

## **Gun carry law shut down over environmental impact**

### **Using holsters instead of locked cases demands full review, says federal judge**

By Bob Unruh WorldNetDaily March 24, 2009

<http://www.worldnetdaily.com/index.php?fa=PAGE.view&pageId=92754>

A federal judge ruled there must be a full review of the possible environmental impact of allowing citizens on national properties to carry concealed guns in holsters rather than locked cases.

The decision comes from U.S. District Judge Colleen Kollar-Kotelly, who issued a preliminary injunction banning implementation of a rule that had been adopted just before President Bush left office. It would have allowed citizens who have concealed-carry permits to follow the appropriate state laws in carrying weapons on national park lands. The judge cited "the almost universal view among interested parties that persons who possess concealed, loaded, and operable firearms in national parks and wildlife refuges will use them for any number of reasons, including self-defense against persons and animals." That means, the judge concluded, that the rule adopted under the Bush administration "will have some impact."

The longstanding rules for such locations have prohibited possession of firearms unless, the judge noted, "they were unloaded and packed, cased, or stored in a manner that prevented their ready use." The rules, the judge said, were "designed to ensure public safety and provide maximum protection of natural resources by limiting the opportunity for unauthorized use of weapons ... while providing reasonable regulatory relief for persons living within or traveling through park areas."

Then in 2007, nearly half of the U.S. Senate asked for the restrictions to be lifted. Senate support surpassed 50 percent last year, prompting proposal of a new rule that would allow people to possess concealed, loaded and operable firearms in national parks and wildlife refuges to the extent permitted under applicable state law. The Interior Department explained such rules would "better respect the rights of states, 48 of which 'provide for the possession of concealed firearms by their citizens.'"

Many of the comments during the rule adoption process noted there was a need for protection against animal attacks or criminals who attack unarmed travelers. The agency also determined its rule "did not raise any environmental concerns that required evaluation," the judge wrote. "The DOI's Decision Memorandum ... reflects the DOI's tautological reasoning that the Final Rule will have no environmental impacts because it does not authorize any environmental impacts," the judge wrote.

The Brady Campaign to Prevent Gun Violence and others then sued, and the Mountain States Legal Foundation and the National Rifle Association intervened. "The lynchpin of Defendants' response is that the Final Rule has no environmental Impacts – and that Defendants were not required to perform any environmental analysis – because the Final Rule only authorizes persons to possess concealed, loaded, and operable firearms in national parks and wildlife refuges, and does not authorize persons to discharge, brandish, or otherwise use the concealed, loaded, and operable firearms," the judge said. "In other words, the Final Rule has no environmental impacts according to Defendants because the Final Rule does not authorize any environmental impacts," she wrote.

But the rule, she concluded, violated the obligation to evaluate "all reasonably foreseeable environmental impacts." The court "also holds that Plaintiffs have met their burden to show a likelihood of irreparable harm [from the rule]," the judge wrote.

David Codrea, who writes on gun issues for the Examiner.com, contended the judge was stretching the logic in the case. "Did we not just have a series of volcanic explosions [in Alaska]?" he asked. "Look at the environmental impacts of the [natural] chemical pots in Yellowstone. Look at the number of deer and wildlife run down each year by vehicles. "I guess I'm asking where was the environmental impact study then?" he said. He said the possible discharge of a bullet from someone using a gun in a defensive scenario would have such a small impact as to be unmeasurable. Not even shell casings would be left behind, he noted, because the discharge of a weapon routinely is investigated by police who collect those shells as evidence.

While officials in Montana's Glacier National Park, the location of a number of bear attacks on visitors over the decades, recommend pepper spray to address "aggressive" bears, they also note, "There are accounts where pepper spray has not worked as well as expected." Other commentators cited well-known criminal attacks, such as the assault on Chandra Levy in Rock Creek Park, or the attack on two women hiking on the Appalachian Trail, as reasons for the gun carry provision.

Codrea said the judge's decision appeared to give the message that citizen's lives are not as important as the potential environmental impact of a bullet. On a gun forum online, one participant said, "The workers and peasants have been getting altogether too uppity lately. They need to be disarmed. They need to be punished." To which a second writer said, "Bingo! That is exactly what the 'powers that be' want – those nasty power control freaks! Power! Control! Disarm the masses! Yes, we have got to keep those slaves and serfs down on the plantation or close to the master's castle."

Ed Stone at the Atlanta Gun Rights Examiner asserted there were problems with the court opinion. "So what is the environmental impact that a concealed, holstered pistol might have in a park? Judge Kollar-Kotelly answers this question by explaining 'that persons who possess concealed, loaded, and operable firearms in national parks and wildlife refuges will use them for any number of reasons, including self-defense against persons and animals,'" he wrote.

"And???" Stone wrote. "What does she think people normally do with firearms, unload them, render them inoperable, then use them to rub against a stick to create a fire? Where is the common sense here? She is using her anti-gun stance to reach conclusions that affect hundreds of thousands of GFL holders and their safety! ... The impact will be on those that are injured or killed while visiting the parks. "Judge Kollar-Kotelly declared that her decision will create 'no substantial harm' to the right to bear arms," Stone said. "Unless a visitor to the park is robbed, raped, kidnapped, killed, etc!"

The judge noted that in addition to the environment concerns, several plaintiffs indicated "they are now concerned for their personal safety in parks and refuges and cannot fully enjoy their visits to certain national parks or wildlife refuges because they feel less safe."