement of Wild Horses and Burros**

During the summer of 2008, the BLM announced it is no longer able to care for the wild horse population it has in holding pens across the west. The Agency has raised the specter of euthanizing over 30,000 healthy, wild horses. Critics of the BLM counter that the crisis is due to mismanagement of the program, aggressive and unnecessary round-ups, and removing rangeland for the horses in response to pressure from the cattle industry.

### **"No-Wilderness" Policy**

In the early days of the Bush Administration, the Interior Department put forth a strict, "No-Wilderness" policy. Nowhere was this policy more apparent than when former Secretary Norton, in April 2003, in closed door negotiations, agreed to settle with the state of Utah and relinquish federal jurisdiction over management of federal lands with wilderness attributes.

The state of Utah sued the BLM over its policy to prohibit destructive activities, such as mining and drilling, in areas with wilderness qualities until the BLM, through its land use planning process, decided whether to protect those wilderness areas and recommend permanent protection, or not -- these were known as Wilderness Study Areas. The state of Utah argued that those activities should be allowed until, and only if,

Congress designated the land as wilderness. However, under the settlement, Secretary Norton agreed to prohibit the BLM from ever designating Wilderness Study Areas and stripped nearly 3 million acres of land in Utah, which the Clinton administration inventoried as potential wilderness areas in the late 1990s, of interim protection. At the same time, the settlement cut off further review of millions of acres of wilderness-quality lands in Utah and other states that were never properly reviewed in the first place – up to 262 million acres of public lands – and provided that if the agency permits development on these wild lands, they will be disqualified from being designated as wilderness in the future.

Lastly, as part of the settlement, the Bush administration also agreed to discard the BLM's 2001 wilderness handbook, which laid out the procedures land managers were to follow in identifying wilderness-quality lands.

On the same day, Secretary Norton instructed the BLM to cease wilderness reviews in its resource management planning in Alaska.

### **Impacts on Wildlife**

In April 2008, the Sporting Conservation Council -- which was created per the President's August 2007 Executive Order on Hunting and Fishing, and consisted of groups considered friendly to the Bush Administration such as the National Rifle Association and Safari Club International -- created a series of "White Papers" to aid federal agencies in "development of a comprehensive, ten-year Recreational Hunting and Wildlife Conservation Plan." These white papers, however, clearly identified a series of Bush policies as the major "challenges" or "problems" facing hunters and wildlife. The papers specifically stated that oil and gas drilling on federal land has become "a major wildlife concern in significant parts of several western states" and that "Federal land management planning decisions continue to hamper the ability . . . to effectively implement wildlife management projects" and conservation efforts.

The White Papers also cite the tepid response to climate change, border policies (such as walls) which inhibit "trans-boundary" wildlife management, the politicization of science, underfunded wildlife management, and deteriorating agency culture and capabilities as primary threats to hunters and wildlife.

## ***Compromising Cultural Treasures***

### **Nine Mile Canyon**

Utah's Nine Mile Canyon is significant for its remarkable and expansive prehistoric rock art. According to the National Trust for Historic preservation, more than 10,000 rock art images exist in Nine Mile Canyon, and although only a small portion of the canyon has been systematically surveyed for cultural resources, at least 830 prehistoric sites have been formally recorded by archaeologists. However, this "outdoor museum" is now threatened by increased energy development.

The threat to these cultural sites comes from dust and chemicals from vehicle traffic which services the 800-well natural gas development known as the West Tavaputs Project, located on the plateau immediately south of Nine Mile Canyon. In February of 2008, the BLM released a proposal to increase vehicle traffic in Nine Mile Canyon by an astonishing 416 percent—from the current average of 106 vehicles per day to 441. According to the project's draft environmental impact statement (EIS), semi-trucks, drill rigs and other industrial vehicles would use the dirt road along the bottom of Nine Mile Canyon to access the project site, and would continue to surpass the current level throughout the life of the project, which may exceed forty years.

Before the comment period closed in May of 2008, the BLM received more than 53,000 comments in opposition to the project, including the letters from the state of Utah, the Hopi Tribe, the National Trust for Historic Preservation, and the Theodore Roosevelt Conservation Partnership. Further, the EPA deemed the draft environmental impact statement to be “inadequate” and required BLM to prepare a supplemental analysis for public review to consider impacts to air quality. However, in June of 2008, BLM approved the project under its “categorical exclusion” authority which allowed the BLM to disregard public input and forgo any analysis of the potentially significant impacts that drilling and the subsequent infrastructure will have on the area’s rock art.

In August of 2008, a coalition of historic preservation and conservation groups challenged this decision legally; the lawsuit is pending.

### **Cultural Resources Budget**

The BLM manages more cultural resources than any other federal agency. With over 263,000 identified resources, and only 6 percent of BLM lands surveyed, it is estimated that there are at least 4 to 4.5 million cultural resources on BLM lands. Yet, according to a 2001 report by the Advisory Council on Historic Preservation, the BLM's ability to adequately manage its resources is compromised due to a lack of staff and necessary funding; the report recommended that BLM's cultural resource account be increased to \$50 million each year within five years. Since that time, the BLM's cultural resource program has consistently been underfunded. The FY 2009 budget proposal cut the cultural resources program by \$2.6 million bringing the total request for this account this year to only \$13.5 million.

### ***Undermining the BLM Multiple-use Mandate***

Under this Administration, the BLM budget has remained essentially flat, with few increases or investment in natural resource management programs, but significant increases in energy development funds. FY 2002 -- the first budget under this President - - the Energy and Minerals programs benefitted from a considerable increase of \$15 million over 2001 levels, while at the same time, other critical natural resource management programs were cut across the board by a total of \$15 million. This marked

the inception of Administration policies that elevated energy development above all other uses of BLM lands.

In every budget since FY 2002, the Energy and Minerals program has seen increases, at times dramatic, accompanied by directives ordering BLM to prioritize and divert resources toward expediting applications to drill. For comparison purposes, in the FY 2009 budget, the Administration proposed spending more than \$131 million on the Energy and Minerals program, nearly double FY 2000 when the enacted level for these activities was \$74 million. Meanwhile, in every year since FY 2002, with few exceptions, the Administration has cut or underfunded range, wildlife, fisheries, cultural and recreation management programs.

Internal BLM evaluations in 2003 and 2005 found that the BLM's Wildlife and Fisheries Management and Threatened and Endangered Species Management programs have been forced to pay for the compliance activities of BLM's energy, grazing, and other non-wildlife related programs to the extent that at least 30 percent of resources from the wildlife programs have been diverted to these other programs, in particular the energy programs. This practice has persisted despite BLM policy that calls for benefiting programs, such as energy, to pay for compliance work and despite significant funding increases for the energy program. Meanwhile the wildlife programs have not even kept pace with fixed costs.

# **Forest Service**

## ***Undermining the National Environmental Policy Act***

### **NEPA Rollbacks by the Forest Service**

According to the Congressional Research Service, the bulk of the efforts to amend NEPA have been directed at the six federal agencies that tend to produce the most environmental impact statements (EIS); the Forest Service, Federal Highways Administration, Federal Aviation Administration, agencies within the Department of the Interior, and the Army Corps of Engineers. To date, twenty-eight administrative efforts related to NEPA “reform” have been finalized. The Forest Service has made 8 changes to NEPA procedures, the most of any federal agency researched.

### **National Forest Planning – Regulatory Changes**

The National Forest Management Act (NFMA) was passed by Congress in 1976 and is the primary statute governing the administration of the National Forest System. NFMA requires the Secretary of Agriculture to develop a plan or plan revision for each unit of the National Forest System approximately every 15 years. A forest management plan essentially zones the forest for recreation use, timber production, wildlife uses, and other purposes. Based on the zoning outlined in forest *plans*, local forest managers implement individual forest *projects*.

Since 1982 and the Reagan Administration, the Forest Service, under NFMA has been required to manage habitats to ensure that "viable populations" of fish and animal species are maintained – this was known as the “viability rule.” NFMA also allowed citizens to participate in management decisions, specifically to allow public comment on national forest timber plans.

On January 5, 2005, the Forest Service published the 2005 planning rule (70 CFR 1023) establishing procedures for National Forest System compliance with the National Forest Management Act (NFMA). The Bush administration set out to gut protections and promulgated final rules intended to completely overhaul the forest management planning process by abolishing mandatory protections for wildlife and habitat and eliminating public input from the planning process. The rule also would exempt the plans from the Endangered Species Act (ESA). This was all part of an intensive effort by the administration to ramp up logging and mining, significantly, on public land.

However, in March of 2007, a federal judge overturned the 2005 Bush regulations finding that Bush administration rules violated NEPA, the ESA and the Administrative Procedures Act (APA). The judge found that the administration failed to consider the environmental impacts of the drastic proposed regulatory changes, failed to adequately consider the impacts of the changes on endangered species, and neglected to provide the

public an opportunity to comment. The Judge then ordered the Administration to complete an Environmental Impact Statement (EIS) as required by NEPA.

The Bush Administration, intent on forcing through these rules, went through the NEPA motions but, in April of 2008, released its final Record of Decision which looked just like the 2005 regulations – despite the fact that it was invalidated by a federal court. The new rule, like the 2005 rule, eliminates the viability rule and sharply curtails public participation in forest management decisions by suggesting "Categorical Exclusions" for Environmental Impact Statements as the norm for forest plans. Further, it would give forest managers complete discretion to decide how future forest plans are analyzed under NEPA, or even whether environmental impacts are considered at all.

On May 6, 2008, a coalition of conservation groups sued in federal court to overturn the “new” Bush Administration 2008 rule.

### **Management by Categorical Exclusion**

The Forest Service has justified the categorical exclusion of forest management plans from NEPA by claiming that NEPA analysis should be undertaken at the *project* level, not the *plan* level. However, the Administration has vastly expanded the use of categorical exclusions for Forest Service projects.

In October 2006, The Government Accountability Office (GAO) released a report on the Forest Service use of Categorical Exclusions (GAO-07-12). This report looked at the Forest Service use of categorical exclusions for vegetation management projects in the calendar years 2003 through 2005. Only these years were covered as historical data on categorical exclusions is not maintained by the Forest Service. The GAO found that most of these projects, about 72 percent nation-wide, were approved using categorical exclusions. This amounts to nearly half of the total acreage (46%).

As of 2003, the Forest Service had only one categorical exclusion for vegetation management activities involving timber stand or wildlife habitat improvement. However, in 2003 and 2004 under the Bush Administration, the Forest Service added four new vegetation management categorical exclusions: (1) salvage of dead or dying trees up to 250 acres, (2) timber harvest of live trees up to 70 acres, (3) hazardous fuels reduction up to 5,500 acres, and (4) removal of insect or disease infested trees up to 250 acres.

This was coupled with several other new categorical exclusions for Forest Service projects not related to vegetation management. In June 2003, the Forest Service added a categorical exclusion for post-fire rehabilitation activities up to 4,200 acres. Furthermore, in December 2005 the Forest Service added a categorical exclusion for oil and gas that includes up to three miles of pipeline, four drill sites, and one mile of new and reconstructed road.

## **Shutting the Public Out**

On June 4, 2003, the Forest Service issued new regulations regarding public comments and appeals on forest service projects categorically excluded from NEPA. These new regulations limited the public's ability to comment and appeal in several aspects. Most notably, for the first time in the history of the Forest Service, all decisions categorically excluded from NEPA, including those approving timber harvest and oil and gas projects, were exempted from public comment and appeal. Secondly, the Secretary of Agriculture could exempt a Forest Service decision document from appeal by simply signing the decision document, based on the theory that doing so made the decision no longer one "of the Forest Service".

These regulations were challenged in federal court in California in *Earth Island Institute v. Ruthenbeck*. On July 7, 2005, the Court overturned the 2003 Forest Service comment and appeals regulations. In response, the Forest Service over-reacted and suspended even the smallest decisions using a categorical exclusion pending public comment and appeal, including firewood cutting, outfitter permits, mushroom gathering, and the cutting of the Capital Christmas Tree. Many speculate that the Forest Service deliberately over-reacted in order to create a backlash against the Court decision.

On October 19, 2005 the Court clarified its ruling and specified that only major categorical exclusion decisions such as timber sales and oil and gas exploration need to be subject to public comment and appeal, and minor actions such as outfitter permits and mushroom gathering do not.

The Bush Administration claimed environmentalists used the appeals process to delay thinning projects to reduce fire risk, however a 2001 study by the Government Accountability Office found that only 1 percent of hazardous fuels reduction projects were appealed.

## ***Resource Management Failures***

### **Repeal of the Roadless Rule**

In 2005, the Bush Administration officially repealed the Roadless Area Conservation Rule. The so-called "Roadless Rule" was promulgated by the Clinton Administration in January, 2001 to protect 58 million acres of wild national forests and grasslands from road building, logging, and development. The rule was adopted after a three-year process which included 600 public hearings and 1.6 million public comments.

The new Bush rule not only rolled back Clinton-era protections, it invited governors to petition against the new rule or offer alternative plans for development. However, the Bush rule was adopted without any environmental analysis and limited public input. Further, during consideration of the Bush rule, officials at the Environmental Protection Agency censored comments and deleted findings from its staff

that found that the Bush plan would lead to a host of environmental problems, ranging from impaired public drinking water to the spread of invasive plants.

In September of 2006, a federal district court in California ordered the Clinton era roadless rule reinstated. The court found that in repealing the roadless rule, the Bush administration failed to comply with federal environmental laws: "this court concludes that the Forest Service failed adequately to consider the environmental and species impacts when it [repealed the Roadless Rule] in violation of the National Environmental Policy Act and the Endangered Species Act."

However, in August of 2008, a Wyoming federal district judge issued a decision repealing the Roadless Rule. Currently, the California and Wyoming court rulings and injunctions are both in effect and have been appealed within their respective circuits. Thus, until the courts of appeals resolve the conflicting district court decision, the Forest Service may not undertake activities that violate the Roadless Rule on 49.2 million acres of inventoried roadless areas in the lower 48.

### **Dismantling the Northwest Forest Plan**

Since 1994, the Northwest Forest Plan has governed the management of 24 million acres of public land in Washington, Oregon, and northern California. The Plan was a significant change in the management of old growth forests in the Pacific Northwest. The Bush Administration, however, has proposed a number of regulatory changes that have chipped away at the integrity of the Northwest Forest Plan with an ultimate goal of increasing old growth logging and lowering species protections in the region. This has included weakening protections for endangered species such as the Northern Spotted Owl and Marbled Murrelet; weakening the Aquatic Conservation Strategy, and proposing to dramatically increase the logging of old growth forests on Bureau of Land Management lands in Western Oregon.

### ***Dismantling the Forest Service through Budget Cuts***

During the past nearly 8 years of the Bush Administration, the growing costs of wildland fire suppression have consumed major parts of the Forest Service budget, and other critical programs have been cut.

Spending related to fires continues to account for an ever-larger percentage of the Forest Service budget. In 1991, wildland fire management was 13% of the overall Forest Service budget; and today it is nearly 48%. The skyrocketing cost of fighting fires has forced drastic reductions in other Forest Service accounts, a trend continued yearly in Forest Service budget requests under the Bush Administration. Ironically, many of these budget requests have included cuts to critical fire prevention programs in the face of ever-worsening fire seasons. Even more troublesome, the Forest Service has had to "Rob Peter to Pay Paul" by borrowing funds from other critical Forest Service programs to cover the escalating costs of fire suppression.

While many argue that the growing costs of fire suppression, and the need for real investment in fire prevention, are the most critical issues facing the Forest Service, the Bush Administration has fallen short in addressing this problem. Reports by the Government Accountability Office (GAO) and the USDA Inspector General (IG) have demonstrated that the Forest Service lacks a cohesive wildland fire management strategy and lacks a system to ensure that the highest priority fuels reduction projects are being funded first. While Congress has worked to pass legislation that would create a budget fix for fire suppression funding, the Bush Administration has never formally presented a proposal to address the problem.

## ***Further supplemental information for the Bush Record***

### **ENERGY CORRIDORS ACROSS SENSITIVE PUBLIC LANDS**

Congress enacted Section 368 of the Energy Policy Act of 2005 (P.L. 109-58) which requires designation of corridors for oil, gas and hydrogen pipelines and electricity transmission and distribution facilities *within two years on federal lands in 11 western states*. The vast majority of the proposed Sec. 368 corridors are on Bureau of Land Management lands (86%) with 11% on National Forests.

In November of 2007, the Department of Energy (DOE), Department of Interior (DOI), and U.S. Forest Service (FS) released the Draft Programmatic Environmental Impact Statement (DEIS) to assess the environmental effects of potential corridors on public lands which proved to be controversial. At the heart of the controversy is two-year Congressionally-mandated window in which the federal government is required to implement the proposed designations which critics contend constrains the scope of information gathering and analysis which can occur, and it shortchanges consultation. Several tribes or tribal organizations have commented on inadequate consultation, especially with regards to cultural preservation, and note that the PEIS proposes many corridors on federal land which presumably will continue on the other side of tribal lands—but without the full consent of the tribes to cross lands in between.

While the draft plan avoids many special areas—a major change from the preliminary maps provided to the public in 2006—corridors are still proposed through public lands with significant scenic, wilderness, and wildlife values. For example, corridors are proposed in the Sevilleta National Wildlife Refuge (NM) and the Desert National Wildlife Refuge (NV) (including big horn sheep habitat and proposed wilderness), across the California Desert Conservation Area and the Mojave National Preserve (CA), and along Arches National Park (UT). The Draft PEIS also identifies 12 National Historic Trails likely to be crossed by the proposed corridors.

Agencies expect to finalize the Programmatic EIS and issue a Record of Decision by the end of 2008.

### **HEALTHY FORESTS INITIATIVE**

In July 2003, President Bush signed into law the Healthy Forests Restoration Act of 2003. Although it was touted as a necessary tool to protect communities from wildfires, critics consider the law a giveaway to the timber industry since it will make it easier to log big trees in the name of fire prevention.

Specifically, critics say the new law limits environmental review and citizen appeals while also pressuring judges to streamline legal challenges to logging plans – which in turn makes it easier for logging companies to boost commercial logging in

national forests. Meanwhile, the law offers no money or resources to support at-risk communities facing the critical and necessary task of clearing flammable brush from the immediate areas around homes and property. However, the law does allow increased logging of big, fire--resistant trees deep in the backcountry – even though these are far from homes and communities, and pose no immediate threat.

In addition to speeding up forest "thinning" projects in over 20 million acres of public lands, Healthy Forests undermines critical protections for endangered species. Under the Endangered Species Act, federal forest management agencies are required to consult with the Fish and Wildlife Service before approving any action that could harm endangered plants or wildlife. But this new law exempts federal land management agencies from ESA consultation.

This effort was a victory for the Bush administration which had pushed various polices similar to Healthy Forests to weaken forest regulations in the name of wildfire protection in the previous two years; when in fact it was merely a thinly veiled attempt to increase logging on national forests and waive federal environmental safeguards.

## **BORDERS**

Citing laws enacted between 1990 and 2007, the Department of Homeland Security (DHS) is constructing seven hundred miles of barriers intermittently along the southwestern border from San Diego, California to the Gulf of Mexico. Also citing authority granted by Congress, DHS Secretary Michael Chertoff has waived application of more than 30 environmental, health and safety, and public process laws pertaining to construction of these barriers. This process, along with concerns regarding the location, construction, efficacy, and environmental, health and community impacts of the barriers has generated enormous controversy.

Specifically, the REAL ID Act of 2005 (P.L. 109-13, Division B) has dramatically broadened DHS' authority to waive laws impacted by construction of barriers along the border. REAL ID also severely limited any possible judicial review of decision made the Secretary pursuant to this authority. Meanwhile, the Secure Fence Act of 2006 (P.L. 109-367) further amended standing border laws, and required five specific segments of double-layered fencing totaling 850 miles along the southwestern border. A 307-mile segment in California and a 30-mile segment in Texas were identified as priority areas and the law set specific dates in 2008 by which those sections were to be completed.

Secretary Chertoff has used his waiver authority contained in the REAL ID Act on at least four occasions now, most notably on April 1, 2008 when DHS published notice of the most sweeping waivers yet -- 36 environmental and procedural laws in the vicinity of the border from the Pacific Coast to the Gulf of Mexico were waived.

At present, seventy-six miles of barriers were constructed during FY 2007, bringing the total to 154 miles. Another 216 miles are expected to be completed during the current calendar year, which would bring the total to 370.

Approximately one quarter of the southern United States border is protected public land, including acreage managed by the National Park Service (Big Bend and Organ Pipe Cactus National Monument), Forest Service, Bureau of Land Management and several National Wildlife Refuges managed by the U.S. Fish and Wildlife Service. In addition to scenic and cultural values, these areas provide habitat crucial to the survival of dozens of listed or proposed endangered species, including jaguars, wolves, pronghorn antelope and hundreds of species of birds.

Not only does construction of a wall imperil the survival of these animals but the waiver of laws protecting clean air and clean water raise serious concerns regarding possible environmental impacts of the wall on people living in the area.

### **STREAMLINING MINING EXPLORATION AT THE EXPENSE OF THE PUBLIC TRUST**

In another attempt to weaken natural resources regulations in the waning days of the Bush administration, the Forest Service, in March of 2008 proposed new rules that will streamline mining for gold, copper and other minerals on U.S. Forest Service land. The Forest Service promulgated these rules without any detailed environmental analysis as required by NEPA on the impact these revisions will have on the environment; instead the FS chose to actually “categorically exclude” the proposed rule from full NEPA review— even though the agency proposes major policy changes which could greatly impact national forests.

One of the most egregious elements of the proposed rules is a section that will exempt “small” mines (both exploratory operations and mining operations) from environmental review and a plan of operations. This proposal directly conflicts with the National Research Council’s recommendation that plans of operation should be required for mining operations other than those classified as casual use or exploration, even if the area is less than five acres. This is particularly disturbing in light of the experience earlier this year, near the Grand Canyon, when the Forest Service engendered public controversy by granting permission to explore for uranium without environmental assessment. The proposed rules could potentially allow even more controversial mining activities to occur, with minimal public review.

The FS claims this proposal is merely an attempt to clarify the rules and regulations. While many advocates agreed these rules needed to be updated—this is the first significant revision of the Agency’s mining regulations in more than 30 years—the content of the proposed rules suggest that the Bush administration is instead using this as an attempt to diminish public participation and environmental protections.

A final decision on the Bush proposal is expected at any time.

## **FEES ON PUBLIC LANDS**

Since the passage of the *Fee Demonstration Program* in 1997 (Fee Demo), and subsequently the *Federal Land Recreation Enhancement Act* in 2005 (FLREA), the charging of various types of entrance and recreational fees on federal lands and sites administered by the National Park Service, the U.S. Fish and Wildlife Service, the Bureau of Land Management, the Bureau of Reclamation and USDA Forest Service, has become increasingly controversial. While fees collected under Fee Demo and FLREA have generated considerable revenue that has benefitted recreational facilities and visitor services, and remedied many deferred maintenance projects in a era of tight federal budgets, critics contend that the fees are a double tax on the recreating public, that the fee system is unfair, inconsistent and confusing, and that fees discriminate against lower-income people, rural residents and low impact recreational users.

Critics oppose fees arguing that upkeep of our federal lands is paid for already through taxes and Congress should be appropriating enough funding to maintain and operate these areas. They assert that if agencies become too dependent on fees, appropriations might be reduced or phased out completely. Further, some are concerned that the management of federal lands will be driven by fees and that land managers will make management decisions based upon the potential for fee revenues, leading to increased fees to pay for more construction, maintenance or even basic operations. Advocates of completely fee-operated public lands point to New Hampshire, Vermont and Texas, which have eliminated state park appropriations and support their parks solely with user fees, suggesting the same could be done with National Parks.

Critics are also concerned about the increasing price of fees and their impact on lower-income people, rural residents and low impact recreational users. Even those in favor of fees contend that fees must remain reasonably priced for all Americans, especially those demographic groups that have not historically visited federal lands in large numbers (this is especially true for parks). A NPS visitation study shows that many ethnic groups in the U.S. are less likely to visit the parks due to the associated travel and entrance-fee costs.

While the Bush administration did not start the Fee Demo program, their eagerness to privatize many jobs and services within the Department of the Interior led them to eye this program and hold it up as an example the way the Parks and Forests should be funded and managed.