

Federal Parks & Recreation

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Volume 30 Number 1, January 13, 2012

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Lawsuit certain as DoI bans mining near Grand Canyon

Federal courts may ultimately have the last word, but Secretary of Interior Ken Salazar January 9 withdrew from uranium mining for 20 years one million acres of public land near Grand Canyon National Park.

The withdrawal prevents the filing of new mining claims on the lands managed by the Forest Service and the Bureau of Land Management (BLM), but it does not necessarily prevent the mining of existing claims.

Salazar said the long-term withdrawal - which replaces a short-term withdrawal - was necessary to protect Grand Canyon. "We have been entrusted to care for and protect our precious environmental and cultural resources, and we have chosen a responsible path that makes sense for this and future generations," he said.

But Pamela Hill, executive director of the industry group the American Clean Energy Resources Trust (ACERT), argued that there is little proof that uranium mining endangers water running into Grand Canyon. "Basically, uranium mining does not propose an emergency threat in northern Arizona inside and outside the Grand Canyon," she told *FPR*. "As you know BLM prepared an EIS over the last two years that at the end of the day said uranium mining would not hurt the environment in and around Grand Canyon."

While she was at it Hill said Salazar's decision does not end the debate because the courts will be heard. "Yes, we intend to go to court," she said, "but it's not clear yet who will be involved." That is, ACERT may sue, individual companies may sue or a combination thereof may sue.

Environmentalists and conservationists praised the withdrawal. "This landmark decision closes the door on rampant industrialization of Grand Canyon's watersheds," said Roger Clark of the Grand Canyon Trust. "Uranium mining imposes well documented and unacceptable risks to the people and natural resources of our region."

The Theodore Roosevelt Conservation Partnership that represents hunters and sportsmen thanked Salazar and played the economics card. "Sportsmen from all over the country vie for the permits issued by the Arizona Game and Fish Department to hunt elk and mule deer each year," said Dr. Bennett Brown, a TRCP field representative and avid big-game hunter. "These hunters spend millions of dollars annually pursuing their quarry in one of the most spectacular landscapes remaining in North America."

The million acres in question were first closed to new mining claims by a July 21, 2009, segregation notice. The notice had been scheduled to expire on July 20, 2011, but Salazar imposed an interim, six-month withdrawal. The interim withdrawal was designed to provide time for the Interior Department to complete an EIS to back the 20-year withdrawal.

Salazar authorized the withdrawal in the form of a record of decision. He used withdrawal authority granted the secretary by the Federal Land Policy and Management Act of 1976. The ACERT lawsuit will probably contend that the law requires an emergency to justify such a withdrawal and no emergency exists, said Hill.

NPS Director Jon Jarvis said the decision was needed to protect the greater Grand Canyon watershed. "The decision made today by the Secretary will help ensure continued protection of the Grand Canyon watershed and World Heritage designated Grand Canyon National Park," he said.

Sen. Lisa Murkowski (R-Alaska) complained that Salazar's decision violates the intent of Congress, although she did not say explicitly it

violated the law. "The Grand Canyon deserves to be protected and it is, but this decision is part of a misguided effort to impose 'buffer zones' around national parks and other federal lands that effectively lock-up vast areas without Congressional approval," said Murkowski, ranking Republican on the Senate Energy Committee. "This type of unilateral extension of the borders of the park is unjustified and sets a terrible precedent."

Rep. Raúl Grijalva (D-Ariz.), ranking Democrat on the House subcommittee on National Parks, said the withdrawal was justified. "It is not in our national security interest to jeopardize this critical ecosystem or put at risk a water supply relied on by 25 million Americans," he said.

BLM estimates 3,200 claims are located in the withdrawn area and, perhaps, could someday be mined. "The withdrawal does not prohibit previously approved uranium mining, new projects that could be approved on claims and sites with valid existing rights," said the Interior Department.

But the uranium industry fears the withdrawal effectively precludes development of all but a few claims. Industry is concerned that only those claims that (1) already demonstrate a discovery of minerals and (2) demonstrate they could be economically developed would qualify for valid existing rights. Development of all other claims would be barred for the foreseeable future.

Congress has tried to intervene. A fiscal year 2012 Interior and Related Agencies appropriations bill (HR 2584) that was on the House floor in July would have blocked the Salazar withdrawal, unless Congress approved it. But a House-Senate conference committee last month struck the provision, opening the way for the withdrawal.

In addition five western Republican senators and nine House members introduced legislation (HR 3155, S 1690) in October that would block the withdrawal. It has not moved yet.

Much of the debate about mining near Grand Canyon focuses on the meaning of the Arizona Wilderness Act of 1984 (PL 98-406). Sen. John McCain (R-Ariz.), among others, argues the act represented an agreement among all parties that the 1 million acres would be made available for multiple uses, including uranium mining. In return Congress designated 250,000 acres of wilderness along the strip.

But Mark Trautwein, an aide to former Rep. Morris Udall (D-Ariz.) when he worked on that act, told a House subcommittee last November, "Neither the history nor the provisions of Arizona Wilderness Act support the idea that these events settled issues addressed by Secretary Salazar's order. On the contrary, the two are entirely different in scope and purpose. The Arizona Wilderness Act is a wilderness act." Trautwein said the existing and proposed withdrawals addressed a separate issue - uranium mining.

Rainier shooting unlikely to affect Hill gun debate

The fatal shooting of a Park Service ranger January 1 in Mount Rainier National Park may revive the debate about a 2009 federal law allowing concealed weapons in national parks and national wildlife refuges.

But there is little likelihood Congress will clamp down on the use of guns in parks in an election year. Even after Rep. Gabrielle Giffords (D-Ariz.) was shot in Tucson last January and six other people were killed Congress did not move any gun-control legislation.

Influential Rep. Norman Dicks (D-Wash.), a gun control advocate, told the *Olympian* newspaper last week that Congress will do nothing because the National Rifle Association (NRA) is influential.

"The problem is the NRA's got a majority in the House and Senate - that's the reality of it," said Dicks. He not only represents Mount Rainier but also once served as chairman of the House appropriations subcommittee on

Interior that oversees the Park Service and the Fish and Wildlife Service.

Besides, experts said the alleged shooter, Benjamin Colton Barnes, may not have been deterred by a ban on guns in parks in the first instance. That's because the Park Service said he failed to stop at a checkpoint and when park rangers set up a traffic block, Barnes opened fire, killing ranger Margaret Anderson, 34.

The head of the Coalition of National Park Service Retirees (CNPSR), Maureen Finnerty, said, "We will probably never know whether the current firearms laws had any effect on the thinking of the person who took Ranger Anderson's life, so it is likely pointless to use this tragedy as a focus of the discussion on those laws." Finnerty serves as chairperson of the executive council for CNPSR.

She added that the CNPSR position on guns in parks remains the same: "Nothing about this tragic situation, however, has altered the Coalition of National Park Service Retirees' opposition to the relatively recent change of the longstanding national ban on operable firearms in parks."

In addition to the unclear circumstances at Rainier, the law authorizing guns in the parks forbids concealed weapons in "federal facilities," such as visitor centers, offices, ranger stations, fee collection booths, etc.

The Park Service would not comment on the issue of concealed weapons in the parks. "We have no response," said a spokesman.

The dispute over concealed weapons in parks and refuges was revived by a Dec. 10, 2008, Bush administration regulation that would have allowed visitors to national parks to carry guns, if state laws allowed concealed weapons in state parks and refuges.

On March 19, 2009, U.S. District Court Judge Colleen Kollar-Kotelly in the District of Columbia issued an injunction blocking the rule because it

lacked an EIS. Kollar-Kotelly did not rule on the substance of the regulation.

Congress responded by passing a law directing NPS and FWS to allow concealed guns (PL 111-24 of May 22, 2009). The House by an overwhelming 279-to-147 vote and the Senate by a 67-to-29 vote approved the use.

The NRA argues for the use on security grounds. "The National Park Service's recent report revealed that 11 murders, 35 rapes, 61 robberies and 261 aggravated assaults occurred on parklands in 2006. Our parks also contain hidden methamphetamine labs, marijuana fields and illegal drug and illegal alien smuggling routes," said the association last year.

The Coalition of National Park Service Retirees lists these reasons for opposing concealed weapons in the parks:

"1) More guns in national parks increase the likelihood of shooting at wildlife and some historic resources, such as prehistoric petroglyphs.

"2) More guns in parks increases the risk to rangers.

"3) More guns in parks increases the risk to visitors in places like campgrounds where disagreements, often fueled by alcohol, sometimes occur.

"4) National parks have always been hospitable to visitors from around the world and are seen as "sanctuaries" where people could get away from the routines, threats and risks they face in their daily lives. But more guns will change those perceptions.

"5) Until now, one regulation pertaining to firearms applied to all 392 areas in the National Park System. But now each of those areas will be subject to the laws of the state in which it lies. This is likely to lead to significant confusion by visitors traveling through parks in a number of states.

"6) Federal buildings in parks will now have to be signed to prohibit firearms and conceivably security devices will need to be used."

Summit on NPS future policy identifies agenda, big names

In 10 days some of the leading players in the park and rec field will convene in Washington, D.C., to lay out a game plan for the national parks over the short-term, and the long-term.

The players will participate in a summit designed to anticipate the 100th anniversary of the National Park System in 2016. The players include Secretary of Interior Ken Salazar, Sen. Mark Udall (D-Colo.), policy guru John Podesta, and NPS Director Jon Jarvis.

The summit will attempt to build on a major new NPS report, *A Call to Action*, that establishes a 36-point agenda for the parks. Among other things the participants will attempt to make parks and outdoor policy part of the political baseline.

"The real purpose here will be to use *A Call to Action* as a way to appeal to the 2012 elections," said Derrick Crandall, counselor to the National Park Hospitality Association, one of the three hosts of the summit. "Our goal is to prepare a statement of principles and appeal to the parties to put it in their platforms. We will offer the statement of principles to national, state and local candidates on how to get people outdoors."

The other two hosts of the America's Summit on National Parks are the National Parks Conservation Association and the National Parks Foundation. Park Service officials will participate but are not involved in conducting the meeting. Said a spokesman, "This is not our event."

As a top priority the attendees - NPS officials, friends groups, concessioners, etc. - must come up with strategies to finance a robust National Park System in the face of federal budget austerity. That implies partnerships.

The summit will be held in Washington, D.C, from January 24 through January 26 at the Ronald Reagan Building

and International Trade Center. On Wednesday the 25th participants will begin substantive work with keynote addresses in the morning and breakout sessions in the afternoon. On Thursday the 26th the summit will present more breakout sessions in the morning and, in the afternoon, session leaders will file reports.

Attendance for the 300 people expected will be by invitation only. A prospectus says the attendees will include "leaders in conservation, recreation, tourism, education, health, economic development and more."

The summit already has a website, www.2016parksummit.org.

The partners met Nov. 2, 2011, to plan the summit. Among other things the planners set a goal for "use of the January summit, in a key political year, to relate our parks initiative to both major political parties, and to hone parks' appeal to both parties."

The NPS *A Call to Action* report was released Aug. 25, 2011. The report was prepared by NPS in anticipation of the system's Centennial in 2016 and would in general not require new federal money.

In keeping with the frugal times the report treads lightly on the Obama administration's signature conservation recommendation - full funding for the Land and Water Conservation Fund at \$900 million or more per year. As close as the report comes to recommending more money is a call for a \$1 billion legacy endowment to be assembled from philanthropic sources. And by definition that money would come from nonfederal sources.

Utah to claim almost 19,000 RS 2477 routes in lawsuit

The State of Utah last month stepped up its long-standing campaign to obtain the right to manage thousands of ways across federal lands.

In "notices of intent" the state warned the Interior Department it will

file formal lawsuits to claim 18,784 RS 2477 rights-of-way (ROWS) across department-managed lands. The notices follow closely on the heels of two massive lawsuits the state filed on Nov. 14, 2011, for 804 ROWs. The notices of intent were filed December 14.

In a sample copy of a notice for Box Elder County provided to us by the governor's office, the state first argued that federal law grants states and local governments the right to RS 2477 ROWs. The notice then says, "The herein described (ROWS) are vital to the transportation system and economy of the State of Utah and Box Elder County. Consequently, the United States' failure to recognize the State's and county's interest in these (ROWS) creates a cloud on title that impairs the ability of the State to exercise its legal rights regarding the herein described (ROWS)."

Said Gov. Gary R. Herbert of the notices of intent, "We will continue to use every tool available to us, including negotiation and lawsuits, to quickly and permanently get title to our roads." If the state obtained title to the roads, it could then decide how much access to provide for cars, trucks and off-highway vehicles. It could also take on maintenance work.

The newly claimed lands lie in 22 of the 26 counties in Utah. (The state did not file notices in the four counties with little public land presence.) The state intends to file 22 separate lawsuits to acquire 16,594 Class D roads that have been lightly maintained and 2,190 Class B roads that are in better condition.

In two November lawsuits the state teamed up with Kane and Garfield Counties to claim 804 roads. Some of those rights-of-way cross conservation lands such as the Grand Staircase Escalante Monument and the Glen Canyon National Recreation Area.

Environmentalists are livid. The Southern Utah Wilderness Alliance (SUWA) says that, as in Kane County and Garfield County litigation, some of the 19,000 ways the state posted notice on last month cross parts of the San

Rafael Swell, Grand Staircase-Escalante National Monument and Canyonlands National Park.

In a bulletin to its members SUWA said, "If the State wins then the Bureau of Land Management and National Park Service can't stop ATVs and dirt bikes from ripping through proposed wilderness. Is this misguided? Yes."

Utah is claiming the rights-of-way (ROWs) under the Federal Land Policy and Management Act. That law authorizes states to claim title to old ROWs used before 1976 pursuant to the Mining Law of 1866, also called Revised Statute 2477, or RS 2477.

The State of Utah has estimated it spends \$1.5 million per year on RS 2477 claims. That does not include county costs.

In a landmark 2005 court decision, *Southern Utah Wilderness Alliance v. BLM, Nos. 04-4071 & 04-4073 of Sept. 9, 2005*, the Tenth U.S. Circuit Court of Appeals ruled that BLM could not adjudicate the validity of RS 2477 ROW assertions. It said only a federal court held that power.

So the State of Utah and the two counties are seeking federal court validation to the RS 2477 ROWs in Kane and Garfield Counties. And will soon seek validation for 19,000 more.

The 1,365-page Kane County suit seeks title to 710 road segments. Most of the complaint describes roads being sought. Only 35 or so pages consist of legal arguments. The Garfield County suit seeks 94 segments of roads. The suits were filed before U.S. District Court Magistrate Brooke C. Wells in Utah November 10.

Appropriators go relatively easy on park, rec programs

The House and Senate wrapped up all fiscal year 2012 spending bills (HR 2055) December 16 with few of the draconian spending cuts and policy changes predicted. President Obama signed the huge nine-bill omnibus

Congress produced into law December 23 as PL 112-74.

In a bit of a surprise the appropriators actually increased spending for some conservation programs, such as the Land and Water Conservation Fund (LWCF). The bill includes \$186.7 million for the federal side of LWCF, or \$21.2 million more than the \$164.9 million in fiscal 2011. That's a surprise because House appropriators this summer were adamant in their opposition to any new federal land acquisitions.

For federal land management agencies the bill roughly maintains fiscal 2011 levels for the Park Service (\$2.24 billion), the National Forest System (\$1.557 billion), Fish and Wildlife Service resources (\$1.228 billion) and operation of the Bureau of Land Management (BLM), \$961.9 million. More details on the numbers are below.

Forest Service retirees, who often reflect the opinions of current employees, reacted positively to the final spending totals, for the most part. Said George Leonard, a member of the National Association of Forest Service Retirees who covers budget matters, "Given all the rhetoric about cutting back on discretionary spending, the final 2012 appropriation for the Forest Service looks pretty good. Of course it helped to have a big target like EPA to take most of the cuts within the committee's allocation."

In addition House and Senate conferees knocked from the Interior bill a rider that would have barred a withdrawal of uranium claims near Grand Canyon National Park. They did retain a House rider that prevents the Interior Department from designating "wild lands".

HR 2055 included a fiscal 2012 appropriations bill for the Interior Department and Related Agencies, an Energy and Water spending bill and seven other spending measures. A House-Senate conference committee completed HR 2055 the weekend of December 10-11.

The House approved HR 2055

December 15 by a vote of 296-to-121 and the Senate followed suit December 16 by a vote of 67-to-32.

Congress had already completed two outdoor-related spending bills - a Transportation and a Department of Agriculture measure. They were signed into law November 18 as PL 112-55.

The Interior bill, which includes EPA and other agencies, will provide \$29.2 billion, just about the same as a Senate Appropriations Committee mark of \$29.1 billion but \$1.7 billion more than a House Appropriations Committee bill (HR 2584). The final bill receives \$384 million less than the \$29.6 billion of fiscal 2011.

INTERIOR BILL NUMBERS: A brief comparison of some programs:

* LWCF FEDERAL: Final, \$186.7 million (BLM \$22.4 million, Fish and Wildlife Service \$54.7 million, NPS \$57 million and FS \$52.6 million). Senate, \$187.3 million (BLM \$23.4 million, Fish and Wildlife Service \$59.9 million, NPS \$66.5 million and FS \$37.5 million). House, \$46.7 million total. Fiscal 2011, \$164.9 million.

* LWCF STATE: Conference, \$45 million. Senate, \$45 million. House, nothing. Fiscal 2011, \$40 million.

* FWS CONSERVATION GRANTS: Conference, \$61.4 million. Senate, \$61.4 million. House, \$22 million. Fiscal 2011, \$61.8 million.

* HISTORIC PRESERVATION FUND: Conference, \$56 million. Senate, \$64 million. House, \$49.5 million. Fiscal 2011, \$54.4 million.

* SAVE AMERICA'S TREASURES: Conference, No break-out. Senate, \$8 million. House, nothing. Fiscal 2011, nothing.

* NPS OPERATIONS: Conference, \$2.240 billion. Senate, \$2.230 billion. House, \$2.243 billion. Fiscal 2011, \$2.250 billion.

* NPS REC AND PRES: Conference, \$60 million. Senate, \$60 million.

House, \$49.4 million. Fiscal 2011, \$57.9 million.

* HERITAGE AREAS: Conference, \$17.4 million. Senate, \$17.4 million. House, \$9 million. Fiscal 2011, \$17.4 million.

* NPS CONSTRUCTION: Conference, \$159.6 million. Senate, \$153 million. House, \$152.1 million. Fiscal 2011, \$184.6 million.

* FS RECREATION: Conference, \$281.6 million. Senate, \$290.5 million. House, \$281.6 million. Fiscal 2011, \$281.6 million.

* FS TRAILS: Conference, \$82 million. Senate, \$82.2 million. House, not clear. Fiscal 2011, \$88.4 million.

* FOREST LEGACY: Conference, \$54 million. Senate, \$58 million. House, not clear. Fiscal 2011, \$52.8 million.

* BLM RECREATION: Conference, No break-out. Senate, \$68.7 million. House, \$67.6 million. Fiscal 2011, \$68.8 million.

* FWS REFUGE MANAEMENT: Conference, \$486.5 million. Senate, \$483 million. House, \$455 million. Fiscal 2011, \$492 million.

RIDERS: The conferees removed a number of controversial riders. Here are their recommendations:

GRAND CANYON MINING: Removed. Was in House bill. Would have prevented the Interior Department from withdrawing 1 million acres of federal land from uranium mining near Grand Canyon National Park.

After Congress failed to act, Secretary of Interior Ken Salazar January 9 ordered a 20-year withdrawal of the one million acres to block additional uranium development. (See *related article page one.*)

MONUMENT DESIGNATIONS: Never made it in. Rep. Denny Rehberg (R-Mont.) had been expected to offer a rider on the House floor but it never happened. His expected amendment would have banned

the designation of national monuments by the Obama administration without Congressional approval.

WILD LANDS: Retained. House bill. The provision bars the Interior Department from designating any new "wild lands." The bar on wild land designations may not be necessary because Secretary Salazar has said BLM will not on its own designate wild lands but will ask Congress to do so.

CALIFORNIA OHV ROUTES: Removed. House bill. The provision would have directed the Forest Service in California to allow OHV use on "Maintenance Level" roads in national forests. Four Republican House members led by Rep. Wally Herger (R-Calif.) introduced legislation (HR 242).

MONTANA WILD LANDS: Removed. Senate bill. Based on legislation from Sen. Jon Tester (D-Mont.), this provision would have designated 669,100 acres of wilderness and protect another 336,000 acres of special management areas in the Kootenai, Beaver Head-Deerlodge and Lolo National Forests and adjacent Bureau of Land Management properties. Tester faces a tough reelection battle with Rep. Denis Rehberg (R-Mont.)

BLACKSTONE RIVER VALLEY NATIONAL HISTORICAL PARK: Removed. Senate bill. This rider would have established a new national park in Massachusetts and Rhode Island - a Blackstone River Valley National Historical Park. On October 13 the four senators from the two states along with four House members introduced a stand-alone bill (S 1708, HR 3191).

Everglades restoration given state and federal boosts

Florida Gov. Rick Scott (R) and the Obama administration appear to be mutually committed to restoring the Everglades.

On January 5 Scott appeared before the 27th Everglades Coalition Conference and made a strong commitment to restore the ecosystem. Scott, a small

government conservative drew the wrath of conservationists a year ago because of budget cuts in conservation programs. But last week he was reportedly given an ovation at the Everglades conference.

Scott reportedly told the 300 or so attendees at the Stuart, Fla., conference, "We've got to do everything we can to put the money in there."

And the Obama administration secured \$142 million from Congress for Everglades restoration in a fiscal year 2012 spending law (PL 112-74 of December 23).

But there are flies in the ointment. While Scott's requested \$40 million for Everglades restoration for this coming fiscal year is \$10 million more than the \$29 million existing appropriation, it is also \$10 million less than a \$50 million appropriation the year before.

Similarly, Congress did not give the Obama administration all the money it wanted in the fiscal 2012 spending bill. Said a House-Senate conference report, "The conferees are aware that the budget request includes new funding for a number of regional restoration initiatives, including the Chesapeake Bay, Gulf Coast, Bay Delta, and the Everglades. Due to funding limitations, the conferees are not able to include new funding for these initiatives. . ."

The conferees did say they did not object to the administration transferring money from other programs to the initiatives.

Scott is not home free with environmentalists. Last September he suggested that he might be able to support oil and gas development in the Everglades. But, he immediately qualified that support in a speech to the Economic Club of Florida, "I think we have to be very cautious on any oil drilling, whether it's already in the state or in our beaches or in the Gulf, because we aren't going to ruin our environment."

The major national policy thrust in the Everglades has been a multi-

billion-dollar Comprehensive Everglades Restoration Project (CERP). Congress authorized CERP in 2000.

Under it the Corps of Engineers, the State of Florida and Interior Department agencies are charged with carrying out major projects to restore the Everglades by constructing reservoirs and in general replumbing south Florida.

Separate from CERP, the Department of Interior and Department of Agriculture are moving to protect lands north of the Everglades that supply water to the park. The Department of Agriculture said in August it will spend \$189 million to restore land by acquiring wetlands. The department intends to use Wetlands Reserve Program money to acquire the 50,000 acres.

And Secretary of Interior Ken Salazar in September proposed the establishment of an 150,000-acre national wildlife refuge just south of Orlando, Fla.

The Everglades Headwaters National Wildlife Refuge would be made up of 100,000 acres of easements and 50,000 acres of acquired land. The refuge would be located in the Kissimmee River Valley and include grasslands and longleaf pine savanna. The Interior Department first proposed the idea in January 2011 and has held several field hearings since. Congress would have to approve the \$700 million needed to acquire land for the refuge.

The Everglades conference drew a number of big hitters besides Scott. Invited were EPA Administrator Lisa Jackson, Council on Environmental Quality Chair Nancy Sutley, and Sen. Bill Nelson (D-Fla.)

The Everglades Coalition established these immediate priorities:

- “• Secure sustained and adequate funding to agencies and for projects to ensure restoration momentum continues, including the 5.5 miles of additional bridging for Tamiami Trail. Congress and the Florida Legislature must continue to fund Everglades restoration

to demonstrate their commitment to real environmental and economic progress. There is no longer a divide between saving the environment and promoting business interests.

- “• Protect water resources through strong statewide conservation policies and improved water quality standards that safeguard Florida’s most important resource – America’s Everglades.

- “• Prioritize the acquisition and conservation of land needed to protect and connect wildlife habitat, and provide water storage and treatment.”

Possibility of highway bill action this year in dispute

Two schools of thought have emerged on the likelihood Congress will pass a new multi-year surface transportation law this year.

On the negative side one senior lobbyist flatly says Congress won’t complete a bill to replace current law, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU).

“My strong prediction is we will not have a new surface transportation bill this year,” said Derrick Crandall, president of the American Recreation Coalition. “You’ll probably see an extension of the SAFETEA law, maybe for 18 months, at current spending levels.”

Crandall sees lots of hurdles: Not only must the House and Senate (1) reach agreement on a bill and (2) find money for it, but also the Obama administration would have to write complex new regulations. “It will require huge new guidance from the Federal Highway Administration including formula changes and apportionment changes,” he said. “If Congress passes a law in April they won’t be able to complete new regulations in time for the election. And the administration and Congress want projects now.”

A spokesman for a key proponent of a new bill, Sen. James Inhofe (R-Okla.), disagrees with Crandall’s thesis. “Yes,

I see a bill moving. The (Senate Environment and Public Works Committee) has approved a bill (S 1813) under unanimous consent," said Matt Dempsey, the spokesman. "It's still got to get through a couple of other committees, but if Senate Majority Leader Harry Reid (D-Nev.) gets involved and works with the parties in February we should get our differences resolved quickly."

There are problems with Dempsey's thesis too. When the Senate Environment and Public Works Committee approved S 1813 Nov. 9, 2011, it did not put up the full \$40 billion per year needed to pay for the bill. Gasoline taxes provide only \$28 billion per year, so the Senate Finance Committee must come up with \$12 billion more. "That has to be figured out," admitted Dempsey.

One other thing, the House Transportation Committee has yet to begin moving a counterpart bill. Committee chairman John Mica (R-Fla.) last year did outline a draft bill but that draft has not been fleshed out. "Sen. Inhofe would like to see the House move a bill," said his aide.

Meanwhile, state officials are pressuring the Senate to make substantive changes in S 1813 as passed by the Environment and Public Works Committee. The officials are concerned about a committee provision that would consolidate 90 ongoing programs into 30.

Among the recreation programs that would be eliminated is a Recreational Trails Program (RTP), although it would still be eligible for assistance if states so desired.

Several state officials asked their senators to retain RTP as a stand-alone program. Among them were Montana State Parks Administrator Chas Van Genderen, Louisiana Assistant Secretary to the Lieutenant Governor Stuart Johnson, and Oklahoma State Parks Director Kristina S. Marek.

They essentially made the same point - that RTP is self-financed by taxes on gasoline that powers recreation equipment. "Created in 1991, the RTP is supported by gas taxes paid by gas-

powered vehicles used for nonhighway recreation," said Van Genderen's letter to Sen. Max Baucus (D-Mont.)

Van Genderen then objected to the consolidation of programs in S 1813. "However, this action will surely destroy the user-pays/user-benefit philosophy of the Highway Trust Fund by converting a legitimate user fee into an unfair tax, with recreationists subsidizing commercial and private highway users," he wrote.

Petitioners claim victory in Grand Canyon bottle dispute

A liberal online group says it produced nearly 100,000 petitions to the Park Service that helped change agency policy on bottled water in the parks.

The group, Change.org, launched a campaign to support a ban on bottled waters in the parks after NPS reversed a proposed ban in Grand Canyon National Park.

Stiv Wilson, who started the campaign for Change.org, said, "The public outcry around the Park Service's seemingly backroom corporate deals has been overwhelming, and the public expects the NPS to go the whole way and save our national parks from plastic pollution."

Asked if the campaign affected the Park Service policy change, a Park Service spokesman said cryptically, "The answer is no. They did not affect it."

The spokesman would not say on the record why the Change.org campaign was not a major factor in forging the new policy, but the implication is that the policy change was already in process. The spokesman did acknowledge that chief NPS spokesman David Barna and Grand Canyon National Park were besieged with petitions.

The details of the water bottle brouhaha are now familiar. On May 12, 2010, former Grand Canyon Superintendent Stephen P. Martin advised concessions companies that operated in the park that effective Dec. 31, 2010, NPS would ban

plastic water bottles in Grand Canyon. Some 30 percent of the trash in the park comes from water bottles.

Martin changed course on Dec. 22, 2010, when he advised concessioners that the ban on the sale of water bottles "has been temporarily delayed."

Then late last year the environmental group Public Employees for Environmental Responsibility (PEER) charged that the Park Service changed policy in response to pressure from the Coca-Cola Company. The company sells bottled water.

Finally, last month on December 14 the Park Service issued a new water bottle policy, not just for Grand Canyon but for all units. The policy allows superintendents to ban water bottles if they first obtain approval from the applicable regional director. The superintendents must first submit a request in writing.

PEER obtained internal memos that detailed meetings among Jarvis, NPS field officials, the Coca-Cola Company and the National Park Foundation. PEER says those memos confirmed that Jarvis made the call to ban water bottles at Grand Canyon at the behest of the bottlers.

Background documents are at the end of a PEER press release at: http://www.peer.org/news/news_id.php?row_id=1539.

Change.org operates as a website that encourages its followers to petition for social change via the Internet. The organization participated in successful campaigns last year to force banks to withdraw credit cards fees and to force Verizon to withdraw a \$2 "convenience" fee.

Said Change.org of the water bottle dispute, and the new policy, "The decision by NPS marks an incredible victory for Stiv and the 100,000 people who signed his petition. Using Change.org, Stiv, a former journalist who has dedicated his life to stopping plastic pollution working with the research organization 5 Gyres, mobilized tens of thousands of people to reverse a

decision influenced by a major American corporation, helping to keep public lands in public hands."

Outdoor outlook in election year? Some work may be done

It's axiomatic that Congress produces little or no substantive legislation in an election year. But there may be a few exceptions to the rule in 2012.

If those exceptions are to come to fruition, they must have broad support from both political parties. And that prescription may apply to a new, multi-year surface transportation bill.

The Senate Environment and Public Works Committee Nov. 9, 2011, approved unanimously a bill (S 1813) to provide \$40 billion per year for highway and mass transit programs. Trouble is, Congress must come up with \$12 billion per year because of a shortfall in gasoline taxes. (See *related article page 9.*)

While Congress will almost certainly be stuck with political gridlock this year, the Obama administration will not face similar restraints, by definition. Indeed the administration will undoubtedly pull all the strings it can to enhance election opportunities, even though it is limited by tight budgets.

Perhaps the lead administration outdoor initiative involves Park Service implementation of a plan to revise and upgrade the National Park System for a 2016 Centennial. The plan, *A Call to Action*, was released in report form Aug. 25, 2011 and would in general not require new federal money. It would feature partnerships so the agency's friends and allies figure be prominently involved in the *Call to Action*. (See *related article page 4.*)

Overhanging both Republicans and Democrats this year will be their joint commitment to reduce federal spending. Surprisingly, Congress last month exceeded expectations by roughly maintaining fiscal year 2011 spending

through fiscal 2012 (PL 112-74 of December 23.)

House Republicans in particular will almost certainly attempt to clamp down on spending again in fiscal 2013 money bills. But, again, given the upcoming elections the most probable scenario will see a deferral of final spending decisions until after the November 6 vote.

If the House and Senate can't agree to defer spending decisions, there is always the possibility of a government shutdown. Given the huge stakes and the continuing harsh political climate that possibility remains a live one.

In addition to appropriations bills Congress must face another budget issue this year - an impending \$1.2 billion across-the-board, ten-year budget cut in January 2013. That was set up when a Joint Select Committee on Deficit Reduction last fall was unable to reach agreement on budget reductions. Of course, Congress could simply extend the January 2013 deadline.

More prosaically, some House and Senate members from both parties will almost certainly push for an omnibus lands bill later this year. Literally scores of individual bills were introduced last year. Few of the individual bills will be enacted before the election, given the possibility of Senate holds. A package of bills also faces long odds given the opposition of House Republican leaders to omnibus measures.

But after the election a lame-duck Congress may act on an omnibus. Candidates for a lands package include bills to designate new national park units (a Delaware National Park and a Waco Mammoth National Monument), to establish a new fee system for cabin owners in national forests, to limit environmental reviews that may impinge on security along the nation's border, and to authorize spending on Revolutionary War and War of 1812 battlefields.

That's on the federal side of the

equation. State and local governments continue to face even more severe budget cuts proportionately, leading to mass lay-offs, closure of conservation areas and imposition of new levies to make up for lost tax money.

Notes

Calif. parks in trouble, again.

The threats to California State Parks appear to be increasing. Not only does the state intend to close one-quarter of its parks in six months, the governor's fiscal year 2012-2013 budget also recommends eliminate of numerous park jobs. The proposed budget would eliminate seasonal lifeguards and 20 percent of ranger positions, according to the California State Parks Foundation. The powerful foundation has mounted a statewide campaign to fight the closures and budget cuts. It has commissioned public service announcements titled *Defend What's Yours*. Park boosters in California have fought off proposed budget cuts for the last several years, but the state's dire finances may finally catch up with them this year.

Governor asks byways support.

Minnesota Gov. Mark Dayton (D) asked the Department of Transportation last month to restore a technical assistance center for the National Scenic Byways Program. In a letter to Secretary of Transportation Ray LaHood, Dayton asked for a public comment period on the closure of the America's Byways Resources Center. "I respectfully request that you consider a review in which Minnesotans and the byways national community could submit evidence of the cost effectiveness of the America's Byways Resources Center, in Duluth, Minnesota, its value to state and local governments, its role in serving the 150 existing national scenic byways, and its role in creating and promoting new byways," he wrote LaHood. Dayton said the center produces \$1.5 million in economic activity each year in Minnesota. Despite the closure of the tech center the scenic byways grants program continues as a set-aside under a multi-year surface transportation law. But the grants program is also in danger because the Senate Environment

and Public Works Committee has written a new multi-year surface transportation bill (S 1813) that would essentially allow states to decide if they want to spend money on byways. Since 1992, the program has allocated about \$469 million to 3,049 state and national byway projects in 50 states, Puerto Rico and the District of Columbia, according to the byways.org website. Dayton's letter follows up on an October letter from a coalition of recreation interests asking LaHood to keep the technical center open. Significantly, the coalition included the American Automobile Association (AAA). The involvement of AAA is important because last year the association sparked a major battle with recreation interests when its leaders suggested that Highway Trust Fund money be spent primarily on road and bridge construction. That, said the Rails-to-Trails Conservancy, would leave trails programs such as transportation enhancements out in the cold.

Bill would end heritage help.

Reps. Tim Huelskamp (R-Kansas) and Renee Ellmers (R-N.C.) introduced legislation (HR 3716) last month that would eliminate federal funding for National Heritage Areas (NHAs). The legislation stands little chance of enactment because Republicans as well as Democrats support NHAs. For instance, in a fiscal year 2012 Interior and Related Agencies appropriations bill (PL 112-74 of Dec. 23, 2011) Congress approved \$17.4 million for the program. That, despite an Obama administration request for just \$9 million. The fiscal 2011 appropriation was also \$17.4 million. There are 50 NHAs spread across the country. NHAs are generally areas that fall just short of meriting National Park System designation but that include important natural, cultural, and historic resources. They are administered by states and nonprofit groups with technical assistance from the Park Service. A National Heritage Areas Congressional Caucus includes members from both political parties and is led by Reps. Charlie Dent (R-Pa.) and Paul Tonko (D-N.Y.)

St. Louis Arch gets road money.

The Department of Transportation announced a \$20 million grant December

21 to link the St. Louis Gateway Arch to area highways and sites. Among other things the TIGER project will include a pedestrian land bridge over Interstate 70. The grant is designed to enhance the economic draw of the Arch that is part of the Jefferson National Expansion Memorial, a unit of the National Park System. Secretary of Interior Ken Salazar linked the project to President Obama's America's Great Outdoors initiative of last year. "When President Obama launched the America's Great Outdoors initiative to provide more Americans with more opportunities to get outside and enjoy our nation's heritage, this is exactly the kind of project he had in mind," Salazar said. On December 21 Secretary of Transportation Ray LaHood announced the distribution of \$511 million in TIGER grants, as in Transportation Investment Generating Economic Recovery. The department said it has now distributed \$2.1 billion in TIGER money and has received \$76 billion in requests.

Land purchase could help Acadia.

The Lyme Timber Company said December 20 that it has acquired 3,200 acres near Acadia National Park on Schoodic Peninsula and may manage the land to protect the park. The previous owner had aired plans to develop the property with a resort and villas but Lyme Timber said it will work to protect some of the land. "We are delighted to have acquired this important parcel," said Peter Stein, a managing director of Lyme. "The property is an important local/regional resource with significant ecological value, and we are pleased to be working together with our conservation partners on its long-term protection." The company said it intends to work with the Maine Coast Heritage Trust and Friends of Acadia to develop a conservation plan. The National Parks Conservation Association (NPCA) praised the acquisition. NPCA Northeast Regional Director Alexander Brash said he hoped Lyme Timber would help protect the park. "As we prepare for the National Park Service's 100th anniversary in 2016, we hope Lyme Timber and its partners will find a way to help celebrate this august moment by tying some or all of these new lands into Acadia."

Washington Monument fix - \$15M.

The fiscal year 2012 Interior and Related Agencies appropriations law includes a \$7.5 million allocation to repair damage to the Washington Monument caused by an Aug. 23, 2011, earthquake. The law (PL 112-74 of December 23) anticipates the \$7.5 million will be matched by a like contribution. Says a bill report, "The bill provides a total of \$7,500,000 for the stabilization and repair of the Washington Monument. The conferees understand these funds will be matched on a 1:1 basis by a private citizen." The monument has been closed since the earthquake. NPS has not said when the monument will be reopened.

NPS advisory board modified.

With Congressional authorization for a National Park System Advisory Board having expired, Secretary of Interior Ken Salazar January 3 said he would use his administrative discretion to convene a new board. In the January 3 action Salazar certified the need for the board. The National Park System Advisory Board has been in almost continuous operation as an adviser to NPS since 1935. Salazar said the 12 appointed members will, as usual, represent a "cross-section of disciplines and expertise."

OIA names 2012 award winners.

The Outdoor Industry Association (OIA) January 5 named four people and organizations as winners of its annual Outdoor Inspiration Awards. The winners were: *Individual*, Erik Weißenmayer for his active participation as a mountain climber and all-around outdoor activist despite being blind; *Group*, The National Outdoor Leadership School for training more than 200,000 students in outdoor skills; *Small Company*, Nantahala Outdoor Center for providing rafting access to the Nantahala River in North Carolina; and *Large Company*, The North Face outdoor equipment company.

Conference CalendarJANUARY

17-19. **National Ski Areas Association** western conference in Squaw Valley, Calif. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

18-20. **U.S. Conference of Mayors** winter meeting in Washington, D.C. Contact: U.S. Conference of Mayors, 1620 I St., N.W., Fourth Floor, Washington, DC 20006. (202) 293-7330. <http://www.usmayors.org>.

19-22. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.

29-Feb. 2. **National Association of Conservation Districts** annual meeting in Las Vegas, Nev. Contact: National Association of Conservation Districts, 509 Capitol Court, N.E., Washington, DC 20002. (202) 547-6233. <http://www.nacdnet.org>.

FEBRUARY

4-8. **Association of Partners for Public Lands** annual convention in Las Vegas, Nev. Contact: Association of Partners for Public Lands, 2401 Blueridge Ave, Suite 303, Wheaton, MD 20902. (301) 946-9475. <http://www.appl.org>.

7-8. **National Ski Areas Association** eastern conference in Killington, Vt. Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

MARCH

3-6. **National Association of Counties** legislative conference in Washington, D.C. Contact: National Association of Counties, 440 First St., N.W., 8th Floor, Washington, DC 20001. (202) 393-6226. FAX (202) 393-2630. <http://www.naco.org>.

12-17. **North American Wildlife** conference in Atlanta, GA. Contact: Wildlife Management Institute, 1146 19th Street, NW, Suite 700, Washington, DC 20036. (202) 371-1808. <http://www.wildlifemanagementinstitute.org>.

13-17. **American Alliance for Health, Physical Education, Recreation and Dance** annual meeting in Boston. Contact: AAHPERD, 1900 Association Drive, Reston, VA 20191. (703) 476-3400. <http://www.aahperd.org>.