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Next up is 10th Circuit Court of Appeals hearing on Sept. 25

## Judge won't block snowmobile limit

**BEN NEARY - Associated Press writer | Posted: Friday, September 18, 2009 12:00 am**

CHEYENNE -- A federal judge in Wyoming said Wednesday he lacks authority to block a plan to set a lower limit on snowmobile traffic in Yellowstone National Park starting this winter.

The order by U.S. District Judge Clarence Brimmer clears the way for the National Park Service to proceed with a plan that could limit snowmobile traffic at the park to 318 machines a day this winter -- less than half of last winter's limit.

The same limit would also apply to snowmobiling in Grand Teton National Park and the John D. Rockefeller Memorial Parkway.

Brimmer last year had imposed a 720-snowmobile daily limit that was to remain in effect until the Park Service enacted an acceptable rule to take its place.

The Park Service in July announced its intention to lower the daily snowmobile limit to 318. Wyoming and Park County had asked Brimmer to block that effort, arguing that it would violate the judge's earlier order.

In his ruling on Wednesday, Brimmer said he lost authority to act on the state's request after the National Parks Conservation Association earlier this year appealed his order setting the higher daily limit. The 10th Circuit Court of Appeals has scheduled a hearing on the association's appeal for Sept. 25 at a special session in Laramie.

John Sacklin, management assistant at Yellowstone, said Thursday the agency closed its public comment period on the plan on Sept. 8. He said the agency plans to approve a final rule by Nov. 15 -- well before the winter snowmobile season starts on Dec. 15.

"The 318 will allow people to access the park, but it also will help assure that the effects of both snowmobile and snow coaches in the park will not have an adverse effect on park resources," Sacklin said.

Last winter saw a daily peak of 426 snowmobiles and an average daily number of 205, Sacklin said. He said the peak in the 2007-08 winter season was 557 snowmobile with a daily average of 294.

Jay Jerde, deputy Wyoming attorney general, said Thursday that the state is weighing how to respond both to Brimmer's order and to the Park Service's pending plan.

James Davis, Park County attorney, said Thursday that the county is concerned that reducing snowmobile traffic will harm the county's economy.

Davis said the county has a winter tradition of snowmobiling in the park that dates to the 1960s.

"We have a ski area there that's building a new chair lift and expanding this winter," Davis said.

Bob Rosenbaum, a Washington, D.C., lawyer, represented the National Parks Conservation Association in arguing against the state and county's request to block implementation of the Park Service plan.

Rosenbaum said Thursday he didn't expect Brimmer's ruling would spell the end to legal fighting over snowmobile limits. He said allowing up to 720 snowmobiles a day is unacceptable to his clients.

"It's interfering with the ability of wildlife to survive in a very difficult winter conditions in Yellowstone," Rosenbaum said. "And interfering with the enjoying of the park by other visitors because of the noise and pollution caused by snowmobiles."