

# Federal Parks & Recreation

Bulletin # 1: January 2, 2013

Dear Subscriber:

This bulletin from Federal Parks & Recreation newsletter reports on the following:

- \* **Sequestration avoided for now but much work still to be done**
- \* **Omnibus/wildlife bills fail; will they return in 2013?**
- \* **Senate moving quickly on big Sandy bill, House is not**

**NOTE:** This bulletin is a supplement to your regular edition of Federal Parks & Recreation. It is NOT your regular issue. The next issue will be published January 11.  
The Editors

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## **Obama, Congress put off sequestration work until the 113th**

Congress and the White House this week put off until the next Congress the across-the-board budget cuts that were threatened by a budget sequestration law.

They approved a bill (HR 8) that keeps the government going until the end of February without steep budget cuts and without most tax increases. The Senate approved HR 8 December 31 by a vote of 89-to-8 and the House approved it January 1 by a vote of 257-to-157.

In addition HR 8 extends the existing Farm Bill through September, including conservation programs.

However, President Obama and Congress failed to resolve the details of their disagreements over spending reductions. Instead Congressional leaders said that over the next two months they will attempt to identify specific budget cuts for fiscal year 2013, revise the tax code and address entitlements.

For the first six months of fiscal 2013 spending levels will continue to track fiscal

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2012 levels as Congress established in a spending resolution (PL 112-175 of September 28).

Obama and Congress did avoid the fiscal cliff that would have imposed immediate 8.2 percent budget cuts on all programs.

OMB in a September 14 report laid out the anticipated total spending reductions for each federal agency anticipated in fiscal 2013, if the budget sequestration had been triggered. For most agencies and programs OMB projected an 8.2 percent cut in fiscal year 2013.

OMB said that if sequestration happened, the Park Service would have \$218 million less to spend in fiscal 2013 than in fiscal 2012. The Land and Water Conservation Fund alone would have been reduced by \$26 million.

The Forest Service would be hit even harder with cuts of \$172 million for wildland fires, \$129 million for the National Forest System, and \$34 million for Capital Improvement and Maintenance.

Here are some issues that are still to be addressed in detail and may be addressed within the budget debate next year:

\* *Hurricane Sandy relief (see below)*: The Senate and House are taking different approaches to writing legislation to meet President Obama's \$60.4 billion Hurricane Sandy emergency appropriations request. It may be wrapped into sequestration legislation.

The full Senate December 28 approved an emergency-spending bill (HR 1) that would provide the full \$60.4 billion, including hundreds of millions of dollars for the Park Service, the Fish and Wildlife Service, the Forest Service and Historic Preservation grants for states.

But the House Appropriations Committee is proceeding more slowly. House Appropriations Committee Chairman Hal Rogers (R-Ky.) said the House would give "thorough consideration" to a bill, but strongly suggested that it would only provide enough money to meet immediate emergency needs, such as food and shelter.

Senate Republicans offered a stalking horse for their side in the form of an amendment prepared by Sen. Dan Coats (R-Ind.) It would put up \$24 million in relief money, or barely one-third as much as the administration would. The Senate rejected the amendment December 28 in a 41-to-54 vote.

\* *Gasoline tax increases*: The top two House Transportation Committee leaders have left open a possible increase in the gasoline tax as part of the sequestration negotiations. Incoming House Transportation Committee Chairman Bill Shuster (R-Pa.) told the press last month, "You've got to look at all your options out there. Is it something difficult? Sure. But I think it's one of those things we need to look at while running through these negotiations."

Ranking committee Democrat Nick Joe Rahall (W.Va.) concurred. "The fact that we both understand the need to keep all funding options on the table is a reasonable and promising beginning to get America up to speed again with a long term transportation authorization bill," he said in a press release.

Sometimes viewed as a guide for the sequestration negotiations, Simpson-Bowles budget recommendations of December 2010 called for a 15-cent per gallon increase in the gasoline tax, phased in over three years. That would in turn make more money available for transportation-related recreation programs.

Centrist senators from both parties have promoted the report from the eponymous former Sen. Alan Simpson (R-Wyo.) and former Clinton Administration Chief of Staff Erskine Bowles as a good base for sequestration negotiations.

If the White House and Congress opt to increase the gas tax, supporters of federal land management agencies suggest they allocate one cent of a possible 15-cent increase (or add an extra penny to bring it to a 16-cent increase) for national park and federal land roads. However, the money would not be available for other recreation programs, such as transportation enhancements and Safe Routes to Schools, as the groups see it.

\* *Federal land sales:* The Republican leadership is being prodded by the heads of the Congressional Western Caucus - past chairman Rep. Rob Bishop (R-Utah) and incoming chairman Rep. Stevan Pearce (R-N.M.) - to sell off unspecified public lands as part of a sequestration package.

"(D)ivesting the federal government of its vast land holdings could pay down the deficit and reduce spending," they wrote in a Nov. 27, 2012, letter to House leaders. "Strategically transferring ownership of these lands where it makes sense would reduce duplicative land management costs, boost revenues through the resultant economic activity of more productive and local land management, and is consistent with the principles of federalism our founding fathers envisioned."

Interest groups such as the Outdoor Industry Association (OIA) on December 4 rebelled against the sale of public lands.

"Public lands should not be a bargaining chip in deficit negotiations," said Frank Hugelmeyer, president and CEO of OIA. "Our nation's public lands attract millions of people from the U.S. and around the world who spend their hard-earned dollars on outdoor products and travel."

\* *White House on NPS Centennial:* As *FPR* reported in the December 14 issue, White House staff members at a recent briefing of the nation's business leaders gave national parks special attention. The White House aides, led by chief of staff Jacob Lew, told the leaders that closure of national parks would anger the general public.

But they also said the parks couldn't be exempted from budget cuts if all other government programs are suffering eight percent reductions.

\* *Farm bill:* The temporary budget sequestration bill (HR 8) includes a provision that extends the existing Farm Bill through the end of fiscal 2013, or until October 1.

The House and Senate had been trying to write a new multi-year Farm Bill without success. The House was the problem because Republican leaders didn't have the votes to secure approval of a bill (HR 6083) the House Agriculture Committee approved July 12, 2012. The full Senate approved its multi-year bill (S 3240) June 21, 2012.

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## **Conservation legislation fails; will it come back in 2013?**

The House and Senate failed to complete almost all major conservation legislation before ending the 112<sup>th</sup> Congress in December.

The Senate and its filibuster rule was, as usual, the obstacle. Faced with the press of other business, such as Hurricane Sandy relief, Senate leaders did not choose to offer either an omnibus wildlife bill, an omnibus lands bill or a combination of the two on the floor.

The Senate Energy Committee never did publish an omnibus lands bill that was expected to include 100 or so individual bills, although committee leaders worked on it. Those individual bills would have designated new national parks, designated wild and scenic rivers, designated wilderness areas, authorized land exchanges and much more.

A wildlife bill composed of 19 individual measures promoted by sportsmen effectively expired on Nov. 26, 2012, when Sen. Jeff Sessions (R-Ala.) demanded a procedural vote on the budget impacts of the measure (S 3525). Sixty votes were needed to keep the bill alive, but only 50 senators voted for it.

All the conservation legislation must start over in the next Congress; however, the odds will be slightly more favorable because Democrats who tend to support omnibus land bills and omnibus wildlife bills made modest gains in the November 6 elections.

**OMNIBUS:** The Senate Energy Committee had been taking the lead in assembling an omnibus bill but Senate Democratic leaders never gave clearance for floor consideration. For its part the House Natural Resources Committee moved more than 100 land bills through the House floor, only to see them die in the Senate.

Here is a sample of the several dozen bills that might have been candidates for an omnibus bill:

\* *FLTFA:* The Senate Energy Committee Sept. 6, 2011, approved a Senate bill (S 714) introduced by committee chairman Bingaman that would reauthorize the Federal Land Transaction Facilitation Act (FLTFA). Both Democrats and Republicans like the program. It authorizes sale of excess public land, often to developers, with the revenues used to acquire conservation lands. However, the law expired in 2011 and Congress has been unable to move legislation to extend the law.

S 714 would add an important change by making lands cleared for disposal by land use plans completed after 2000 eligible for sale. The previous law only allowed the sale of lands cleared by plans completed prior to 2000.

The House subcommittee on National Parks, Forest and Public Lands held a hearing May 17, 2012, on a House bill (HR 3365) introduced by Rep. Cynthia Lummis (R-Wyo.)

\* *HUNTING*: The House approved this bill (HR 4089) April 17 that would declare federal public lands open to hunting and fishing unless specifically closed. The vote was a strong 274-to-146. More controversial are amendments the House added to HR 4089 that would authorize the import of dead polar bears; exempt hunting and fishing gear from the Toxic Substances Control Act; and require state approval of national monuments.

\* *BORDER PATROL*: The House approved this hotly-contested legislation June 19, 2012, that would require federal land managers to cooperate with Border Patrol agents who operate on federal lands near Mexico and Canada. The vote was 232-to-188. The legislation was attached to a multi-part bill (HR 2578) that addresses such controversies as grazing rights on the public lands.

The border patrol provision would waive some dozen laws, if the Department of Homeland Security sought access to the border for security purposes. The laws include the Wilderness Act, the Endangered Species Act, the National Historic Preservation Act, the National Environmental Policy Act, the National Park Service Organic Act, the Wild and Scenic Rivers Act, and more.

\* *ROCKY FRONT BILL*: This bill (S 1774), introduced by Sen. Max Baucus (D-Mont.), would designate 195,00 acres of Forest Service land and 13,000 acres of BLM land as a Rocky Mountain Front Conservation Management Area. The land is in or near the Lewis and Clark National Forest adjacent to the Bob Marshall wilderness.

\* *FOREST JOBS ACT*: This bill (S 268), introduced by Sen. Jon Tester (D-Mont.) and cosponsored by Baucus, would designate 666,260 acres of wilderness, six recreation areas totaling 288,780 acres and special management areas totaling 80,720 acres.

**WILDLIFE BILLS**: The omnibus wildlife bill (S 3525) introduced by Sen. Jon Tester (D-Mont.) was killed when Senate Republicans and Democratic Sen. Barbara Boxer (D-Calif.), for different reasons, stopped it on the Senate floor Nov. 27, 2012, in the procedural vote.

If the Senate had passed S 3525, either by itself or as an amendment to a separate bill, it would have had to be reconciled with House-passed legislation. And the two sides would have been far apart.

That's because the House approved a quite different package of sportsmen's legislation (HR 4089) April 17, 2012, that would declare all public lands open to hunting

and fishing, unless specifically closed. That measure includes a number of other provisions that the Senate is sure to reject, such as limitations on national monument designation.

The omnibus bill includes 19 individual bills. Here is a summary of a few of them.

\* *FLTFA provision, again:* This is popular with both sides of the aisle. Tester would authorize the sale of excess public land, often to developers, with the revenues used to acquire conservation lands. However, the law expired in 2011 and Congress has been unable to move legislation to extend it.

The Tester bill would authorize FLTFA through fiscal 2022. And it would include an important change by making lands eligible for sale that were cleared for disposal by land use plans completed *after* 2000. The old law only allowed the sale of lands cleared by plans completed *prior to* 2000.

The House subcommittee on National Parks, Forest and Public Lands held a hearing May 17, 2012, on a lead House bill (HR 3365) introduced by Rep. Cynthia Lummis (R-Wyo.) The Senate Energy Committee on Sept. 6, 2011, approved a lead Senate bill (S 714) introduced by committee chairman Jeff Bingaman (D-N.M.)

\* *LWCF allocation provision:* Tester would use "not less than" 1.5 percent of federal LWCF money to provide access to public lands for hunting and fishing. The bill directs the Interior Department and the Forest Service to establish a priority list of sites that have "significantly restricted access for hunting, fishing, and other recreational purposes through rights-of-way or acquisition of land from willing sellers." Tester has introduced the provision separately as S 901.

\* *Lead ammunition:* The provision would prevent EPA from limiting the use of lead in ammunition and fishing tackle. Even if enacted the provision may have proved moot because EPA says it doesn't have authority to regulate lead in ammunition and fishing tackle. Still, Boxer, chair of the Senate Environment and Public Works Committee, and some environmental groups opposed it.

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## **Senate moving quickly on Sandy aid, House not as fast**

The Senate and House are taking different approaches to writing legislation to meet President Obama's \$60.4 billion Hurricane Sandy emergency appropriations request.

The full Senate December 28 approved an emergency-spending bill (HR 1) that would provide the full \$60.4 billion, including hundreds of millions of dollars for the Park Service, the Fish and Wildlife Service, the Forest Service and Historic Preservation grants for states. The vote was 61-to-33.

But the House Appropriations Committee is taking a more leisurely approach. House Appropriations Committee Chairman Hal Rogers (R-Ky.) said the House would

give "thorough consideration" to a bill, but strongly suggested that it would only provide enough money to meet immediate emergency needs, such as food and shelter.

"My Committee will consider the White House request for recovery assistance very thoroughly, with an eye toward prioritizing urgently needed recovery efforts that will have the most benefit to the victims of this storm, and determining the federal role in these efforts," Rogers said. "It is our intent to responsibly provide federal assistance as necessary to ensure that victims and communities can recover, rebuild, and regain normalcy in their daily lives."

Senate Republicans offered a stalking horse for their side when Sen. Dan Coats (R-Ind.) published a draft bill that would put up \$24 million in relief money, or significantly less than half as much as the administration would. The Senate rejected it as an amendment to HR 1 December 28 by a 41-to-54 vote.

The big question now is will Congressional Republicans provide the disaster money as an emergency appropriation with no offsets required? House Republican leaders have said in the past that they would from now on require offsets from existing programs to pay for at least some of the costs of disasters.

The administration disagreed and said that emergency money should be provided without offsets. Said Deputy Office of Management and Budget Director Jeffrey Zients in a letter to the Hill, "An emergency designation pursuant to (a 1985 budget law) is not subject to the discretionary caps specified in the statute. Accordingly, this emergency funding can and should be provided without offset."

Area Congressional leaders from New York and New Jersey want the money now in the lame-duck session, perhaps as part of budget sequestration legislation. But given the size of the price tag Congress will be tempted to mete out the money gradually with emergency needs met first. Govs. Andrew M. Cuomo (D-N.Y.) and Chris Christie (R-N.J.) put out a joint cryptic statement thanking the administration for the request.

Hurricane Sandy, the second largest storm ever in the Atlantic Ocean after Hurricane Katrina in 2005, put coastal New York, New Jersey and Connecticut in its bull's-eye October 29, 30 and 31. It also struck the mid-Atlantic states a lesser blow. Some 70 units in the National Park System were damaged. The 15 units in the metropolitan New York area were hit hardest.

Meanwhile, NPS is beginning to make decisions about openings and closures. For instance NPS said that two landmark units - Statue of Liberty National Monument and Ellis Island National Monument - will not reopen until later this year.

The Park Service said that the following sites were reopened: African Burial Ground National Monument, Federal Hall National Memorial, General Grant National Memorial, Hamilton Grange National Historic Site, St. Paul's Church National Historic Site, Theodore Roosevelt Birthplace National Historic Site, Sagamore Hill National Historic Site, Morristown National Historic Park (including New Jersey Brigade, Cross Estate,

Fort Nonsense, Washington Headquarters Museum and Ford Mansion), Thomas Edison National Historical Park, Hamilton Beach and Frank Charles Park, Great Kills Park and Jamaica Bay Wildlife Refuge.

Here's what the administration's 77-page appropriations request recommended (compared to Sen. Coats's plan):

**Capital improvements DoI and FS:** The Park Service would receive \$348 million (Coats \$190 million). While the administration singled out for assistance Liberty Island, Ellis Island, Gateway NRA, and Fire Island units, it also said national parks in Florida, North Carolina and Washington, D.C., should receive help.

National Parks Conservation Association President Tom Kiernan said the NPS money was needed: "While the Statue of Liberty's torch has been rekindled, Lady Liberty, Ellis Island, and Governors Island are still closed to visitors, and it remains unclear whether the beaches of Sandy Hook, Gateway, and Fire Island National Seashore will be open this summer. Unless recovery funds are provided, this could further devastate local economies and communities throughout the northeast region."

The Fish and Wildlife Service would receive \$78 million (Coats \$64 million) primarily to repair damage in the E.B. Forsythe National Wildlife Refuge (New Jersey), the Long Island National Wildlife Refuge Complex (New York) and Prime Hook National Wildlife Refuge (Delaware). Once again assistance would be provided to refuges from Florida to Maine.

The Forest Service would receive \$4.4 million (Coats nothing) to address damage to property, roads and trails at the Grey Towers National Historic Site and in the White Mountain and Monongahela National Forests.

**Historic Preservation:** The Senate draft bill would provide \$50 million (Coats nothing) for grants to states "to fund rehabilitation and restoration of historic properties."

**Capital improvements Corps:** The administration requested \$907 million to restore Corps-operated projects and \$592 million for Corps-built projects that are not maintained by the Corps. Coats would allocate a total of \$823 million to the Corps.

**Mitigation/prevention:** To help minimize the damage from future storms the administration requested \$400 million for the Fish and Wildlife Service, with national parks also eligible for assistance from that pot. The Corps would receive \$3.8 billion to reduce flood risk and protect coastal ecosystems. Sen. Coats did not include money for mitigation/prevention.

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