

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 30 Number 22, November 16, 2012

In this issue. . .

**Election gives Obama a boost.**

*Senate additions strengthen his hand, if he wants to implement outdoors initiatives. Major Hill players will return.... Page 1*

**Sandy hits northeast parks hard.**

*However, Statue of Liberty, Ellis structures do okay. Several sites closed. Costs not known.... Page 3*

**Hundreds of land bills on table.**

*But opposition sprouts from property rights advocates. Big piles in House and Senate... Page 4*

**Courts asked to limit BLM ORV use.**

*Long-standing lawsuits begin to move. Object to six BLM plans in Utah. National impact?... Page 5*

**Senate addresses wildlife bill.**

*Nineteen measures in one. Tester defends use of LWCF money... Page 7*

**Sequestration talks are on tap.**

*Between White House and Hill. Simpson-Bowles possibility.. Page 8*

**Sequestration rouses advocates.**

*Outdoor industry, NPCA and others see economic harm.... Page 10*

**Arizonans reject fed land shift.**

*Defeat initiative demanding all fed land be given to state.. Page 11*

**Senators begin work on new WRDA.**

*Draft bill contains few projects. Mostly focuses on policy.... Page 12*

**Notes..... Page 13**

**Boxscore of Legislation..... Page 14**

**Dems gain some in election; Obama outdoor agenda alive**

The November 6 elections of course give President Obama another four years to implement his ambitious outdoors policies, headed by an America's Great Outdoors initiative.

But, little noted, the elections also give Senate Democrats and Independents a 55-45 majority in the Senate. That's two more votes than now and those two votes could prove crucial in approving appropriations bills and heading off filibusters targeting Obama's policies.

Right now, though, the Obama administration and the old Congress must address a piece of leftover business from the 112<sup>th</sup> Congress - a budget sequestration that could impose 8.2 percent across-the-board spending cuts on January 3. Obama and Congressional leaders say they will try to head off the sequestration over the next month. They were scheduled to begin negotiations today (November 16.)

To avoid the "budget cliff" sequester Congress and the administration are expected to attempt to put together a package of fees, taxes and budget cuts. Even if Congress and the administration fail to reach agreement and punt the whole mess into next year, at some point mammoth economic decisions must be made. (See related articles pages 8 and 9 on the sequestration and interest group advocacy.)

The usual modus operandi of Congress when faced with big problems such as the sequester is to wait until the very last days of a session to act. If Congress follows that pattern, it may have time before the lame duck ends in mid-December to address a mountain

of lands bills that have built up over two years. By one count the House has approved more than a hundred such bills and the Senate Energy Committee has also approved or held a hearing on a hundred measures. *(See related article page 4.)*

**Arizona lands initiative:** In addition to the Presidential and Congressional races Arizona voters made election-day news by rejecting by a two-to-one margin a ballot initiative that would have authorized the state to assert control over more than 27 million acres of federal land within the state. The final vote was a decisive 1,024,771 against to 487,719 for. *(See related article page 11.)*

**Hill results:** In the Senate Democrats will need to replace Senate Energy Committee Chairman Jeff Bingaman (D-N.M.), who is retiring. Sen. Ron Wyden (D-Ore.) is the next ranking Democrat in line in the committee. He currently chairs the subcommittee on Public Lands and Forests. Sen. Lisa Murkowski (R-Alaska) is the ranking minority member on the committee and will in all likelihood retain that position.

The chairman of the Senate Appropriations subcommittee on Interior and Related Agencies, Sen. Jack Reed (D-R.I.), will return but there is no guarantee that easterner Reed will want to retain the western-oriented chair. Murkowski is the ranking minority member.

All the following House committee and subcommittee leaders were reelected: House Natural Resources Committee Chairman Hastings is expected back, and ranking committee Democrat Edward Markey (Mass.) is expected to retain that position.

Rep. Rob Bishop (R-Utah) currently chairs the subcommittee on National Parks, Forests and Public Lands and Rep. Raul Grijalva (D-Ariz.) is the ranking minority member.

In the House Appropriations Committee Rep. Mike Simpson (R-Idaho) chairs the subcommittee on Interior and Related Agencies and Rep. James Moran

(D-Va.) is ranking minority member.

**The Obama agenda:** Obama of course is a known commodity on outdoor policy. The administration's fiscal 2013 budget provides a summary of the President's outdoor policy - substantial funding for conservation spending such as for the Land and Water Conservation Fund and state wildlife grants, substantial funding for federal land management agencies, and an overall emphasis on protecting natural resources versus use of those resources.

In addition Obama personally launched a signature natural resources initiative in February 2011 called America's Great Outdoors.

The Democratic Party platform gives park and rec policy a prominent seat at the table. "Democrats will continue to work with local communities to conserve our publicly-owned lands and dramatically expand investments in conserving and restoring forests, grasslands, and wetlands across America for generations to come," the platform says.

The national parks are also singled out. "We will ensure that our National Parks are protected while expanding opportunities for Americans to visit and experience these national treasures," the Democratic Party platform says.

Indirectly, the Republican platform would have impacted outdoor recreation by calling for "reconsideration" of the possible transfer of federal lands to private interests. "Experience has shown that, in caring for the land and water, private ownership has been our best guarantee of conscientious stewardship, while the worst instances of environmental degradation have occurred under government control," said the Republicans.

But the combination of the re-election of Obama, the strengthened Democratic hand in the Senate, and the Arizona Proposition 120 vote make that a dead issue for the foreseeable future.

## Sandy smacks national parks in the northeast, hard

A huge Park Service incident management team is reporting minimal damage to the Statue of Liberty and other New York Harbor national parks themselves from Hurricane Sandy. But the team has found significant damage to support facilities and maintenance systems.

For instance the storm did "little or no damage" to the Statue of Liberty National Monument itself, the statue's main floors and its exhibits, said the Park Service in Hurricane Sandy updates. But the storm damaged significantly the site's infrastructure; that is, the mechanical system, docks, railings and basement of the visitor center.

On the plus side on Friday (November 9) the statue was relit with the help of donations from the Musco Lighting company to the National Park Foundation. The company provided temporary equipment, such as generators, to light the statue in New York Harbor. However, the statue is still closed to visitors.

The Statue of Liberty damage pattern held for Ellis Island National Monument, with minimal harm to the landmark immigration building but significant harm to the site's infrastructure, such as mechanical systems.

Hurricane Sandy, the second largest 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.

At press time the NPS Incident Management Team had not computed the cost to restore the parks. The team for the last fortnight has been assessing damage in the New York-New Jersey area. According to NPS, 479 NPS employees from 119 park units are evaluating the damage and conducting immediate repairs.

Although the Washington, D.C., area was soaked with record rainfall, monuments on the National Mall came through relatively unscathed.

The story was different elsewhere. Even in Biscayne National Park near Miami, Elliott's Key received "significant" damage to its docks and boardwalks. As far West as Ohio NPS closed the Ohio & Erie Canal Towpath Trail from Lock 39 Trailhead in Valley View to Botzum Trailhead in Akron to evaluate storm damage.

Here are some of the national park units that NPS said were damaged to some degree:

\* *National Parks of New York Harbor:* Extensive flooding in Battery Park including minor damage to park facilities. Castle Clinton was still closed as of November 14. Subway and bus service was suspended temporarily.

\* *Statue of Liberty/Ellis Island:* Main buildings came through relatively undamaged but electrical and mechanicals on both were damaged. Main dock at Statue of Liberty must be rebuilt.

\* *Assateague Island:* Most of the island was flooded. Campsites were damaged and Virginia parking lots sustained significant damage.

\* *Valley Forge National Historical Park/Hopewell Furnace:* Both parks were without power at first but no significant damage to historic structures.

\* *Morristown:* Hundreds of trees down, but park is open.

\* *Governor's Island:* One dock/pier was demolished and water flooded buildings up to three feet. Pavers demolished on walkways around perimeter. Power is back. Closed for the season.

\* *Fire Island:* Many dunes were leveled and boardwalks washed out. Park headquarters okay.

\* *Gateway:* Marina was damaged.

\* *New River Gorge:* Up to two feet of snow and widespread power outages.

## Hundreds of land bills await action; opposition sprouts

Private property rights advocates are rallying their troops in opposition to an omnibus lands bill, even before the legislation is put together.

Groups such as the American Land Rights Association (ALRA) are certain that Senate Majority Leader Harry Reid (D-Nev.) and allies of environmentalists in Congress will assemble shortly an omnibus bill with more than 100 individual land bills.

So ALRA told its troops last week, "Your support is critical to your success in getting as much information out as possible regarding the Obama Administration's Green Agenda and your enemies in Congress to as many people as possible before and during the Lame-Duck Congress."

ALRA enumerated the kinds of legislation that might make it into a package. "Here's a reminder list of some of the land grab threats the Obama Administration and certain members of Congress have planned for you, no matter who is in the White House," said the association. "New National Monuments; New Wilderness study areas; Wild Lands land grab; Treasured Landscapes Initiative; America's Great Outdoors Campaign; New BLM Land Use Planning/Wilderness expansion; and Eminent Domain and Condemnation."

A Senate Energy Committee staff member confirmed this week that panel leaders are trying to put together a list of bipartisan bills that might make it into an omnibus. But committee members are not yet in agreement on what to put in a package.

Said a committee spokesman, "Chairman Bingaman is eager to move as many committee-reported bills as possible. He and his staff have been talking to Leader Reid and his staff to see if there is a path forward in the lame duck to accomplish this. We've shared the list of committee-reported bills and talked about these, but that's it. As a factual matter, no one has

presented the Leader with any packages, or even made any recommendations. We hope that it will come to that, but we're not there yet."

On the other side of the Hill the House Natural Resources Committee has pushed more than 100 bills through the House, although not all are technically land bills.

The most likely route to success for the land bills is inclusion in an omnibus measure. And the key to success of an omnibus is to include bills that help both conservative western Republicans and liberal easterners.

In that land rights advocates and their western Republican allies are usually the main critics of omnibus land bills, an omnibus must by definition include a major concession to them. One such conciliatory measure (HR 4089) would require federal land managers to cooperate with Border Patrol agents who operate on federal lands near Mexico and Canada. But environmentalists and their allies would surely object to that.

In another category is an omnibus wildlife bill that was on the Senate floor this week. The measure includes 19 individual bills including one that would extend and expand a federal land sale law called the Federal Land Transaction Facilitation Act (*see separate article page 6.*) Thus far it is sailing alone.

The Wilderness Society said that it was time for Congress to move unfinished wilderness bills. "In the coming weeks Congress will have the same opportunity to protect wild places - there are more than two dozen wilderness designation bills awaiting passage, all of them with strong local support," said society president Jamie Williams. "So far this Congress is the first in nearly 50 years that hasn't protected a single acre of wilderness. It's a dubious distinction, and one they have the opportunity to change before this Congress comes to a close."

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

**New National parks:** *Delaware National Park* (S 323, HR 624). This bill would incorporate a number of historical sites in Delaware into the first national park in the first state to join the union. The House bill from Rep. John Carney (D-Del.) received a hearing on June 28 in the House subcommittee on National Parks. The Senate bill, introduced by Sen. Thomas Carper (D-Del.), was approved by the Senate Energy Committee January 13 and is awaiting Senate floor action.

**Waco Mammoth National Monument:** (HR 1545, S 849). This bill would protect a site where mammoth remains have been uncovered near Waco, Texas. The House approved HR 1545 from Rep. Bill Flores (R-Texas) as part of a comprehensive jobs bill (HR 2578) on June 20. The Senate Energy Committee held a hearing on S 849 May 11, 2011. Sen. John Cornyn (R-Texas) introduced the Senate bill.

**Heritage areas:** The Senate Energy Committee is showing interest in a score of individual bills that would designate national heritage areas (NHAs). In addition Rep. Charlie Dent (R-Pa.) and 43 cosponsors introduced a national heritage areas bill (HR 4099) February 28 that would establish a system of NHAs and standards for the NHAs.

**FLTFA:** The Senate Energy Committee Sept. 6, 2011, approved a Senate bill (S 714) introduced by committee chairman Jeff Bingaman (D-N.M.) 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 make 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 on a House bill (HR 3365) introduced by Rep. Cynthia Lummis (R-Wyo.)

**\* HUNTING:** The House approved this bill (HR 4089) April 17 that would declare federal public lands open to hunting and fishing unless specifically closed. The vote was a strong 274-to-146. The Senate took up a related wildlife bill this week (*see separate article page 6.*)

More controversial are amendments the House added to HR 4089 that would declare hunting and fishing as "necessary" for the management of wilderness and potential wilderness areas and thus shield consumptive activities in those areas from environmentalist lawsuits; open national monuments to recreational shooting; 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 designated by a President.

**Wetlands a separate issue:** Private property advocates are also alerting their allies to support legislation (S 2245, HR 4965) that would block Obama administration guidance that would determine when Section 404 wetland damage permits are required.

"Do You Want The EPA and Corps Of Engineers In Your Backyard?," ALRA told its members in the same alert that criticized omnibus land legislation. "Do you want EPA & Corps Wetlands jurisdiction over all forest roads, Federal lands and adjacent private and State lands?"

## **Court working on lawsuits that could limit BLM ORV use**

Off-road vehicle (ORV) users fear two environmentalist lawsuits now active in federal court could lead to closure to them of Bureau of Land Management (BLM) lands across the country.

In the lawsuits 11 environmental groups charge that BLM in six areawide

plans in Utah did not adequately consider the impacts of ORV use on the environment and cultural resources.

Led by the Southern Utah Wilderness Alliance, the environmentalists contend that travel management plans that are part of regional management plans illegally opened thousands of miles of roads and trails to ORVs.

Citing the BLM organic law called the Federal Land Policy and Management Act (FLPMA) and 1979 ORV regulations, the environmentalists said in the lawsuits that BLM must shut down lands that harm the environment and natural resources.

"Where ORVs are causing or will cause negative impacts to soil, vegetation, wildlife, wildlife habitat, cultural resources, wilderness suitability, or threatened and endangered species, BLM must close the areas to ORVs," they say in one of the lawsuits filed way back on Feb. 3, 2009.

The litigation had been hung up in part because a U.S. District Court judge in Washington, D.C., and a U.S. District Court judge in Utah had before them separate lawsuits with similar complaints. In June the courts consolidated the suits before Judge Dale A. Kimball in U.S. District Court in Utah.

Now Kimball has established a briefing schedule for this winter and next spring that could lead to a decision next year.

OHV representatives, such as the BlueRibbon Coalition, say that instead of filing lawsuits the environmentalists should have applauded the resource management plans (RMPs) that BLM completed in 2008 because they closed so many trails. "After all, those plans closed nearly half of the existing roads and trails and imposed severe restrictions on all recreational uses, including camping, mountain biking and group rides," said the coalition in an alert to its members.

If the court upholds the

plaintiffs, BlueRibbon says the results could be devastating nationally. "If successful, the precedent could result in massive closures across BLM managed lands nationwide," said the coalition, which has intervened in the lawsuits.

The Bush administration wrote the six regional management plans (RMPs) in the 2000s primarily to open millions of acres of southern Utah to oil and gas development. BLM also included in each of the plans - Richfield, Moab, Price, Vernal, Monticello and Kanab - travel management plans.

To simplify the court proceedings, Kimball and the parties have agreed to consider just the Richfield RMP, for now.

In the lawsuit addressing the Moab, Price and Vernal RMPs the environmentalists complain that 11,500 miles of OHV roads and trails "will have devastating impacts on these pristine lands as well as air quality, cultural resources, wildlife, and other resources." The plaintiffs, including the National Parks Conservation Association, say the three RMPs affect lands "adjacent" to Arches National Park, Canyonlands National Park and Dinosaur National Monument.

The lawsuit alleges: "BLM adopted the Moab, Price, and Vernal travel plans without fully considering or disclosing impacts to public lands resources. BLM also failed to determine whether the route designations minimized those impacts. As a result, BLM designated ORV routes and travel areas that do not minimize impacts to cultural resources, riparian areas, wildlife habitat, wilderness character, and other resources. BLM also failed to close routes to ORV use that cause unnecessarily damage to these resources."

The suit concludes, "BLM's failure to adequately consider the impacts of the travel plans on cultural resources, riparian areas, wildlife habitat, wilderness character, and other public resources, failure to minimize those impacts, and failure to close routes that unnecessarily damage those resources violates FLPMA and

its ORV regulations and is arbitrary, capricious, or otherwise not in accordance with law in violation of the (Administrative Procedures Act.)"

## **Senate works on hunting bill with FLTFA, more provisions**

The Senate this week began to address an omnibus wildlife bill with major implications for recreation on federal lands.

With 30 hours of debate scheduled and dozens of amendments to address the Senate probably won't vote on final passage until next week.

In addition to any new amendments the omnibus bill (S 3525) includes 19 separate bills, including one that would allocate at least 1.5 percent of federal Land and Water Conservation Fund (LWCF) money to provide access to federal lands for hunting and fishing.

A more controversial provision would insure that fishermen and non-waterfowl hunters could continue to use lead tackle and ammunition by forbidding EPA from issuing regulations.

Another provision would extend and expand a federal land sale law called the Federal Land Transaction Facilitation Act (FLTFA). That program, which expired in 2011, authorized the sale of excess Bureau of Land Management (BLM) and Forest Service lands and used the proceeds to acquire conservation lands.

Even more controversially, S 3525 provides a vehicle for Arizona senators to amend to authorize a land exchange that would open the way for a major copper mining operation run by Resolution Copper Co. The exchange would add land to national forest recreation areas. However, the Senate September 19 refused to add the Resolution Copper amendment to S 3525.

Bill sponsor Sen. Jon Tester (D-Mont.) summarized the content of the measure this week on the Senate floor, saying, "These bills increase access for recreational hunting and fishing. They

support land and species conservation, and they protect our hunting and fishing rights."

He also described why he included the provision allocating 1.5 percent of LWCF money to federal land access. "What good does it do to protect land for hunting, fishing, and hiking if folks are unable to get to it?" he asked rhetorically. "Right now there are some 35 million acres of public land that sportsmen can't access. That is why this bill requires 1.5 percent of annual funding from the Land and Water Conservation Fund that is set aside to increase public access to public lands, ensuring sportsmen access to some of the best places to hunt and fish in the country."

There are critics, at least of the lead ammunition provision. Bill Snape, senior counsel at the Center for Biological Diversity, said, "This would be a huge step backward in getting toxic lead out of the environment and allows needless wildlife poisonings to continue even though they can be prevented with little impact on America's hunters and anglers. Hunters have higher lead levels in their bloodstream than non-hunters. It's positively un-American to knowingly expose people to toxic lead. There's a reason we banned lead from gasoline and paint."

Senate Majority Leader Harry Reid (D-Nev.) had hoped to hold a final vote on the broad wildlife bill in September before the Senate adjourned/recessed for the November 6 elections. But he was only able to secure a vote to end a filibuster against the bill and to schedule the formal vote for November 13. The filibuster vote was 84-to-7. Reid scheduled the vote as a favor to Tester who was in a tight reelection battle with Rep. Denny Rehberg (R-Mont.) Tester won the contest and Rehberg was replaced in the House by Steve Daines.

Conservationists praised the initiative. "The Sportsmen's Act of 2012 represents a balanced and cost-effective approach to addressing both conservation and sportsmen's issues," said Bob Bendick, director of government relations for The Nature Conservancy.

Here are some of the provisions in the bill and two possible amendments:

**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 as a stand-alone bill (S 901).

**Lead sporting equipment provision:** Tester would bar the EPA from issuing regulations that would forbid the use of lead for fishing tackle and ammunition for hunting non-waterfowl species. Lead shot is already barred nationwide for use in hunting waterfowl.

The provision may not have much impact because EPA already rejected in March an environmentalist petition to ban lead shot for fishing tackle and ammo for hunting non-waterfowl species. EPA said it does not have authority under the Toxic Substances Control Act to regulate lead gear.

**FLTFA provision:** 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 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.)

**Major hunting amendment:** Not in the bill, but Sen. Lisa Murkowski (R-Alaska) has proposed this amendment to S 3525. Its most important provision would open BLM and Forest Service lands to hunting and fishing unless the lands were specifically closed to those uses. The amendment would exempt in general national parks and wildlife refuges. No vote has been held yet on the Murkowski amendment.

**Resolution Copper amendment:** Not in the bill but Sen. Jon Kyl (R-Ariz.) and Sen. John McCain (R-Ariz.) may try once again to add an amendment to approve the mining land exchange. Under the amendment the federal government would receive recreation lands from the company that would be added to the Las Cienegas and San Pedro National Conservation Areas in the Tonto and Coconino National Forests.

This sticking point remains: When the Senate Energy Committee approved a Resolution Copper bill in the last Congress introduced by Kyl, the measure specified that environmental documentation (presumably an EIS) would be required prior to an exchange. However, Arizona Republicans now insist that an EIS not be prepared until after Resolution Copper completes a mining plan of operation. The Obama administration generally supports the exchange, except for the Republican environmental review provision.

## **Sequestration looms; Congress and Obama may address**

President Obama and Congressional leaders were scheduled to meet today (November 16) on one huge piece of unfinished business from the 112<sup>th</sup> Congress - a budget sequestration.

If allowed to go into effect, the sequestration would impose 8.2 percent spending cuts on all federal programs on January 3.

Obama and Congressional leaders said last week they will work over the next month to try to avoid a government-



wide sequestration before the 113<sup>th</sup> Congress begins in January.

Even if Congress and the administration fail to assemble a package of fees, taxes and budget cuts to head off the sequestration and punt the whole mess into next year, at some point mammoth economic decisions must be made. And deferring fiscal 2013 cuts to fiscal 2014 is risky business because another round of \$100 billion in reductions is due then.

Although most political and financial experts predict dire consequences from a sequestration if Congress fails to act, a recent analysis in the *Washington Post* says the Obama administration has administrative authority to delay much of the impact in fiscal year 2013, which ends Sept. 30, 2013.

The administration may defer much of the \$93 billion in cuts until fiscal 2014, leaving *only* \$45 billion to be chopped out of fiscal 2013 spending, according to the paper.

In addition the administration has the authority to defer much of that \$45 billion decrease until late in the fiscal year by such things as postponing construction projects. (*See following article on interest group sequestration recommendations.*)

At any rate as we have reported Republicans and Democrats on the Senate Budget Committee have at least been discussing legislation to head off the sequester. Chairman Kent Conrad (D-N.D.) and Sen. Lamar Alexander (R-Tenn.) are reportedly following the lead of a Simpson-Bowles report of December 2010 that called for a package of budget freezes and tax reform.

However, the Simpson-Bowles recommendations by themselves were rejected by the House March 28 by a huge 382-to-38 margin. So a group of eight senators led by Conrad and Alexander has attempted to come up with a set of graduated, downstream deadlines for Congress and Obama to deploy to phase in taxes and budget cuts.

The Simpson-Bowles committee, chaired by former Sen. Alan Simpson (R-Wyo.) and former Clinton Administration Chief of Staff Erskine Bowles, completed a major report in December 2010 that recommended flat budgets for the next decade combined with some tax increases. That includes a big gas tax hike that could provide money for transportation-related recreation programs such as transportation enhancements.

The sequester was kicked off on Aug. 2, 2011, when Congress and the Obama administration struck a grand budget agreement (PL 112-25). It first established a Congressional budget super committee that was supposed to put together long-term recommendations by Nov. 23, 2011.

But the Congressional committee with six House members and six senators failed to agree. The committee was cochaired by Sen. Patty Murray (D-Wash.) and Rep. Jeb Hensarling (R-Texas).

Once the Congressional committee failed under PL 112-25, the law requires the Jan. 2, 2013, sequestrations. Those sequestrations call for a reduction of \$1.2 trillion in spending over nine years, beginning with \$100 billion in indiscriminate cuts in fiscal 2013.

The Obama administration has offered mixed signals on the sequestration. Some reports say the President would play hardball. That is, he reportedly would veto any deal that did not include a tax increase on the wealthy. But other reports say the President has said sequester "will not happen."

**Appropriations:** Congress has already approved a six-month appropriations bill for fiscal 2013 (PL 112-175 of September 28) in the form of a continuing resolution (CR). Federal agencies are still trying to figure out how to spend the money.

If the sequester went into effect, however, most programs would be reduced by 8.2 percent from the CR levels. The administration has not said when those reductions would be applied.

## Sequestration threat rouses pro-outdoor activists

Park and rec advocates are warning Congress and the Obama administration that sharp budget cuts to park and recreation programs from the looming budget sequestration would be counterproductive.

The human-powered recreation industry made that point to Congressional leaders November 12. "Sequestration has dire implications for our national outdoor recreation system and threatens a \$646 billion recreation economy," said Frank Hugelmeyer, president and CEO of the Outdoor Industry Association. "Indiscriminate cuts to the protection and management of our parks, forests, rivers and trails threaten the outdoor experiences that feed an economic sector responsible for 6.1 million American jobs."

The National Parks Conservation Association (NPCA) seconded the motion. "We call on the President and Congress to find a balanced approach that doesn't mindlessly cut national parks, which generate more than \$30 billion in economic activity each year," said Craig D. Obey, senior vice president of NPCA.

Obey forecast this damage: "If Congress fails to find a solution by January, more than \$200 million dollars could be cut from the National Park Service budget, which would likely close visitor centers and campgrounds, and could put as many as 9,000 rangers and other park employees out of a job. These cuts could close as many as 150 park sites across the country."

In still more input to Congress some 300 conservationists, businesses and labor unions wrote Congress and the administration November 14 to make sure that waterways are protected.

"As we look to the future, providing programs and funding to reconnect rivers with paddlers, habitat, and jobs is critical for the health and well being of local economies," said Mark Singleton, American Whitewater Executive Director. "This investment

creates a triple bottom-line; it's good for healthy active outdoor recreation, good for habitat restoration, and a good strategy for economic development in rural communities."

Hugelmeyer, Obey and Singleton are all concerned of course about the impacts of the impending budget sequestration that is scheduled to go into effect January 3. If not stopped, the sequestration could impose 8.2 percent budget cuts across-the-board on January 3. (See previous article on the sequestration.)

The sequestration was kicked off on Aug. 2, 2011, when Congress and the Obama administration struck a grand budget agreement (PL 112-25). It first established a Congressional budget super committee that was supposed to put together long-term recommendations by Nov. 23, 2011.

But the Congressional committee with six House members and six senators failed to agree. The committee was cochaired by Sen. Patty Murray (D-Wash.) and Rep. Jeb Hensarling (R-Texas).

Once the Congressional committee failed under PL 112-25, the law requires the Jan. 2, 2013, sequestrations. Those sequestrations call for a reduction of \$1.2 trillion in spending over nine years, beginning with \$100 billion in indiscriminate cuts in fiscal 2013.

The Office of Management and Budget (OMB) in September projected exactly what the January 2 sequestration would do to individual programs. For most it would cause an 8.2 percent cut in fiscal 2013.

For instance, OMB said that if sequestration happens, 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 be reduced by \$26 million.

OMB issued its 394-page estimate of the impacts of the budget sequestration September 14. The report is available at: [http://www.whitehouse.gov/omb/legislative\\_reports](http://www.whitehouse.gov/omb/legislative_reports).

The Outdoor Industry Association, the Outdoor Alliance and member companies made their point in a letter to House and Senate leaders.

It said, "Outdoor recreation and the outdoor industry are a core economic sector in America, driven by innovation and technology. Sustainable, American jobs exist across the value chain—suppliers, manufacturers, retailers, sales representatives. Moreover, outdoor recreation is an industry that America dominates worldwide."

**Errata:** In an election bulletin we published Monday we referred to Obey as David Obey. David Obey is Craig's father and was a long-time Democratic Congressman from Wisconsin.

## **Arizona voters say no to state ownership of fed lands**

Voters in Arizona rejected by a two-to-one margin November 6 a ballot initiative that would have authorized the state to assert control over more than 27 million acres of federal land within the state. The vote was a decisive 1,024,771 against to 487,719 for.

If the initiative had been approved, Proposition 120 would have allowed the state to attempt to obtain more than 3.3 million acres of national parks, including Grand Canyon National Park; 4.5 million acres of wilderness areas; and 1.7 million acres of wildlife refuges.

That's in addition to 11.8 million acres in six national forests and 12.1 million acres of Bureau of Land Management land.

Even if Proposition 120 had succeeded, supporters and critics alike acknowledged that (1) Congress would have had to approve the transfer and (2) a lawsuit to block the transfer would have stood a good chance in court. A lawsuit would probably contend that Proposition 120 would violate the Supremacy Clause of the U.S. Constitution.

But proposition sponsor Chester Crandell (R), an Arizona House member, said the state should at least attempt to take control of the federal lands. "As Arizona's population continues to grow, it is imperative that the state be allowed to manage its own land and benefit from the wealth of its resources," he said. "The continued vitality of our state will depend heavily on our ability to exercise our authority over the natural wealth currently being denied us."

Environmentalists led the opposition. Said the Arizona Wilderness Coalition: "Proposition 120 destroys Arizona's iconic public lands heritage. The Legislature not only wants to grab 'exclusive authority' over all parks, forests and public lands - including Grand Canyon and Saguaro National Parks, Superstition Wilderness Area, and millions of acres that Arizonans cherish and enjoy - it has indicated that once it has them, it will sell them off to private interests. Our public lands are Arizona's heritage."

Proposition 120 is essentially the same proposal as a bill that Gov. Jan Brewer (R) vetoed earlier this year. She said at the time the state didn't have enough money to manage the federal lands.

Here is the key provision of the proposition:

"C. THE STATE OF ARIZONA DECLARES ITS SOVEREIGN AND EXCLUSIVE AUTHORITY AND JURISDICTION OVER THE AIR, WATER, PUBLIC LANDS, MINERALS, WILDLIFE AND OTHER NATURAL RESOURCES WITHIN ITS BOUNDARIES EXCEPT FOR:

"1. TERRITORY ESTABLISHED AS INDIAN RESERVATIONS BY THE GOVERNMENT OF THE UNITED STATES."

The Arizona proposition follows the lead of the State of Utah. There Gov. Gary Herbert (R) signed legislation March 23 that requires the federal government to turn all public lands in Utah over to the state.

Utahans counter the Supremacy Clause argument by citing a Supreme

Court decision that held that Congress may not modify the conditions of a state's admission to the Union. And that, they say, implies that a state may claim federal property.

But the Utah Office of Legislative Research and General Counsel disagreed with that and offered this analysis of the law, "Under the Gibson case, that requirement would interfere with Congress' power to dispose of public lands. Thus, that requirement, and any attempt by Utah in the future to enforce the requirement, have a high probability of being declared unconstitutional."

Several steps are yet to be taken under the Utah law. The bill established a Constitutional Defense Council and directed it to write legislation to administer the transfer of federal lands. In addition the law called for the transfer of all federal lands enumerated in HB 148 to Utah by Dec. 31, 2014.

The Utah law is one piece in a broader campaign by Herbert to gain control of federal lands in his state. On Dec. 14, 2011, the state launched an initiative to gain the right to manage thousands of ways across federal lands. The state has already filed lawsuits to obtain almost 4,000 rights-of-way in 15 counties. Eventually, Utah intends to file suits in 22 counties.

### **New WRDA bill on table in Senate with few new projects**

The Senate Environment and Public Works Committee (EPW) began work this week on new water resources legislation that, as yet, would not authorize new Everglades restoration projects.

Instead, the draft bill prepared by committee chair Barbara Boxer (D-Calif.) and ranking Republican James Inhofe (Okla.) concentrates on policy reforms that would cost little. The restoration of the Everglades would of course cost more than \$10 billion.

Boxer and Inhofe published their draft bill just before holding a hearing on it yesterday (November 15.)

The draft bill would authorize 18 new projects, mostly in the middle of the country. The draft does make room for new projects in an unfinished line item called "Project Modification (To be supplied.)" However, it says the projects would not cost any more money. And the Everglades restoration would be expensive.

Boxer and Inhofe said just before Congress adjourned/recessed in September they are going to try to write a Water Resources Development Act (WRDA) by the end of the year.

But at the November 15 hearing Inhofe suggested the next Congress will have to finish the job. "With the valuable information gained from this hearing, I expect that the Committee's work on this bill will continue into next year," he said.

Boxer as much as said the draft bill needs more work. "I believe this draft bill is a good start toward addressing the nation's water infrastructure needs," she said. "Working together with members of this Committee, I'm hopeful we can repeat our recent success on (a transportation bill)."

The major national policy thrust in the Everglades has been a multi-billion-dollar Comprehensive Everglades Restoration Project (CERP). Congress authorized CERP in 2000 in a previous WRDA law.

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. However, Congress must still authorize and appropriate money for the individual CERP projects and the draft Senate committee bill does not include any.

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 has promised to spend \$189

million to restore land by acquiring wetlands. The department intends to use Wetlands Reserve Program money to acquire the 50,000 acres.

In a related action the Fish and Wildlife Service January 18 formally designated a new wildlife refuge in central Florida to help protect Everglades National Park. When the refuge is fleshed out it will total 150,000 acres.

The refuge is to be made up of 100,000 acres of easements and 50,000 acres of acquired land. It will 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.

## Notes

### **Glen Canyon water release set.**

With conditions ripe, the Interior Department has scheduled to begin November 19 a five-day release of water from Glen Canyon Dam down the Colorado River. Grand Canyon National Park should benefit in the form of restored recreation sites such as beaches and improved habitat. Five department agencies led by the Bureau of Reclamation will release as much as 42,300 cubic-feet-per-second of water down the river. The release is part of a two-headed experimental protocol the department published May 23 that calls for the water release from Glen Canyon as well as steps to control non-native fish in the river. The Bureau of Reclamation conducted the last high-flow release in 2008. The releases can be controversial because Glen Canyon Dam provides electricity for millions of people and the releases will divert water from that purpose.

### **Colorado Monument planning begun.**

The Park Service said November 9 it will prepare a visitor activity plan for Colorado National Monument. The monument attracted national headlines this summer when the Park Service denied a request for a permit to run

a leg of an international bicycle race, the Coors Classic, through the monument. In the 1980s NPS did allow a portion of a predecessor race to traverse the monument. In a press release the Park Service said it would prepare an environmental assessment on monument uses that will consider management alternatives for "requests for special use permits for events, such as those requesting partial or full road closures along Rim Rock Drive, as well as requests from businesses seeking to provide commercial services in the park, such as guided rock climbing or bus tours." The 21,000-acre monument was established on May 24, 1911. The bicycle race, the USA Pro Cycling Challenge, is a major, nationally-televised event that is held over seven days in different locations across the State of Colorado, attracting some of the world's leading riders. The 2012 Challenge ran August 20 to August 26.

### **Court says no to genetic crops.** A

federal judge early this month halted the planting of genetically-engineered crops on national wildlife refuges in the Southeast, the latest in a series of court orders halting the practice in refuges. U.S. District Court Judge James E. Boasberg in the District of Columbia ordered FWS to do additional environmental reviews and to remove all genetically-engineered plants in Southeast refuges. The plaintiffs in the case, including the Center for Food Safety, oppose the growing of genetically-engineered plants in refuges, period. "Engineered crops have no place on our nations' wildlife refuges. As a Court has again confirmed, FWS cannot ignore their devastating impacts on lands preserved to protect wildlife," said Center for Food Safety staff attorney Paige Tomaselli. In March 2009 a judge banned genetically-engineered plants in Prime Hook National Wildlife Refuge in Delaware and in 2011 opponents reached an agreement with the Fish and Wildlife Service banning the practice in the Northeast.

**Fire season was a monster.** With the fire season about over the National Interagency Fire Center is confirming what the public already knew - 2012 was a bad, if not a record bad, year. More

than 9 million acres burned, although in 2006 and 2007 even more acres burned. The total number of fires was the smallest in the last decade (just over 52,000 compared to an average of just over 66,000 acres), but many fires were particularly severe. In addition to the human costs the increase in devastating fires is taking a toll on the federal budget. Congress may spend a stunning \$3.5 billion-plus for fire fighting during this fiscal year, counting emergency money it just put into a half-year spending bill. While \$423 million of that \$3.5 billion is actually payback for fire-fighting expenditures in fiscal 2012, Congress nevertheless will be making huge allocations, all within the 12 months of fiscal 2013. For the Forest Service alone fire-fighting costs will almost certainly exceed \$2.7 billion, or \$1 billion more than Congress will put out for the National Forest System.

## Boxscore of Legislation

### **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. President Obama signed the six-month bill into law September 28 as PL 112-75. The House Appropriation Committee approved 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. 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. 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. 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.