

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 30 Number 23, November 30, 2012

In this issue. . .

**Big wildlife bill dealt setback.**

*GOP senators stop bill, complain it lacks budget offsets. Boxer criticizes lead provision... Page 1*

**Voters favor land initiatives.**

*Approve 81 percent, but ballots presented far fewer than in 2008. Recession cited as reason... Page 3*

**BP sets aside \$2.4B for wildlife.**

*NWFW will receive all the money. Likely more than LWCF gets.. Page 4*

**NPS working on Sandy estimates.**

*No timeframe for final cost assessment. Housing first... Page 5*

**Canyonlands monument hits nerve.**

*OIA recommendations fires up both critics and supporters..... Page 6*

**DoI: No to Reyes oyster farm.**

*Salazar says land will be made wild. Critics fault NPS.... Page 8*

**Approps cuts get second billing.**

*Thus far in budget cliff debate. Taxes, entitlements focus... Page 9*

**FS: We should keep St. Helens.**

*Forest report says it is doing the job. Others want park.. Page 11*

**Farm bill still in limbo in House.**

*As land trust advocates push for major easements program..... Page 11*

**Y-stone asks more tower comments.**

*But doesn't yield to critics who say project foreordained.... Page 13*

**Notes..... Page 14**

**Conference calendar..... Page 16**

## Senators block wildlife bill with FLTFA, LWCF provisions

Joined by Sen. Barbara Boxer (D-Calif.), Republican senators November 26 blocked an omnibus wildlife bill (S 3525) with major implications for recreation on federal lands.

The Republicans, led by Sen. Jeff Sessions (R-Ala.), objected to a lack of budget offsets. Sessions demanded a vote on a budget point of order and won by a 50-to-44 vote (60 votes were needed to move the bill to an up-or-down floor test).

"Under the bill, it would authorize \$142 million in new direct spending over the next 10 years," he said. "Some may say that is not a lot, but if that is so, they have been in Washington too long. Mr. President, \$142 million is a lot of money, and it is a very important principle because this is not the first time we violated the Budget Control Act." That act requires any new spending to be offset by reduced spending elsewhere.

Sessions and the Republicans generally praised the substance of the bill and raised the possibility the Senate would still pass it. "I believe we can work this out," said Sessions, ranking Republican on the Senate Budget Committee. "If my colleagues will adhere to the limits of spending that we agreed to 15 months ago by supporting this budget point of order, this popular bill, with a lot of good values in it, will be quickly fixed and passed—there is just no other way to see it – and in the future, committees and Sen. Reid perhaps, will stop sending budget busters to the floor of the Senate." Reid is Senate Majority Leader Harry Reid (D-Nev.)

Boxer, chair of the Senate

Environment and Public Works Committee, does have substantive problems with the measure, particularly a provision that would prevent EPA from limiting the use of lead in ammunition and fishing tackle. "The federal government must be able to use all of the tools at its disposal to protect American families from consuming contaminated food," she said. "Therefore, we should not create unneeded exemptions that apply to lead and an unknown number of other contaminants."

The omnibus bill includes 19 individual 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.

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.

Time matters. If the Senate does pass S 3525, it would go to the House with just two weeks left before this Congress is scheduled to end. And the two sides are far apart.

The House approved a quite different package of sportsmen's legislation (HR 4089) April 17 that would declare all public lands open to hunting and fishing, unless specifically closed. That measure includes a number of other provisions that the Senate is sure to reject, such as limitations on national monument designation.

The chief sponsor of the Senate bill, Sen. Jon Tester (D-Mont.), said of his bill on the Senate floor, "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."

Boxer is receiving wide support for her criticism of the lead provision from environmental groups. 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."

The center joined with more than 200 citizen groups to support a Boxer amendment (that Senate leaders didn't allow to go to the floor) to eliminate the lead provision.

Conservationists, but not environmentalists, 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.

Reid 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 set up the formal debate in November.

Reid scheduled Senate action on S 3525 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 (R-Mont.)

Here are some of the provisions in the bill and a possible amendment:

**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.

## Voters give conservation initiatives a big boost

Conservationists saw the glass half full after voters approved 81 percent of land and water ballot measures in the November 7 elections.

That is, voters across the country approved 53 of 68 such measures for a total of \$2.3 billion.

However, ballots presented voters with almost half as many initiatives as in the 2008 Presidential election year, 68 to 128, and almost three times fewer than in 2004, 68 to 215.

And in dollar terms the disparity was even greater with \$2.3 billion approved November 7, compared to five times as much in 2008, or \$11.1 billion. In 2004 voters approved 13 times as much money, or \$26 billion.

One explanation for the decline of course is the recession. "The short answer is that states and communities have not fully recovered from the recession that began in 2008," said Will Abberder, director of conservation finance for the Trust for Public Land. "But we're seeing a move back up, although it is not up to pre-recession levels."

Abberder doesn't subscribe to the theory that the low-hanging fruit has already been picked, thus reducing the need for future conservation initiatives. "There are a lot of opportunities for major conservation initiatives," he said. "And, a lot of places that you call low-hanging fruit,

will be coming back for renewal."

The Trust for Public Lands assembled the data. It's available at <https://www.quickbase.com/db/bbqna2qct?a=dbpage&pageID=10>.

Trust President Will Rogers said voters across the political spectrum endorsed the ballot initiatives. "Alabama voters gave their state to Mitt Romney at the same time they overwhelmingly renewed a statewide land conservation program, while Rhode Island voted for President Obama at the same time a statewide bond for open space was approved," he said.

"This shows that while we may hold differing views about political offices, one thing which unites us all is the desire to build parks and protect land and water in our communities," said Rogers.

The trust analysis split the revenues from the initiatives into two categories - overall spending and spending targeted at protecting water quality, new parks, natural areas, and farms and ranchers. The voters approved \$2.3 billion over all, of which \$767 million will be used for protection.

In one of the larger initiatives 75 percent of Alabama voters approved a 20-year renewal of a Forever Wild conservation program at \$300 million.

In other initiatives San Francisco approved \$195 million for a city park bond, with 72 percent approval. And in El Paso, Texas, voters approved a \$245 million "quality-of-life" bond that contains money to acquire land and improve parks and recreation.

For the most part the defeated initiatives were small. Among them was a 1.5 percent property tax surcharge in the city of Milton, Mass. The tax, defeated by a 44-to-56 vote, would have provided \$15 million overall and \$5 million for conservation.

With a smaller base it wasn't surprising that voters approved 81 percent of initiatives, compared to 71 percent in 2008 and 75 percent in 2004.

## **Fed wildlife group to get \$2.4B from BP Gulf oil spill**

BP Exploration & Production, Inc. will pay the National Fish and Wildlife Foundation (NFWF) \$2.39 billion over the next five years to help Gulf of Mexico states recover from the Deepwater Horizon oil spill.

Half the money is to be spent in Louisiana and half in four other Gulf states combined - Alabama, Florida, Mississippi and Texas.

Some of the \$2.39 billion is to be allocated to land acquisition, raising the possibility (probability?) annual payments to NFWF will exceed annual appropriations for federal land acquisition for all agencies from the Land and Water Conservation Fund (LWCF). The fiscal year 2012 appropriation for federal land acquisition was \$186.7 million.

The BP payment should greatly increase NFWF's workload. In fiscal year 2011 Congress appropriated from all sources about \$46 million to the foundation. NFWF then packaged that with donations and other revenues for a total annual "conservation investment" of \$130 million.

The settlement gives the foundation substantial leeway in spending the money. For instance, it says of the Louisiana half: "To remedy harm and eliminate or reduce the risk of future harm to the State of Louisiana and its natural resources, NFWF will use approximately half of the payments to create or restore barrier islands off the coast of Louisiana and/or to implement river diversion projects on the Mississippi and/or Atchafalaya Rivers for the purpose of creating, preserving and restoring coastal habitat, in order to remedy harm to resources where there has been injury to, or destruction of, loss of; or loss of use of those resources resulting from the (Deepwater Horizon) oil spill." And that's about all the restrictions it dictates.

NFWF was established by Congress

and receives annual appropriations. The National Wildlife Federation, no relation, is a conservation group. It says the settlement is just a start on the Gulf cleanup.

"This is a good down payment on the massive restoration needed for the Gulf's ecosystems and the people and communities that depend on them," said Larry Schweiger, president of the federation. "There's still a lot of work to be done when it comes to penalizing the parties responsible for the Gulf oil disaster through the civil provisions of the Oil Pollution Act and the Clean Water Act, but this criminal settlement marks important progress and devotes much-needed resources toward restoration."

Bob Dudley, BP's Group Chief Executive, said, "From the outset, we stepped up by responding to the spill, paying legitimate claims and funding restoration efforts in the Gulf. We apologize for our role in the accident, and as today's resolution with the U.S. government further reflects, we have accepted responsibility for our actions."

The settlement says the half of the money for Alabama, Florida, Mississippi and Texas is to be used on "projects to remedy harm to resources where there has been injury to; or destruction of, loss of, or loss of use of those resources. . ." The settlement requires these distributions: Alabama, 28 percent; Florida, 28 percent; Mississippi, 28 percent; and Texas, 16 percent.

Jeff Trandahl, executive director and CEO of NFWF, described how the foundation would handle the money. "We will work collaboratively with government and private sector stakeholders to ensure these funds are spent effectively and transparently to achieve the best possible outcomes for the Gulf ecosystem, consistent with the terms of the settlement," he said. "To achieve this, we will rely heavily on our established, science-based strategy for identifying and selecting appropriate projects to receive funding, all aimed at ensuring a healthy future

for our country's richest marine ecosystem."

The agreement settles just one lawsuit brought by the Justice Department against BP for the damage caused by the April 10, 2010, explosion of the Deepwater Horizon oilrig and the subsequent oil spill. The \$4.5 billion settlement announced November 15 was signed by several Justice Department officials and BP counsels.

Critics of federal land acquisition programs attacked Attorney General Eric Holder. Said the American Land Rights Association, "In effect, Holder and Obama have created a private LWCF, (Land and Water Conservation Fund) with no oversight from Congress or anyone... a giant slush fund to do the bidding of the extreme environmental groups."

The association said the LWCF appropriations should be reduced concomitantly. "The Congress should reduce funding for the Land and Water Conservation Fund to make up for this backroom money grab," it said.

## **NPS works on Sandy damage estimates; some units closed**

The Park Service does not yet have a good estimate of the costs of restoring Atlantic Coast national parks in the wake of Hurricane Sandy.

And the agency said this week it has no timeframe for completing reports on the damage, although work has begun.

But NPS Information Officer Mike Litterst said employee housing will be first up. "As the primary concern of this incident management team is to assist affected National Park Service employees and their families with critical needs, the analysis of employee housing will be the first assessment reports completed," he said.

Litterst, who is assigned to the NPS Incident Management Team, said the agency was taking this approach to estimating damages: "National Park Service assessment teams have completed

their initial inspections of the 15 affected parks in the New York/New Jersey metropolitan area, acquiring the data they will need to analyze the full impact of Hurricane Sandy. The information obtained will be used to determine the full extent of the damage, the costs to repair it, and how long it is likely to take to complete."

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

However, the agency is posting daily announcements of units that have reopened in the northern mid-Atlantic and units that are partially open such as Gateway National Recreation Area and Fire Island National Seashore.

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

Congress will almost certainly prepare an emergency supplemental appropriations bill based on an Obama administration request for restoration assistance. However, conservative Republicans will just as certainly demand spending offsets from reductions to other programs, particularly given that most hard-hit areas are represented by Democrats.

The price tag will be immense. New York Gov. Andrew Cuomo (D) is already talking of a \$33 billion restoration request to the federal government. Whether damaged national parks and national wildlife refuges can catch a ride on an emergency supplemental remains to be seen.

While impacts to the national parks as usual received the most public

attention, national wildlife refuges in New York, New Jersey, Delaware and Virginia also were hit hard, FWS said.

The Park Service is beginning to reduce the size of its incident management team. From a high of 546 people NPS at press time had reduced that by about 100 to 457.

The Park Service said late this week that the following sites were open: African Burial Ground National Monument, Federal Hall National Memorial, General Grant National Memorial, Hamilton Grange National Historic Site, St. Paul's Church National Historic Site, Theodore Roosevelt Birthplace National Historic Site, Sagamore Hill National Historic Site, Morristown National Historic Park (including New Jersey Brigade, Cross Estate, Fort Nonsense, Washington Headquarters Museum and Ford Mansion), Thomas Edison National Historical Park, Hamilton Beach and Frank Charles Park, Great Kills Park and Jamaica Bay Wildlife Refuge.

## **All sides take a shot at Canyonlands monument proposal**

Where there's smoke there's fire. And a lot of smoke broke out last week when the human-powered recreation industry called on President Obama to designate a 1.4 million-acre Canyonlands National Monument in Utah.

The recreationists, led by the Outdoor Industry Association (OIA), said the monument should consist of Bureau of Land Management (BLM) lands adjacent to Canyonlands National Park. The Antiquities Act of 1906 authorizes a President to designate national monuments from federal lands without Congressional action.

"We are writing to encourage you to protect Greater Canyonlands - the magnificent 1.4 million-acre region of publicly-owned wildlands surrounding Canyonlands National Park in southern Utah - by proclaiming it a national monument," said the association and five pages of associations and companies such as Patagonia.

In addition to seeking to protect lands valuable to the industry, the writers gave these reasons for designating a monument under the Antiquities Act: "We also turn to you for action because unfortunately, Greater Canyonlands is endangered. Federal land use plans inappropriately open scenic and undeveloped land to drilling and mining and fail to address exploding off-road vehicle (ORV) use that is damaging riparian areas, cultural sites, soils and solitude."

OIA's assertion of an "exploding" number of ORVs in the area immediately drew a response from ORV user advocates. Said Brian Hawthorne, public lands policy director for the BlueRibbon Coalition, "First off, although accurate recreation data is difficult to come by, monitoring reports from BLM's Richfield, Price and Moab offices indicates the increase in OHV use leveled off during the mid-2000s."

He added, "But more importantly, BLM's new (2008) management plans closed approximately 50 percent of the existing roads and trails!"

The human-powered outdoor industry, which holds an annual marketing conference in Salt Lake City, also took a shot at Utah politicians. "Now, the state of Utah is demanding that the federal government turn over 30 million acres of federal land for potential development and/or privatization and is asserting the right to expand and pave 40,000 miles of dirt routes and trails that crisscross Utah's federally-owned wildlands," they wrote Obama. "Both actions would result in the despoiling of Greater Canyonlands."

A spokesperson for Utah Gov. Gary Herbert (R) said the state would object to a reprise of the 1996 designation of a 1.9 million-acre Grand Staircase-Escalante National Monument by President Clinton.

Said Ally Isom, deputy chief of staff and spokesperson for Herbert, in a statement provided to us, "No one has formally approached the Governor or his office about a proposed monument in Utah. We certainly hope we don't have another

Bill Clinton approach to creating a monument. Canyonlands (National Park) was established by statute and any expansion ought to be rightly created by statute involving all interested parties including Utah stakeholders."

Four Republicans from the Utah Congressional delegation wrote Obama to challenge the designation of a Canyonlands National Monument. "We are opposed to efforts to create national monuments within the state of Utah by presidential decree," they said. "Federal land-use decisions must be cultivated in a collaborative process that balances various stakeholder uses and priorities."

The four Utahans are Sens. Orrin Hatch and Mike Lee and Reps. Rob Bishop and Jason Chaffetz.

As the recreation industry suggested, Herbert is going in a different direction. He signed legislation March 23 that requires the federal government to turn all public lands in Utah over to the state.

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 Southern Utah Wilderness Alliance backs the OIA monument proposal and says the Utah government had it coming because of the March 23 state legislation. "But in truth, Utah politicians have invited this call for greater protection of Greater Canyonlands. Governor Herbert's radical attack on our public lands - including filing 22 lawsuits against the federal government and signing a law demanding that the federal government give him 30 million acres of public land - is a threat not just to the wildlands of Southern Utah, but to the workers and businesses that rely upon those wildlands as part of the recreation economy," said Scott Groene, executive director of the association in a

November 14 bulletin to the alliance's members.

Kathleen Sgamma, vice president of government and public affairs for the Western Energy Alliance, said Congress and the public should be involved in any monument decision. "Utah successfully designated wilderness in Washington County, and is currently exploring further local and state efforts to designate wilderness appropriately with consideration of local communities and other multiple uses of public lands," she said. "The OIA proposal is another case of a single special interest group trying to circumvent local communities, elected officials and Congress because they don't want to do the hard work required."

Like the BlueRibbon Coalition the powered recreation industry at large opposes monument status for fear that motored vehicles would be barred. "Unfortunately, motorized recreation is far too often shut out of National Monument areas," a coalition led by the Americans for Responsible Recreation Access wrote the President.

The powered rec groups also object to the human-powered rec groups' description of a \$646 billion recreation industry. "The same study shows that approximately \$257 billion or nearly 40 percent of the total \$646 billion in economic impact is derived from motorized recreation," said the motorized groups.

## **Salazar says no to Point Reyes oyster farm permit**

Caught in the middle, Secretary of Interior Ken Salazar November 29 rejected an application for a 10-year oyster farm permit in Point Reyes National Seashore.

In siding with his allies in the environmental community who oppose the oyster farm, he crossed Sen. Dianne Feinstein (D-Calif.), a powerful California politician who backs the permit.

Basing his decision on a final

Park Service EIS, Salazar said, "I've taken this matter very seriously. We've undertaken a robust public process to review the matter from all sides, and I have personally visited the park to meet with the company and members of the community."

At the same time in a different area Salazar said he supported the practice of ranching in the park. He directed NPS to work on extensions of existing agriculture permits for 10 to 20 years.

But the big fight was over the oyster farm that has operated in the seashore for 60 years. The permit is held by the Lunny family.

In a November 27 memo to the family obtained by *FPR*, environmental scientist Richard Steffel said NPS's noise analysis in a final EIS was inadequate. "The soundscape impact analysis remains fundamentally flawed," Steffel wrote. "It does not offer sufficiently coherent and correct information upon which to base informed decisions regarding noise impacts from the DBOC (Crakes Bay Oyster Company) facility. The FEIS appears to be based more on pursuing a specific, preconceived result than in factually considering noise generated by the DBOC operations and transmission of such noise to other locations."

Steffel said NPS erred in its estimates of the noise made by an oyster tumbler and by other farming equipment.

But the National Parks Conservation Association (NPCA) was ecstatic. "After waiting nearly 40 years, the public will finally have the opportunity to experience the true heartbeat of Drakes Estero - one that is uninterrupted by an intrusive oyster operation," said Neal Desai, associate Pacific region director for NPCA.

The existing permit held by the Drakes Bay Oyster Company now expires today, save for a last-second court injunction. Salazar directed NPS to work with the company to remove all property from the park within 90 days.

Salazar said his decision will effectively designate the 1,000 acres used by the oyster farm as wilderness. Said a department release, "In 1976, Congress identified Drakes Estero as potential wilderness - the only marine wilderness area on the west coast of the continental United States outside Alaska - and directed that it automatically become wilderness when the commercial operation ended."

Feinstein has been at war with the Park Service over the license for the last five years. She has charged NPS used biased science to justify removal of the oyster farm in order to turn the area over to wilderness, as environmentalists recommend.

Salazar emphasized the political sensitivity of the issue by traveling to Point Reyes last week and meeting alternatively with local politicians who support the farm and environmentalists who want it removed.

The great Point Reyes oyster controversy erupted most recently Sept. 26, 2011, when NPS completed the draft EIS on the permissibility of extending a 40 year-old special use permit to the Drakes Bay Oyster Company to take oysters from the seashore.

Although the draft EIS did not pick a preferred alternative, Feinstein criticized the Park Service for excluding evidence that she says proves the oyster farm is harmless. Feinstein and the permittee believe that the Park Service wants the area designated as wilderness, as Salazar indicated.

The Drakes Bay Oyster Company has operated an oyster farm and cannery within Point Reyes for more than 60 years, providing 30 jobs to the local economy.

The National Research Council criticized the draft Park Service EIS August 30 in an analysis it prepared at the request of the agency. Thomas Malone, chair of the committee that wrote the report, concluded, "There is little scientific literature on Drakes Estero, and research on the potential impacts that oyster farming has on this

particular ecosystem is even sparser. Trying to assess environmental impacts based on a limited amount of information would be similar, for example, to estimating rainfall for an entire year when rainfall records are only available for March."

Eight resource impacts were analyzed in the draft EIS. Said the National Research Council panel, "Of the eight resource categories, the committee judged that the projected impact levels for seven had moderate to high levels of uncertainty and, for many of those an equally reasonable alternate conclusion of a lower impact intensity could be reached based on the available data and information."

The National Research Council committee said it did not conduct an independent analysis of the impacts of the oyster farm, but simply analyzed the draft EIS.

In 2009 Feinstein, at the time chair of the Senate subcommittee on Interior Appropriations, inserted in a fiscal year 2010 appropriations law (PL 111-88 of Oct. 30, 2009) a rider giving NPS discretion to renew the existing permit for 10 years. While the provision is discretionary, Feinstein has made it clear the permit should be issued for another 10 years. And NPS is undoubtedly hesitant to anger the influential appropriator.

## **Sequestration debate slow to focus on appropriations cuts**

Political leaders on both sides of the fence have focused since the November 6 election primarily on the tax and entitlement aspects of an impending budget sequestration.

But conservation groups such as the Outdoor Industry Association, the National Parks Conservation Association (NPCA) and wildlife refuge advocates worry that the third leg of the stool - appropriations cuts - could be devastating. Those impacts include possible closure of parks and wildlife refuges.

Meanwhile, the White House this week said in a new report that tax increases triggered by the January 3 sequestration could do major harm to commerce in the country. That includes of course the powerful recreation industry that contributes \$646 billion per year to the economy.

Summed up the White House: "Faced with these tax hikes, the (Council of Economic Advisers) estimates that consumers could spend nearly \$200 billion less than they otherwise would have in 2013 just because of higher taxes. This reduction of \$200 billion is approximately four times the total amount that 226 million shoppers spent on Black Friday weekend last year. . . (T)his \$200 billion reduction would likely be spread across all areas of consumer spending."

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.

President Obama as well as House and Senate leaders from both parties have promised to work together to head off the sequestration, and met again this week. But opponents of tax increases and opponents of entitlement reform are demanding that the negotiators lower taxes and leave entitlements alone, raising the possibility (some would say probability) the whole budget problem will be deferred late into next year.

Meanwhile, conservationists worry. For instance, a wildlife coalition called the Cooperative Alliance for Refuge Enhancement (CARE) published a report just before Thanksgiving detailing the impact of up to \$100 million in possible budget cuts to the National Wildlife Refuge System.

Among other things CARE said, "The Refuge System would be forced to close an estimated 54 visitor centers and halt plans to open 11 more currently under construction. This would greatly limit the quality and quantity of visitor services, including hunting and fishing programs, environmental education and interpretive programs, and volunteer and community partnership programs. Visitor safety would also be compromised as law enforcement positions are eliminated."

Preparing the report were 21 varied groups including the National Wildlife Federation, the National Rifle Association and The Wilderness Society.

As we reported in the last issue of *FPR* the Outdoor Industry Association is raising alarms about the possible impact of sequestration on the recreation industry.

"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," he added.

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.

In a closely-related development the National Association of Conservation Districts November 27 urged negotiators to include a new Farm Bill in

legislation they develop to resolve the sequestration impasse. (See related article page 11.)

The White House report on the impact of hire taxes is available at: [http://www.whitehouse.gov/sites/default/files/uploads/consumer\\_report\\_embargo.pdf](http://www.whitehouse.gov/sites/default/files/uploads/consumer_report_embargo.pdf).

## **FS wants to keep Mount St. Helens out of NPS's hands**

The Gifford Pinchot National Forest recommended in a new report November 19 that the Forest Service retain management of Mount St. Helens National Monument.

Local businesses and environmentalists are beating the drums for Congress to transfer the monument to the National Park Service for management.

But the Forest Service in the report said it could do the job. "The U.S. Forest Service has demonstrated its ability to meet the unique and diverse needs of the Monument's Mission. It has made capital investments, which have improved and enhanced the Monuments recreational and educational facilities, opportunities, and activities while protecting and maintaining its significant features and preserving its natural recovery and processes," said the report. It's available at: [http://www.fs.usda.gov/Internet/FSE\\_DOCUMENTS/stelprdb5399681.pdf](http://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5399681.pdf).

Sean Smith, Northwest policy director for the National Parks Conservation Association, disagreed and said the site should be managed by the Park Service. He said a study conducted by University of Washington students said the Forest Service has not locked in stable funding for the monument.

Smith concluded, "While the Forest Service appears content to continue to continue its status quo management, we believe the National Park Service can and would do better for Mount St. Helens."

In 1980 a volcanic eruption blew

off the top of the mountain in the State of Washington.

No legislation has been introduced to change management of the 110,000-acre monument, although the advocates earlier this year wrote Rep. Jaime Herrera-Beutler (R-Wash.) and asked her to introduce a study bill.

Property rights groups have long opposed the idea for fear the Park Service would more tightly control property in and around the monument than the Forest Service does.

But supporters of the transfer say Congress would provide much more money for the operation of Mount St. Helens (perhaps quadrupling its budget) as a national park. One study two years ago estimated that just the designation of Mount St. Helens as a national park would produce at a minimum \$400,000 per year in tourist dollars.

The Forest Service in its report said it was doing a good job of following the July 2009 recommendations of a Mount St. Helens Citizen Advisory Committee.

"In the three years since the publishing of the recommendations, the Forest Service, the Regional Office, the Gifford Pinchot National Forest, and the Mount St. Helens National Volcanic Monument have made considerable progress building the foundational structure of the Strategic Investment Plan," the November 19 report said. "The result has been an increase of the scientific, recreational, and educational facilities, activities, and opportunities available for the local communities and the visiting public."

## **Farm bill is still in limbo; Senate easements backed**

With only days left in a lame-duck session, Congress has made little or no visible progress in moving a multi-year farm bill.

The House continues to be the problem where leaders don't have the votes to secure approval of a bill (HR

6083) the House Agriculture Committee approved July 12. The full Senate approved its multi-year bill (S 3240) June 21.

The House and Senate have a couple of options in the lame-duck: reach quick agreement and pass the legislation as a stand-alone measure, wrap the legislation into a budget sequestration bill or extend the existing law for six months or so. The shortest odds are on an extension.

The National Association of Conservation Districts (NACD) November 28 urged Congress to incorporate the farm bill in legislation to head off the impending January 3 budget sequestration legislation.

"The Farm Bill cuts costs while increasing efficiencies and best management tools to care for our natural resources," said NACD President Gene Schmidt. "Any deficit reduction deal should take a clear look at the 2012 Farm Bill as a responsible approach to managing our budget while also managing our most precious asset - our natural resources."

As for the legislation itself, the Senate-passed bill is far more generous than the House committee bill. The House panel would reduce farm spending by \$35 billion over the next 10 years, or \$12 billion more than the \$23 billion the Senate would cut. The Obama administration has endorsed the Senate bill.

The Senate generosity applies to conservation programs, including a Conservation Reserve Program and an Open Fields program.

Meanwhile, land trust advocates among others are beating the drums for an agricultural easement program. The Senate bill contains an ambitious provision that would provide \$1.34 billion over ten years for the acquisition of easements on private and tribal lands.

The House committee bill includes a comparable provision, but it would not allocate a set amount of money for the

program, forcing it to compete with one large pot of conservation spending.

Said the Land Trust Alliance in a position statement: "Securing adequate funding for easements to protect working farms, ranches and forests is the Alliance's top priority for the 20-12 Farm Bill. Applications from farmers and ranchers for (the program) have far exceeded the funding available."

The Congressional failure to pass either a long-term farm bill or a short-term extension of the last farm bill before adjourning/recessing for the November 6 elections is already having adverse impacts on conservation programs. In addition, although the huge, multi-million acre Conservation Reserve Program (CRP) is still around, the Department of Agriculture is not going to add acreage to it.

The department has told interest groups that a Wetlands Reserve Program, a Grasslands Reserve Program and a Chesapeake Bay Watershed Initiative have come to a halt.

Critics are piling on the House. Secretary of Agriculture Tom Vilsack, without identifying them, said some programs were already cut off and still others were due to run out of money "in the coming months."

He blamed the House. "Without action by the House of Representatives on a multi-year Food, Farm and Jobs bill, rural communities are today being asked to shoulder additional burdens and additional uncertainty in a tough time," he said.

And ranking House Agriculture Committee Democrat Collin C. Peterson, (Minn.) said recently, "The election is over so it's time to get to work. I'm optimistic that, if given the chance, we have the votes to pass a five-year farm bill. There is no good reason not to vote on the bill. . ." But, he added, "I remain opposed to an extension of any kind for any time."

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

**Conservation easements:** The Senate bill (Section 2301) would consolidate an existing Farm and Ranch Lands Protection Program and a Grassland Reserve Program into one Agricultural Lands Easement program. Under existing law the Farm and Ranch Lands program receives \$200 million per year. The Senate would provide \$1.34 billion over ten years.

The Senate bill would require a local cash match, but the alliance urges flexibility that would allow the Department of Agriculture to waive the match if a landowner donated enough property to an easement.

The House committee bill includes a comparable provision, minus the set-aside.

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

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

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

Among other things under the program the states provide rental payments to landowners as an incentive to open their lands to hunters, fishermen and other recreationists. The Farm Service Agency administers the program.

**Conservation Reserve Program:** The Senate and the House committee would both extend this program that pays farmers not to cultivate marginal land. Farmers have enlisted millions of acres in the program through contracts that last from 10 to 15 years.

Both the Senate and the House

would reduce the number of acres allowable in the program to 25 million, thus saving \$3 billion over 10 years. The cap now is 32 million acres.

## **Yellowstone asks more tower comments, doesn't yield**

Under attack from environmentalists for effectively approving a cell phone tower in Yellowstone National Park before seeking public input, the Park Service November 19 extended a public comment period on the project.

The previous comment period ended November 17. The new one runs until December 17.

Despite the criticism from the environmental group Public Employees for Environmental Responsibility (PEER), the Park Service has not canceled the proposed Verizon tower in the Lake and Fishing Bridge areas of the park.

In fact the park noted last week that the proposed cell tower is the only additional such facility allowed under a 2008 Wireless Services Communications Plan environmental assessment (EA).

"The Lake area is the only location in the park where construction of a new cell tower was permitted under the park's Wireless Communications Services Plan Environmental Assessment (Wireless Plan EA)," said the park.

PEER charged October 23 that Yellowstone managers decided to authorize the cell tower even before it asked for public comments on the tower.

PEER said Yellowstone indicated in the 2008 plan that it would approve Verizon Wireless's application for a right-of-way permit for construction of the 100-foot tower.

Indeed the park's own website says the project has effectively been approved, <http://parkplanning.nps.gov/projectHome.cfm?projectId=43426>. The park says, "The decision to allow WCF construction at the Lake and Fishing Bridge developed areas was made in the

2008 Wireless Communications Services Plan Environmental Assessment and its associated Finding of No Significant Impact."

Charged PEER Executive Director Jeff Ruch, "The Park Service has no interest in what the public thinks since the new tower has already been set into motion." He added that the majority of public comments on the 2008 plan opposed the tower.

Substantively, said PEER, the environmental assessment was inadequate and the cell tower would violate federal law and Park Service policy.

Yellowstone posted notice October 15 that it was reviewing Verizon's application for a cell phone tower to serve the Lake and Fishing Bridge areas of the park. The notice said the ROW would consist of a "100 foot tall gray steel lattice tower and accompanying ground Facilities. . . at an existing utility site, next to existing telephone and electric lines."

Yellowstone is now asking for public comment on the Verizon project that was envisioned in the 2008 EA. That EA was prepared to replace a previous policy of approving cell phone ROWs individually. The EA offered an overall plan. The park says cell towers are already in operation at Old Faithful, Grant Village, Mount Washburn, Bunsen Peak, and Elk Plaza.

In its comments on the proposal PEER offers a number of arguments, beginning with an assertion that the park is fooling the public by asking for input on a decision that has already been made.

## Notes

**Salazar's future not clear.** The inside-the-beltway rumor mill has Secretary of Interior Ken Salazar both leaving his post shortly and, oppositely, staying on in that post next year. But, according to the *Washington Post*, Salazar has not made up his mind and will ponder his future over the holidays. Salazar has for the most part closely followed the Obama

Administration message that calls for protection of the resource first and development of the resource second. He did get in trouble in 2010 when the Deepwater Horizon spill dumped billions of barrels of oil in the Gulf. The then Minerals Management Service issued the lease (before Salazar's term began), but he was criticized for alternately taking too long to clean up the mess and taking too long to issue new leases. Former Gov. Bill Ritter (D) has been mentioned as a possible successor.

### **Hastings to chair Resources again.**

In a formality the House Republican Conference November 28 chose Rep. Doc Hastings (R-Wash.) to chair the House Natural Resources Committee in the next Congress. Hastings is currently the chair. He promised to continue his past aggressive oversight of the Obama administration. "By protecting and unlocking access to our public lands and resources, we can keep and create jobs here in America, create new sources of revenue and protect the livelihoods of millions of Americans," he said.

### **Shuster to chair Transportation.**

The House Republican Conference November 28 chose Rep. Bill Shuster (R-Pa.) to chair the House Transportation Committee in the next Congress. In 2014 Shuster will be faced with the major task of writing legislation to replace (or extend) the existing surface transportation law, MAP-21. Shuster is the son of former Rep. Bud Shuster (R-Pa.) who chaired the transportation panel from 1995 to 2001. Rep. Bill Shuster said he would also make the writing of a Water Resources Development Act a top priority next year.

### **Get Outdoors Day set.**

The American Recreation Coalition said this week that partner groups will celebrate Great Outdoors Day next year on June 8. This will be the sixth iteration of the event. Participating groups include government agencies, recreation companies, nonprofits and the healthcare industry. Events will be scheduled at hundreds of sites. Federal land management agencies usually waive entrance fees. Great Outdoors Day also ties into President Obama's signature America's Great Outdoors initiative.

For info on participating go to [www.nationalgetoutdoorsday.org/](http://www.nationalgetoutdoorsday.org/) and for more background go to [www.funoutdoors.com](http://www.funoutdoors.com).

**Report: Proximity matters.** In an annual report on city parks, the Trust for Public Lands last week said seven of the nation's largest cities do a good job of providing access to parks. Access in this case is measured by residents living within one-half mile walk of a park. New York does best followed by Chicago, Boston, San Francisco, Philadelphia, Seattle, and Washington, D.C. There is a downside: Four cities did poorly including, from worst to less worse, Charlotte, N.C.; Jacksonville, Fla.; Louisville, Ky.; and Indianapolis, Ind. The report, *2012 City Park Facts*, is available at: <http://cloud.tpl.org/pubs/ccpe-cityparkfacts-2012.pdf>. The report also lists the country's largest parks (Chugach State Park in Anchorage, Alaska); oldest parks (Boston Commons) and most visited park (Central Park, New York). In a separate report earlier this year the Trust rated all the nation's parks. The best from one to five are San Francisco, Sacramento, New York, Boston and Washington, D.C. The worst was Fresno, Calif., followed by Charlotte, N.C.; Louisville, Ky.; Indianapolis, Ind.; and Mesa, Ariz.

**Glen Canyon water released.** With conditions ripe, the Interior Department from November 19 to November 24 conducted a major 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 released 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.

**Vail moves under summer ski law.**

The Forest Service said November 26 that it will review a proposal by Vail Resorts to add summer activities to its recreation portfolio. The proposal is one of the first under a landmark 2011 law called the Ski Area Recreational Opportunity Enhancement Act that clarifies what activities a ski resort on national forest land may provide in the offseason. Vail intends to add zip lines and rail alpine coasters, among other facilities. The White River National Forest said in a *Federal Register* announcement that it intends to prepare an EIS on the Vail proposal. The new act was needed because the law that governs skiing in national forests, the 1986 National Forest Ski Area Permit Act, only authorized Nordic and alpine skiing. The service predicted the new law would be an economic engine in the summer for such famed resorts as Aspen and Vail in Colorado and Jackson Hole in Wyoming. The service estimates it will produce 600,000 additional visits that will in turn produce 600 jobs and \$40 million in *direct* spending. **WILL BE ALLOWED:** The law specifically authorizes "(A) zip lines; (B) mountain bike terrain parks and trails; (C) frisbee golf courses; and (D) ropes courses." The law does allow other uses "as the Secretary determines to be appropriate." **WON'T BE ALLOWED:** The law specifically forbids "(A) tennis courts; (B) water slides and water parks; (C) swimming pools; (D) golf courses; and (E) amusement parks."

**Sandy was good to rec industry.** The outdoor industry reported last week that Hurricane Sandy helped produce a boon in the sale of outdoor hardgoods in October. Sales of hardgoods - battery lanterns, flashlights, stoves, water batteries etc. - jumped by 10.8 percent to \$285.9 million, said the SportsOneSource Group and the Outdoor Industry Association. In total SportsOneSource Group said outdoor goods sales increased by 4.4 percent in October to \$789.2 million. The group is forecasting a "low-to-mid-single-digit increase for the fiscal year through January 2013."

**OIA's Hugelmeyer joins TRCP board.** Two of the most active outdoor policy advocacy groups cross-pollinated last

week when Outdoor Industry Association (OIA) President Frank Hugelmeyer joined the board of the Theodore Roosevelt Conservation Partnership (TRCP). OIA and Hugelmeyer are outspoken conservationists, frequently adopting positions akin to those of environmental groups, to the dismay of the more traditional recreation industry. TRCP represents a broad spectrum of sportsmen, including hunters and fishermen.

**AASHTO chooses FHWA vet Wright as head.** The American Association of State Highway Officials (AASHTO) has chosen a former executive director of the Federal Highway Administration (FHWA), Frederick G. "Bud" Wright, as its next executive director. Wright served as the chief FHWA operating officer during the Bush administration from 2001 to 2008. The AASHTO board's 50 state transportation directors voted Wright in. He will replace John Horsley, who has headed AASHTO since 1999.

#### **New/old highway money sources?**

House Republicans are refloating the possibility that surface transportation programs can be revitalized by increased energy development from the public lands. The Republicans and their industry supporters are reportedly eyeing a budget sequestration legislative package as a target for their proposal. In February House Republican leaders had wanted to use as much as \$12 billion per year from increased onshore and offshore energy development to help pay for a multi-year surface transportation bill. However, the strategy failed when conservative Republicans opposed the \$40 billion per year price tag. Instead the House largely acceded to a Senate surface transportation bill that the Senate passed that eventually extended outdoor programs tied to surface transportation for two years (PL 112-141 of July 6). Additional money is needed because gasoline taxes that fuel the Highway Trust Fund are no longer sufficient to pay for the nation's surface transportation needs. In PL 112-141 Congress took money from taxes and other programs to make up the difference. Now over the long-term House Republicans are thinking about energy money again.

## Conference Calendar

### NOVEMBER

27-Dec. 1. **National League of Cities Annual Congress of Cities** in Boston, Mass. Contact: National League of Cities, Conference and Seminar Management, 1301 Pennsylvania Avenue, N.W., Washington, DC 20004. (202) 626-3105. <http://www.nlc.org>.

30-Dec. 2. **Western Governors' Association Winter Meeting.** Contact: Western Governors' Association, 1515 Cleveland Place, Suite 200, Denver, CO 80202-5114. (303) 623-9378. <http://www.westgov.org>.

30-Dec. 3. **Council of State Governments State Trends Forum** in Austin, Texas. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. <http://www.csg.org>.

### DECEMBER

4-6. **America Outdoors Marketing and Management Conference** in Daytona Beach, Fla. Contact: <http://www.americayoutdoors.org/>.

### JANUARY

3-6. **Archaeological Institute of America Annual Meeting** in Seattle. Contact: Archaeological Institute of America, 656 Beacon St., Boston, MA 02215-2006. (617) 353-9361. <http://www.archaeological.org>.

22-24. **National Ski Areas Association Western Conference.** Contact: National Ski Areas Association, 131 South Van Gordon St., Suite 300, Lakewood, CO 80228. (303) 987-1111. <http://www.nsaa.org>.

17-19. **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, D.C. 20006. (202) 293-7330. <http://www.usmayors.org>.

24-27. **Outdoor Retailer Winter Market** in Salt Lake City. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.