

Federal Parks & Recreation

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Volume 31 Number 1, January 11, 2013

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Obama, Congress put off sequestration til the 113th

Congress and the White House last week delayed until the end of February the across-the-board budget cuts that were threatened by a budget sequestration law scheduled to go into effect January 3.

Congress and the White House agreed on a bill that will keep 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. President Obama signed the bill into law January 2 (PL 112-240).

In addition HR 8 extends the existing Farm Bill through September, including conservation programs, albeit in skeleton form. (See related article page 6.)

However, President Obama and Congress failed to resolve the details of their larger disagreements over spending reductions. Instead Congressional leaders said that over the next two months they will attempt to identify specific 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 2012 levels as Congress established in a continuing spending resolution (PL 112-175 of Sept. 28, 2012). That resolution expires at the end of March.

Obama and Congress did avoid the "fiscal cliff" that would have imposed immediate 8.2 percent budget cuts on all programs on January 3.

OMB in a Sept. 14, 2012, 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:* 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. (See following article.)

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 is taking a more leisurely approach. House Appropriations Committee Chairman Hal Rogers (R-Ky.) has written legislation that would allocate substantially less relief money. On January 4 the House approved one bill (HR 41) that would provide \$9.7 billion for flood insurance assistance.

On January 15 the House has tentatively scheduled a vote on another legislative package (HR 152) that would distribute an additional \$17 billion for federal agencies, including \$284 million

for the Park Service and the Fish and Wildlife Service.

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 Coats 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 have for two years been trying to write a new multi-year Farm Bill, without success. The House is the problem because Republican leaders there don'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. With a new Congress they must start again.

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 is taking a more leisurely approach. House Appropriations Committee Chairman Hal Rogers (R-Ky.) has written legislation that would provide substantially less relief money. On January 4 the House approved one bill (HR 41) that would provide \$9.7 billion for flood insurance assistance.

On January 15 the House has tentatively scheduled a vote on another Sandy legislative package (HR 152) that would provide \$17 billion for federal agencies, including \$284 million for the Park Service and the Fish and Wildlife Service.

In still a third piece of House legislation appropriators intend to

develop a longer-term amendment that would provide \$44 billion, bringing the House total to \$59.7 billion.

Meanwhile, national park concessioners are also asking for some consideration for their losses. "The closure of national park sites labeled as indefinite is very problematic for concessioners," said Derrick Crandall, counselor to the National Park Hospitality Association.

"At the Statue of Liberty alone concessioners have laid off 400 people," he added. "In the Park Service all people are being paid. We have ship captains, store managers and hourly employees - some of whom have lost their homes - who are not being paid."

The House is writing the Sandy bill in stages in order to provide the most urgent money first, followed by the less pressing money. House Republican leaders are also catching it from Republican and Democratic members from Mid-Atlantic States, such as New York and New Jersey.

Rep. Peter King (D-N.Y.) said on the House floor last week that under the House's staggered schedule help is a long way off. "The fact is: Let's be real," he said. "We're not in session next (this past) week. The following week we're in session for two days. The following week is the inauguration, and we're in recess for two days. Then we have the State of the Union."

One pressing question now in the House 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. And conservative Republicans are already insisting on such offsets, which are almost impossible to find, on the House floor.

The administration says 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."

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 Senate bill contains, compared to HR 41 and HR 152, and not counting the \$33 billion that the House has not identified yet:

Capital improvements DoI and FS:

The Park Service would receive \$348 million (HR 152, \$234 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.

The Fish and Wildlife Service would receive \$78 million (HR 152, \$50 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 (HR 152, 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 bill would provide \$50 million (HR 152, 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. HR 152 would allocate a total of \$1.35 billion 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. HR 152 includes no money for mitigation/prevention.

NPS backers look to meeting in March on new money sources

Given the ongoing squeeze on federal spending, national park advocacy groups hope in March to ramp up a long-standing campaign to enlist nonfederal partners to provide aid to the parks.

The advocates intend to hold an event in partnership with the Bipartisan Policy Center and national figures from both sides of the political fence. The temporary date is March 9 at the center.

At the event the advocates aim to identify 10 or more ideas for obtaining nonfederal money for the parks. Then they will present those ideas to sympathetic Congressmen, again from both sides of the aisle.

The participants will hear presentations in two areas - taxes and fees (entrance fees, penny for parks, historic tax credit, etc.) and partnerships (endowment, philanthropy, destination marketing, etc.)

Leading the charge are the National Parks Conservation Association (NPCA), the National Park Hospitality Association (NPHA), the National Park Foundation (NPF) and the Bipartisan Policy Center. The last is an influential consortium founded by former Republicans and Democrats of stature. The center, established by former Senate Majority Leaders Howard Baker (R-Tenn.), Tom Daschle (D-S.D.), Bob Dole (R-Kan.) and George Mitchell (D-Me.), attempts to forge compromises on major issues.

"We have reached a limit in finding sources of money to meet the needs that face the parks in a major way," said Craig Obey, senior vice president of NPCA for government affairs. "We need to figure in the coming days strategies to pursue in innovative ways to support the park features as people expect them to be. The idea here is to look at some options that are acceptable to both sides of the aisle."

As always when it comes to the parks, NPS, NPCA, NPF and other groups must consider a proper role for commercial interests, such as park concessioners. "We want to provide revenues for the parks but we also want to figure out ways to involve commercial interests without privatizing the parks," said Obey.

On behalf of the concessioners NPHA counselor Derrick Crandall confirmed, "NPHA and NPCA have been meeting with the Bipartisan Policy Center and have almost completed a final agreement on an event that will be cohosted by the center in March. We are talking about the presentation of 10-to-20 white papers outlining strategies for

securing assistance for the parks."

"We will trot out the best ideas and build a coalition around the most promising ideas and figure out a way to put them on the national stage," said Crandall.

The hosts intend to invite luminaries from Congress, business, education and health fields. The game plan calls for, over the next six weeks after the meeting, the drafting of firm recommendations. That would be followed by the submittal of those recommendations to the White House and Congress for action this summer.

NPHA has generated a laundry list of 16 possible funding opportunities including an endowment, revenues from the healthcare establishment, revenues from the education establishment, restructuring of entrance fees, fundraising events, tax credits and so on.

If and when the ideas reach Congress, perhaps by June 1, the main Hill players by definition would be Senate subcommittee on National Parks Chairman Mark Udall (D-Colo.) and House subcommittee on Public Lands and the Environment Chairman Rob Bishop (R-Utah).

The ideas coming from a March meeting will probably not all be new, say the key players. They will likely include the establishment of a national endowment to solicit nonfederal money for the parks and legislation to replace the Federal Lands Recreation Enhancement Act that establishes fee policy for federal park and rec agencies.

The March conference represents the latest step in an ongoing national campaign to restore and improve the National Park System in anticipation of its Centennial in 2016. Those initiatives begin with an Aug. 25, 2011, Park Service plan for the Centennial titled *A Call to Action*

In it the Park Service described a laundry list of low-cost actions to improve the national parks. Among them is the recommendation of an endowment,

with an emphasis on philanthropic contributions.

Working parallel with the Park Service is a summit of interest groups cochaired by NPCA, NHPA and NPCA. The summit is cooperating with the Park Service to help spread the agency brand, perhaps through a public relation firm. And it is trying to enlist 300 partner groups in the campaign, among other things.

In a major action the three groups published the results of a national poll last August that demonstrates broad and deep support for the National Park System in the country. The poll was pointed very directly at Congress and Congressional support for the parks.

The summit has a website, www.2016parksummit.org. And the park partners have a website, <http://www.parkpartners.org>.

Temporary farm bill posts warnings for conservation

In passing legislation (HR 8) to postpone the budget sequestration "cliff" January 1, Congress extended conservation programs contained in a 2008 Farm Bill through September.

But conservationists worry that the legislation represents the cloud before the storm.

"These are dangerous times," said Steve Kline, director of the Theodore Roosevelt Conservation Partnership Center for Agricultural and Private Lands. "It's great we have the extension. If we didn't have it, the conservation programs would have gone away."

But, he added, even harder times may be ahead. "It's important to note that at the end of the extension (on September 30) there will be a threat to every conservation program. If the Farm Bill is not extended, we could see the end of Title II conservation programs as we know it. Every sportsman and hunter and fisherman should be concerned."

House and Senate representatives of farm country were furious about the omission in HR 8 not only of extensions of specific conservation programs but also of disaster relief for farms and energy programs. Said Senate Agriculture Committee Chair Debbie Stabenow, "We also would not see the full conservation title extended, key areas involving protecting land and open spaces that I know Ducks Unlimited and Pheasants Forever and others who hunt and fish care deeply about in terms of protecting our open spaces."

The Farm Bill extension was prepared by House and Senate leaders and not by the House and Senate Agriculture Committee.

Congress added the Farm Bill extension to the budget sequestration bill because the House and Senate have been unable to write a new multi-year Farm Bill. The House is the problem because Republican leaders have been unable to line up enough votes to secure approval of a Farm Bill. The House Agriculture Committee did approve a bill (HR 6083) on July 12, 2012, but it never reached the House floor. The full Senate approved its multi-year bill (S 3240) June 21, 2012.

Stabenow promised to begin writing a new, five-year bill immediately. But the House is still stuck.

In fact ranking House Agriculture Committee Democrat Colin Peterson (Minn.) told Speaker of the House John Boehner (R-Ohio) January 4 that the House committee should not even bother to try to write a new Farm Bill this year.

"At this point, however, I see no reason why the House Agriculture Committee should undertake the fool's errand to craft another long-term farm bill if the Republican Leadership refuses to give any assurances that our bipartisan work will be considered," Peterson said in a letter to the Speaker. "You and your Leadership team seem very content with simply extending the 2008 Farm Bill year after year without making any effort at reform, achieving savings and efficiencies, or

improving the farm safety net for rural America. If that is your goal, I will certainly accommodate you."

Secretary of Agriculture Tom Vilsack criticized Congress. "I am disappointed Congress has been unable to pass a multi-year reauthorization of the Food, Farm and Jobs bill to give rural America the long-term certainty they need and deserve. I will continue to work with Congress to encourage passage of a reauthorized bill that includes a strong and defensible safety net for producers, expanded rural economic opportunity in the new bio-based economy, significant support for conserving our natural resources, . . .," he said.

National Association of Conservation Districts President Gene Schmidt said the same: "The shortsighted extension leaves farmers and landowners without the certainty they need to plan for your future food needs as well as the resource needs of the landscape. Now that Congress has dealt with the 'fiscal cliff,' we are urging House and Senate Leaders to make the passage of a long-term Farm Bill a top priority."

The Roosevelt partnership's Kline is optimistic about Senate action on a Farm Bill early in this Congress, but not about the House. "The chances of the Senate acting are very high," he said. "Stabenow is committed and (ranking committee Republican Thad) Cochran (R-Miss.) is committed. I think the chances of a full Senate Farm Bill that look like last year's are high, say 85-to-90 percent."

"The question," he went on, "is what is the House going to do? I'm not sure what has changed in the House. The leadership is the same."

Here's some of what the Senate-passed and House committee-passed bills of last year would do:

Conservation easements: The Senate bill (Section 2301) would consolidate an existing Farm and Ranch Lands Protection Program and a Grassland Reserve Program into one Agricultural Lands Easement program. Under existing law the Farm

and Ranch Lands program receives \$200 million per year. The Senate would provide \$1.34 billion over ten years. The House committee bill includes a comparable provision, minus the set-aside.

Open Fields: In the Senate bill, Section 2503 is formally titled the Voluntary Public Access and Habitat Incentive Program. The bill would extend the program for five fiscal years beginning with fiscal 2013 and provide \$40 million total over the five years.

The money would be used to continue an existing program that has passed \$50 million in grants through states to encourage private landowners to welcome outdoor recreationists on their lands.

The House committee bill in Section 2503 would also extend the program for five years and provide \$30 million over that time. The House committee also asks for a status report within two years.

Conservation Reserve Program: The Senate and the House committee would both extend this program that pays farmers not to cultivate marginal land. Farmers have enlisted millions of acres in the program through contracts that last from 10 to 15 years. Both the Senate and the House would reduce the number of acres allowable in the program to 25 million, thus saving \$3 billion over 10 years. The cap now is 32 million acres.

Conservation legislation fails; Wyden gives priority

The House and Senate failed to complete almost all major conservation legislation before ending the 112th Congress in December. But Senate Energy Committee Chairman Ron Wyden (D-Ore.) intends to act on many of the bills early in this new Congress.

"To that end, one of Sen. Wyden's first priorities will be to pass the dozens of lands bills left over from last Congress," said Wyden's press assistant Samantha Offerdahl. "As you

may know, Sen. Wyden introduced several wilderness bills that didn't move last year, including proposals to protect thousands of acres of wilderness land near Devil's Staircase, Cathedral Rock, Horse Heaven and Wild Rogue in Oregon."

As usual the obstacle last year was the Senate's filibuster rule. 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.

Wyden intends to tackle that Senate impasse. "Generally, Sen. Wyden has said that he would like to restore the Energy and Natural Resources Committee to something resembling the success of the committee in the past," said Offerdahl. "That means routinely passing public lands bills important to the nation, and moving through the gridlock that halted the progress of public lands bills many members of the Senate introduced in previous years."

The Senate did give final Congressional approval to five House-passed bills December 30 including measures to convert a Pinnacles National Monument into a Pinnacles National Park and to reauthorize a natural gas pipelines through Glacier National Park. President Obama is expected to sign the bills.

House members have already begun reintroducing park and rec bills this month for the 113th Congress with a handful of minor measures in the hopper. For instance Rep. Donna Christensen (D-V.I.) introduced a bill (HR 89) January 3 to designate a St. Croix National Heritage Area in St. Croix. Senators will begin introducing their bills January 22.

In 2012 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, 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 this 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 FLTFA bill (HR 3365).

* *MANHATTAN PROJECT NATIONAL PARK*: Although the House rejected this bill in September under a procedure that required a two-thirds vote for approval, it could come back. The measure had great momentum in the last Congress before that vote after House Natural Resources Committee Chairman Doc Hastings (R-Wash.) and Senate Energy Committee Chairman Jeff Bingaman (D-N.M.) introduced it (HR 5987, S 3300).

But when HR 5987 reached the House floor, strange bedfellows teamed up to block the bill. Liberal Democrats and conservative Republicans opposed the legislation. The no votes ranged from liberals such as Reps. Dennis Kucinich (D-Ohio) and John Conyers (D-Mich.) to conservatives such as Reps. Jeff Flake (R-Ariz.) and Jeb Hensarling (R-Texas).

* *HUNTING*: The House approved this bill (HR 4089) April 17, 2012, 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.

Judge faults FS water rights policy in re ski resorts

A federal judge December 19 tossed out on procedural grounds a Forest Service policy that would have required ski resorts operating in national forests to transfer ownership of water rights to the federal government.

Judge William J. Martinez in U.S. District Court in Colorado said the Forest Service failed to give notice and take comments before inserting the policy in ski resort permits.

The plaintiff National Ski Areas Association (NSAA) complained that the policy - known as X-99 - would have allowed the Forest Service to take without compensation water rights they paid a high price for. However, judge Martinez did not rule on the substance of the policy, just on the procedure the service used to implement it.

The Forest Service crafted the new policy in 2011 and 2012 ostensibly to clarify the rights of the federal government vis-à-vis ski permit operators under the Ski Area Permit Act of 1986. The implication was that the ski operators on federal land were gaining equity in the form of water rights without compensating the taxpayer, i.e. the federal government.

But NSAA, which represents 121 ski areas from New Hampshire to California, said the policy could prevent the resorts from selling water rights they paid good money for to outside interests, other than to a successor permit holder. NSAA also said the precedent set by the policy could affect other water rights holders.

A lot of money would be involved if resorts could not sell water rights. Vail Resorts alone says it holds water rights valued at \$18.3 million.

Most of the nation's largest ski facilities are located on national forest land. The resorts pay a complicated set of fees to the federal government for long-term permits, usually 40 years.

"Because of the significant percentage of water that originates on National Forest System lands, the agency's water policy could impact cities and counties, owners of recreation residences and summer resorts, and other businesses such as ranching, mining, or utilities," said Geraldine Link, director of public policy for NSAA. The resorts use the water for snowmaking and other purposes incidental to the management of their resorts.

In his decision Martinez said the policy violated a National Forest

Management Act (NFMA) requirement for notice and comment on substantive law (the service had argued that the policy was interpretive).

"It is a 'general framework' for a Forest Service 'program' and Defendants' adoption of it - without the procedures guaranteed by 16 U.S.C. § 1612(a) - violates the NFMA," said the court referring to NFMA requirements.

Martinez also said the policy violated the notice and comment requirements of the Administrative Procedures Act (APA) because it constitutes new administrative legislation. "Because these clauses impose new rights and obligations, the rule is legislative requiring notice-and-comment compliance under the APA," the judge said.

Finally Martinez said the Forest Service failed to conduct a regulatory flexibility analysis under the Regulatory Flexibility Act (RFA). "Because the Forest Service admits that it did not assess whether the 2012 Directive would have a significant economic impact on these entities, the Court finds that the Forest Service has not complied with the RFA," he said.

FS and concessioners close in on facility improvement plan

The Forest Service and private concessioners may publish as early as next month a list of pilot campgrounds and marinas that they would like to modernize and upgrade in a new partnership program.

The list of projects may be announced February 19-21 at a Partners Outdoors 2013 conference at the U.S. Fish and Wildlife Service's National Conservation Training Center in Shepherdstown, W.Va.

The initiative, begun by the American Recreation Coalition and national forest concessioners, is meant to upgrade recreation facilities on industry's dime. It also would allow frequent visitors to store off-highway vehicles and boats on forest sites.

There are critics, such as the Western Slope No-Fee Coalition, who say the program smells like privatization of public lands, to the detriment of the public.

"The basic, rustic, affordable campgrounds that meet the needs of most forest visitors would be replaced with KOA-style RV parks complete with ziplines, wifi, retail stores, toy rental, disc golf courses, restaurants, cabin/yurt/tent/RVrentals, etc.," said Kitty Benzar, president of the Western Slope No-Fee Coalition, who has reviewed background planning documents for the program.

But Derrick Crandall, president of the American Recreation Coalition (ARC), said, "Would it mean private management of large sections of national forest? Certainly not. We're looking a narrow portion of the forests used typically by urban Americans and not typical back-country users."

To which Benzar said, "I don't know what else you can call it but privatization when you issue 30-year contracts and let businesses invest in zip lines, golf courses and retain the land for private uses."

However, it is not clear if the Forest Service has existing administrative authority to issue such contracts, or would have to gain permission from Congress, which is most difficult to come by.

Benzar also complained that ARC and the Forest Service are negotiating in private. "ARC's plans would amount to a complete transformation (of the Forest Service concessions program)," she said, "and it's all being done behind closed doors, in cozy meetings and e-mails and document exchanges between ARC and FS officials right up to the Undersecretary level." The under secretary is Department of Agriculture Under Secretary Harris Sherman.

Crandall rejoined, "The Forest Service is aware of the need to consult the public and wants to make sure the program is fully vested. There is

no intent on our part of the Forest Service's part to do this *in camera*. . . We had to get something going but this is not an insiders' game."

Said Benzar, "Yeah, they are going to go public when the plans are already agreed to. That they are going to do public consultation is window-dressing."

The Agriculture Department and the recreation industry met at least twice last year to refine an ambitious joint effort to modernize and upgrade national forest recreation sites, particularly campgrounds and marinas.

The Forest Service did not respond to our request for comment.

Here are the eight industry recommendations being discussed by the Department of Agriculture and the Forest Service:

1. Campground "makeovers" and service expansion
2. Marina "makeovers" and service expansion
3. In-season RV storage on national forests (generally opposed by the FS in the July 17 meeting)
4. In-season boat storage on national forests
5. In-season OHV storage on national forests
6. Partnerships with key destination marketing organizations on outreach, in-forest services including apps and more
7. Expansion of use of conservation corps by FS, partners
8. National Forest Recreation Centers: consolidation and expansion of recreation at key recreation "gateways" to national forests

Teton land sale progresses, but much more money needed

Sixteen million dollars down and only \$91 million to go. That's the scorecard on the acquisition of 1,366 acres of State of Wyoming lands within Grand Teton National Park.

Given the national budget battle, coming up with \$91 million from the Land

and Water Conservation Fund (LWCF) may prove a Herculean task. Particularly with the House Republican majority committed to no new federal land acquisition.

But for now all the parties - the governor, the Park Service and conservationists - are pleased with the December 28 announcement that the federal government has officially put up the \$16 million to acquire 86 acres. That leaves some 1,300 acres to go.

Said NPS Director Jonathan B. Jarvis, "This second purchase makes a significant step toward ensuring that state-owned lands within the park's boundary become entirely part of Grand Teton National Park." The first step consisted of the acquisition of \$2,000 in subsurface energy rights.

Wyoming Gov. Matt Mead (R), who had been worried that the feds would renege on the \$16 million payment, said, "I am pleased that we reached this stage in exchanging all of the state parcels inside Grand Teton National Park. The best outcome for all involved is for this land to be part of the national park."

State officials were concerned because the \$16 million payment was coming from two different fiscal year appropriations - \$8 million from fiscal 2012 and \$8 million fiscal 2013. NPS had been sitting on most fiscal 2013 acquisitions because the money was appropriated through a half-year continuing resolution and the agency wasn't sure how much the Office of Management and Budget would allow it to spend.

Under its rule-of-thumb NPS is only spending fiscal 2013 LWCF money on acquisitions that began with prior year money. That is the situation with the Grand Teton buy. The agency is withholding money for new acquisitions.

The next step in Teton is a big one - find \$45 million in fiscal 2014 appropriations to acquire a 640-acre parcel on Antelope Flats. The last step is equally big - acquire another 640-acre parcel appraised at \$46 million

along the Gros Ventre Road.

The National Parks Conservation Association (NPCA) acknowledged the difficulty of acquiring land these days. "In a time of challenging fiscal decisions and concerns about balancing the nation's budget, it is truly a holiday blessing that decision-makers recognized the value of this remarkable landscape," said Sharon Mader, NPCA's Grand Teton program manager.

Wyoming has owned the land in Grand Teton since statehood in 1890. Following the establishment of Grand Teton's boundaries in 1950, the feds have obtained almost all private land in the park, but not the state land.

Former Wyoming Gov. Dave Freudenthal (D) reached an agreement with the Obama administration in late 2010 that would send 1,366 acres of state school lands and 40 acres of state subsurface minerals within Grand Teton to the Park Service. Mead eventually signed the agreement for the state after he replaced Freudenthal.

If the feds renege on steps three and four, the State of Wyoming may choose to sell the tracts on the open market, making them available for trophy homes or resorts. Or the Wyoming Board of Land Commissioners and the State Land Board may simply manage the lands.

Notes

Major Yosemite plan drafted.

Yosemite National Park published January 8 a draft management plan that would substantially restructure visitor services within the park. While maintaining a visitation cap of 19,900 per day, the draft would eliminate several concessions, such as for ice-skating, bicycle and raft rental, and horse rental. The draft, prepared under court order, would provide more camping by increasing the number of campsites from 466 to 640, some of them in areas now occupied by the concessions. The plan, with an implementation price tag of \$235 million, is being prepared to guide management in the Merced and Tuolumne River valleys through the central corridor of the park. More than

four million people visit the third-most popular national park. To accommodate the large number of visitors the plan would add shuttle buses and reroute traffic. Said Emily Schrepf, Central Valley program manager for the National Parks Conservation Association, "These draft plans balance protecting the natural resources that make Yosemite a crown jewel in our National Park System, and preserving the incredible recreational opportunities that make the park a destination from visitors near and far, as well as a national park that provides tremendous economic benefits for Central Valley communities." More information is available at: http://parkplanning.nps.gov/mrp_deis.

Blueway number two in Ozarks.

Federal, state and local officials joined with conservationists January 9 to designate the second national blueway - a White River National Blueway in Arkansas and Missouri. The Obama administration launched the National Blueway System last year with the designation of a Connecticut River and Watershed National Blueway in New England. The White River blueway will extend from the Ozark Mountains to the Mississippi River. Deputy Secretary of the Interior David J. Hayes was joined in Little Rock, Ark., for the designation by Sen. Mark Pryor (D-Ark.), Rep. Tim Griffin (R-Ark.), Deputy Assistant Secretary of the Army Terrence "Rock" Salt, and Deputy Undersecretary of Agriculture Ann Mills. The Obama administration touts the blueways system as a signal achievement of the President's America's Great Outdoors Initiative.

All sides claim OHV suit win.

Both off-highway vehicle (OHV) users and environmentalists are claiming victory in a federal judge's decision on the validity of a travel management plan in the Stanislaus National Forest in California. The plan both opens new areas to OHVs and closes other routes. The OHV interests note that Judge Kimberly Mueller in the Eastern District of California upheld environmental documentation on cumulative impacts and a range of alternatives. The environmentalists note that judge Mueller held the plan

didn't fully "minimize" damage from OHVs. In her decision the judge said she will hold a hearing February 15 on how to remedy minimization damage. The remedy should have little impact on OHV use, argued the OHV groups, led by the California Association of 4 Wheel Drive Clubs. Said Paul Turcke, counsel for the OHV users, "An appropriate remedy will focus on the manner in which the agency properly conducts any omitted steps in the process, which may but does not necessitate any particular change to the designated network of motorized routes on the Stanislaus Forest." Environmentalists hope for a change in the substance of the plan. Said John Buckley, executive director of the Central Sierra Environmental Resource Center, "Now we hope that all parties can work cooperatively to come up with a revised plan that steers off-road vehicles to those specific areas of the national forest where they cause the least resource impacts and the least conflict with non-motorized recreational visitors." The decision is available at:

http://www.sharetrails.org/uploads/Stanislaus_Summary_Judgment_1.4.13.pdf.

Big wildlife report notes hikes.

The Fish and Wildlife Service (FWS) said last month that a mammoth survey on wildlife participation in the country shows significant increases in the number of hunters and fishermen over the last five years. The 2011 survey, prepared in association with the U.S. Census Bureau, says the number of hunters increased by nine percent from a 2006 survey, jumping from 12.5 million to 13.7 million. Similarly, the number of fishermen jumped 11 percent from 30 million in 2006 to 33.1 million in 2011. The increase in the number of hunters and fishermen reverses a decline from 2001 to 2006. The one fly in the ointment was a sharp drop in expenditures on fishing gear from 2006 to 2011 of 11 percent, from \$47 billion to just under \$42 billion. FWS said the drop was caused by a 41 percent decrease in the purchase of expensive equipment, such as cabins and boats. The survey did cover a number of recession years. The *2011 National Survey of Fishing, Hunting and Wildlife-Association Recreation* was the third in a series. The surveys are conducted

every five years. To assemble the data the U.S. Census Bureau selected a sample of 48,600 households. Citizens were then interviewed by phone and in person. The survey is available at <http://www.census.gov/prod/2012pubs/fhw11-nat.pdf>.

Quebec creates major park. As usual, Canada gets little notice. Case in point the Province of Quebec last month created a new boreal and arctic national park that is three times the size of Yellowstone National Park. The Tursujug National Park is located on the eastern shore of Hudson Bay and includes Quebec's second-largest natural lake. The Pew Environmental Group said Canadian governments have designated more than 135 million acres of new parks and wildlife refuges in the last 12 years. Valérie Courtois, senior advisor for aboriginal relations for the Canadian Boreal Initiative, said, "We consider the creation of this park by way of a cooperative process with the Inuit and Cree is a model for the establishment of parks and protected areas throughout the boreal region." The Kativik Regional Government will manage the park and will have an \$8 million budget to build a visitor center and other facilities. The province will provide the money. A number of native communities will continue to live within the park's boundaries.

New Navajo mine approach set.

Three federal departments said January 4 they will work with all partners on a new approach to limit air pollution over national parks in Arizona from a Navajo Generating Station. At the same time the Department of Interior, the Department of Energy and EPA said they would attempt to guarantee water supplies and electric power to the Southwest from the station. Their agreement is in the form of a joint statement: http://epa.gov/air/tribal/pdfs/130103_statement_ngs.pdf. Both environmentalists and industry sympathizers reacted positively to the agreement. The National Parks Conservation Association said the announcement is "welcome news." Said Kevin Dahl, NPCA's Arizona program manager, "For far too long this plant has been allowed to pump pollution into

the skies above our beloved Grand Canyon and Mesa Verde national parks and into the lungs of the tens of thousands of people who live near it, especially those in the Navajo Nation." And Rep. Paul Gosar (R-Ariz.), an industry supporter, while wary, said, "After years of mixed messages and uncertainty, today's joint statement seems to imply that the Obama Administration is abandoning a previous proposal that would have done little to improve haze while imposing catastrophic costs on the Arizona economy." The Interior Department's Office of Surface Mining (OSM) said on July 18, 2012, that it would prepare an EIS on future operations of the controversial Four Corners Power Plant/Navajo Mine in New Mexico. In the face of a lawsuit from Indian activists and environmentalists, OSM said it would review an expansion of the Navajo coalmine that supplies the power plant, an extension of the power plant's lease, and renewal of rights-of-way to distribute power from the plant. The EIS could take years to complete. The Four Corners plant has been a target of Navajo activists and environmentalists.

Historic pres grants distributed.

Although Congress has not completed a fiscal year 2013 appropriations bill, the Park Service on January 4 distributed \$22.9 million to the states in fiscal 2013 historic preservation grants. The money comes from a six-month, fiscal 2013 appropriations continuing resolution (PL 112-175 of Sept. 28, 2012.) Presumably, if and when Congress approves a full-year appropriations bill to cover the rest of the fiscal year NPS will distribute some more money. States are to use the money for preservation projects, including planning and brick-and-mortar repairs. More info at <http://www.nps.gov/history/hps/hpq/>. California will receive the most money, \$464,190.

Congress okays Pinnacles park.

The Senate December 31 gave final Congressional approval to legislation (HR 3641) that will convert a Pinnacles National Monument into a Pinnacles National Park. The House had approved HR 3641 on July 31, 2011. Supporters argue that the area in central

California is home to many species such as the California condor and deserves to be recognized as a national park. The Obama administration essentially endorsed the legislation. Rep. Sam Farr (D-Calif.) introduced the bill. Sen. Barbara Boxer (D-Calif.) introduced a Senate bill (S 161). Said Farr, "Often referred to as the missing novel in our National Park's library, this treasure will finally take its rightful place on the shelf next to Yosemite, Yellowstone and all of our other wonderful parks. Today is a great day not just for California but for all Americans, who will want to now come visit this geological and ecological wonder."

Boxscore of Legislation (2012 Wrap-up)

APPROPRIATIONS FISCAL 2013 (Interior)

HR 6091 (Simpson), HJ Res 117 (Rogers). Congressional leaders in August agreed to base funding for all appropriations bills during the first half of fiscal 2013 on fiscal 2012 levels. President Obama signed the six-month bill into law September 28 as PL 112-75. The House Appropriation Committee approved full-year bill HR 6091 June 28 based on a much smaller allocation. Leaders of the Senate subcommittee on Interior posted a draft bill September 25 more generous than the House bill.

Appropriations FY 2013 (Energy, Water)

HR 5325 (Frelinghuysen), S 2465 (Feinstein), HJ Res 117 (Rogers). Congressional leaders in August agreed to base funding for all appropriations bills during the first half of fiscal 2013 on fiscal 2012 levels. President Obama signed the six-month bill into law September 28 as PL 112-75. House approved full-year bill June 6. Senate committee approved April 26.

Appropriations FY 2013 (Transportation)

HR 5972 (Latham), (S 2322 (Murray), HJ Res 117 (Rogers). Congressional leaders agreed to base funding for all appropriations bills during the first half of fiscal 2013 in August on fiscal 2012 levels. President Obama signed the six-month bill into law September 28 as PL 112-75. Senate committee approved full-year bill April 19; House committee June 19.

Appropriations FY 2013 (Agriculture)

HR 5973 (Kingston), (S 2375 (Kohl) HJ Res 117 (Rogers). Congressional leaders agreed in August to base funding for all appropriations bills during the first half of fiscal 2013 on fiscal 2012 levels. President Obama signed the six-month bill into law September 28 as PL 112-75. Senate committee approved full-year bill April 26; House committee June 19.

Congressional Budget Fiscal 2013.

H Con Res 112 (Ryan). House approved April 15. No Senate action. House would reduce all spending.

Appropriations Fiscal 2012 (All bills)

HR 2584 (Simpson). President signed into law Dec. 23, 2011, as PL 112-74. Would roughly maintain most outdoor programs and agency budgets at fiscal 2011 levels.

Surface Transportation.

HR 4348 (Mica). President Obama signed into law July 6 as PL 112-141. Congress passed two-year bill as Senate requested. No LWCF money. Big cuts for rec programs.

LWCF (Guaranteed Funding)

S 1265 (Bingaman). Bingaman introduced June 23, 2011. Would guarantee full funding of LWCF each year.

LWCF (Fed Lands Access)

S 901 (Tester). Tester introduced May 5, 2011. Would allocate 1.5 percent of LWCF for access to fed lands for rec.

Urban Parks

HR 709 (Sires). Sires introduced Feb. 15, 2011. Would provide \$450 million per year to rehabilitate urban parks.

Roadless Areas: No

HR 1581 (McCarthy), S 1087 (Barrasso). McCarthy introduced April 15, 2011. Barrasso introduced May 26, 2011. Would reverse Clinton roadless rule, block Salazar 'wild lands' policy, release FS and BLM roadless areas.

Roadless Areas: Yes

HR 3465 (Inslee), S 1891 (Cantwell). Inslee introduced Dec. 19, 2011. Cantwell introduced Nov. 17, 2011. Would codify Clinton roadless rule.

Hunting and Fishing Access

HR 4089 (Jeff Miller), S 2066 (Murkowski). Murkowski introduced February 2. House approved HR 4089 April 17. House bill would not only keep public lands open to hunting, but also would require state approval of national monuments.