

# Federal Parks & Recreation

Editor: James B. Coffin

Subscription Services: Gerrie Castaldo

Volume 34 Number 20, October 28, 2016

In this issue. . .

## **Political differences at the top.**

*Trump and Clinton continue to disagree about top priorities for the outdoors. He favors energy. She favors LWCF-type program. Who will lead on the Hill?.. Page 1*

## **Jarvis would protect the parks.**

*Proposes order that would favor denial of activities, even if impacts are not certain. NPCA offers qualified support..... Page 3*

## **Election initiatives abound again.**

*LandVote counts \$5.5B in conservation proposals on ballots. California quite active..... Page 4*

## **Wyoming cautioned on fed lands.**

*State-sponsored report advises legal complexity of state management argues against... Page 5*

## **NPS would extend speech rights.**

*Proposes to give some electronic matter similar rights to print. Would not allow sales..... Page 7*

## **Rec industry having a good year.**

*Report describes visitation and sale increases almost across-the-board. 2017 looks good..... Page 8*

## **New NPS sexual impropriety report.**

*DoI IG says no action to protests of Chattahoochee employees.. Page 9*

## **Cascade monument expansion eyed.**

*Oregon senators may seek doubling of 65,000-acre monument..... Page 11*

**Notes..... Page 12**

**Conference calendar..... Page 14**

## **Trump, Clinton have different ideas about the outdoors**

With the Presidential election just 10 days away, the two leading candidates continue to lay out starkly different approaches to park and recreation issues.

Perhaps most controversially, the Republican Party Platform proposes to dispose of unspecified federal lands. That has sometimes been interpreted in the media to mean all federal lands, including national parks. However, the platform's plank on disposing of federal lands refers only to "certain" lands.

Besides, Republican candidate Donald Trump has more than once said he personally opposes the disposal of not only national parks but also all federal lands. As he told *Field & Stream* magazine earlier this year, "I don't like the idea because I want to keep the lands great, and you don't know what the state is going to do."

For all those qualifications, Trump has repeatedly said that his first priority for the public lands is energy development, not conservation. "Producing more American energy is a central part of my plan to Making America Wealthy Again - especially for the poorest Americans," he said at a campaign appearance September 22 in Pittsburgh. "America is sitting on a treasure trove of untapped energy - some \$50 trillion dollars in shale energy, oil reserves and natural gas on federal lands, in addition to hundreds of years of coal energy reserves."

In addition, there is that pesky Republican platform on disposal of federal lands that says, "Congress shall immediately pass universal legislation providing for a timely and orderly mechanism requiring the federal

government to convey certain federally controlled public lands to states. We call upon all national and state leaders and representatives to exert their utmost power and influence to urge the transfer of those lands, identified in the review process, to all willing states for the benefit of the states and the nation as a whole."

Trump had an opportunity to weigh in on national parks and conservation October 22 when he made a speech at Gettysburg National Military Park, but he focused instead on his economic and foreign policy initiatives. He did not mention parks or conservation in his prepared remarks.

Trump's opponent Democrat Hillary Clinton is more succinct. Her website says, "In recent years, special interest groups have been supporting efforts to dispose of or sell off America's public lands, which would privatize national forests, national monuments, and even national parks. Clinton strongly opposes these proposals to sell off America's natural heritage."

Clinton has a different priority - expansion of recreation opportunities throughout the country. Her headline proposal is for an American Parks Trust Fund to "existing parks, and enhancing America's great outdoors - from our forests and coasts to neighborhood parks."

Clinton's website says the fund would double the size of the Land and Water Conservation Fund (LWCF). "This trust fund will replace, expand the scope of, and provide funding at roughly double the authorized level of the (LWCF) to address infrastructure needs, reduce the maintenance backlog in national parks, forests, and public lands and more."

While the nation's focus has been on the Presidential contest in the November 8 elections, 17 Senate seats are on the ballot and polls indicate that the Democratic Party has a shot at capturing the majority. The pollsters say the House will likely remain under Republican control.

Among key Senate and House committee and subcommittee chairmen and ranking Democratic minority members, almost all are expected to be back, albeit in the Senate they may switch majority control. Sen. Lisa Murkowski (R-Alaska) is the most influential park and rec policy senator up for election and she is projected to win with ease.

Murkowski chairs both the Senate Energy Committee and the Senate subcommittee on Interior Appropriations.

If Democrats do take over the Senate, on paper ranking Senate Energy Committee Democrat Maria Cantwell (D-Wash.) would assume the committee chairmanship. But after elections senators and House members notoriously play musical chairs and switch committee and subcommittee chairmanships to help their districts.

Here are some existing key posts that may or may not be in play November 8:

Senate subcommittee on National Parks: Sen. Bill Cassidy (R-La.), chair; Sen. Martin Heinrich (D-N.M.), ranking member.

Senate Public Lands subcommittee: Sen. John Barrasso (R-Wyo.), chair; Sen. Ron Wyden (D-Ore.), ranking member.

Senate Financial Service Committee: Sen. Orrin Hatch (R-Utah), chair; Wyden, ranking member.

Senate subcommittee on Interior Appropriations: Murkowski, chair; Sen. Tom Udall (D-N.M.), ranking member.

House Natural Resources Committee: Rep. Rob Bishop (R-Utah), chair; Rep. Raúl M. Grijalva (D-Ariz.), ranking member.

House subcommittee on Federal Lands (includes national parks): Rep. Tom McClintock (R-Calif.), chair; Rep. Niki Tsongas (D-Mass.), ranking member.

House subcommittee on Oversight: Rep. Louie Gohmert (R-Texas), chair; Rep. Debbie Dingell (D-Mich.), ranking member.

House subcommittee on Interior Appropriations: Rep. Ken Calvert (R-Calif.), chair; Rep. Betty McCollum (D-Minn.), ranking member.

Senate leadership: Senate Majority Leader, Sen., Mitch McConnell (R-Ky.); Senate Minority Leader, Sen. Harry Reid (D-Nev.) Reid is retiring and will likely be replaced as the leader of Senate Democrats by Sen. Charles Schumer (D-N.Y.)

In federal land management agencies expect a whole new cast of characters. National Park Service Director Jonathan B. Jarvis has already said he would not be back.

Other agency directors whose terms are due to run out are Forest Service Chief Tom Tidwell, Bureau of Land Management Director Neil Kornze, and Fish and Wildlife Service Director Dan Ashe.

In addition to the Congressional elections and the changeover at the White House more than 90 conservation initiatives will be before the voters around the country. California metropolitan area voters will be asked to weigh in on the most expensive initiatives. (See related article page 4.)

More information on Trump's positions is at: <https://www.donaldjtrump.com/> and more information on Clinton's positions is at: [www.hillaryclinton.com](http://www.hillaryclinton.com).

## **Jarvis proposes order to protect parks first, foremost**

Before he goes out the door NPS Director Jonathan B. Jarvis is attempting to lock in an overarching agency policy that gives protection of the parks first priority.

That would apply even if a threat were not clear and imminent. A proposed Director's Order 100 Resource Stewardship for the 21<sup>st</sup> Century the advances a key "Precautionary Principle."

"The Precautionary Principle requires that, when an activity raises plausible or probable threats of harm to park resources and/or human health, management should take anticipatory action even when there is uncertainty," says the draft.

The proposed order adds, "When such uncertainty exists, NPS managers will take actions that err on the side of caution to protect natural and cultural resources in accordance with section 7 of this Order. Any decision made using the precautionary principle should take into account: (1) the threat of harm to park resources or public health; (2) the level of scientific uncertainty; and (3) the preventive, precautionary action."

Director Jarvis has already announced that he will leave office in January when the next administration takes over.

His last year has yielded mixed results. On the upside Jarvis has presided over the National Park System on its 100<sup>th</sup> Centennial, with unprecedented attention focused on the parks and record visitation.

On the other hand the House Oversight Committee in particular has in a bipartisan way criticized the agency for a series of reports charging a hostile workplace in the Park Service and a limited response to charges of sexual abuse. The committee earlier this month collected a batch of documents from NPS on alleged management improprieties at Yellowstone, Yosemite National Park and, in general, sexual misbehavior. (See related article page 9.)

Despite that cloud Jarvis is moving ahead to leave a protect-the-resource legacy in the form of the Resources Stewardship Director's Order, <https://parkplanning.nps.gov/document.cfm?documentID=75328>. Comment by November 18 at the site.

A senior official at the advocacy group National Parks Conservation Association (NPCA) endorsed Jarvis's overall message. "What's interesting

is the implementation in writing of the Precautionary Principal of proactively protecting the parks, even if we don't know the impacts of activities," said NPCA Vice President for Government Affairs Kristen Brengel.

"That is not the way the Park Service has always managed," she said. "In the case of snowmobiles Glacier (National Park) decided not to allow the practice, but Yellowstone (National Park) did. The Park Service would do well to do more Glacier than Yellowstone. That is the best approach to protecting parks and wildlife."

Brengel did offer one concern about the proposal in re coordination of precautionary protection with adaptive management, specifically a qualifier in adaptive management that encourages "flexible goals." She said, "That's one issue I want to look at more closely."

The director's order scarcely mentions uses except in terms of activities that managers should be aware of. Nor does it mention visitation often.

The order does mention visitation as a derivative of good management. "The overarching goal of NPS resource management should be to steward NPS resources for continuous change that is not yet fully understood, in order to preserve ecological integrity and cultural and historical authenticity, provide visitors with transformative experiences, and form the core of a national conservation land- and seascape," it says.

The House committee held a damning hearing on Park Service management September 22. The committee majority led by chairman Rep. Jason Chaffetz (R-Utah) blasted NPS for a "hostile workplace environment."

The Congressmen considered harsh charges of (1) sexual harassment in the Park Service followed by (2) lack of action by agency supervisors. The most egregious examples identified by the Interior Department Inspector General occurred in Grand Canyon National Park and Cape Canaveral National Seashore.

Meanwhile, visitation to the parks this year has set repeated records. Through September NPS recorded a 4.81 percent increase in 2016 over 2015, which itself was a record year. Year-to-date through September 262,425,872 people have entered the national parks, compared to 250,388,115 through September of last year.

## **Election initiatives abound again in upcoming election**

Voters around the country are being asked to put up some \$5.4 billion in conservation initiatives in November 8 election ballots.

That's significantly more than the \$818.7 million in conservation initiatives in the 2012 Presidential election year but significantly less than the \$8.053 billion of the 2008 Presidential election year.

According to LandVote data assembled by the Trust for Public Lands, 93 conservation initiatives will be put before the voters November 8. In addition voters earlier this year approved an additional \$257 million for conservation.

The trust's director of conservation finance, Will Abberger, said the number and size of ballot initiatives is comparable to previous elections. He does see a trend toward restoration.

"I think we are seeing more measures that are looking at restoration," he said. "There are large ballots in California such as Save The Bay and a large ballot in Brevard County, Fla., to restore the Indian River."

Abberger said that whether a Democrat or a Republican leads the Presidential voting has traditionally not affected conservation initiatives. "We've seen very strong support from Democratic and Republican jurisdictions alike," he said.

He cited the example of an open space property tax vote that was

approved March 15 in Butler County, Ohio, the strongly Republican home of former Speaker of the House John Boehner (R-Ohio). Voters there approved a tax that would provide almost \$9 million for conservation.

In the upcoming November 8 vote the largest initiative identified by LandVote is a proposed sales tax in San Diego County that would allocate \$2 billion to conservation, over time.

The San Diego ballot would for 40 years impose a five-cent sales tax with money going to open space, bike and pedestrian projects, highways and transit. The initiative would produce a total of \$18 billion.

California appears to be the sweet spot this year with Los Angeles asking voters to weight in on a possible levy on land parcels that would put up \$491,400,000 for conservation. San Francisco is asking voters to extend for 15 years an open space fund with \$133,145,000 allocated for conservation.

LandVote lists only one statewide initiative, a \$20 million bond for environmental and recreational purposes in Rhode Island.

However, the staff at LandVote advises that important statewide, conservation-related initiatives are on the ballot in Alabama and Missouri.

In Alabama voters will be asked to weigh in on a constitutional amendment that would forbid reallocating state park funds for other uses. A "no" vote would allow the state legislature to use state park money for other uses. A "yes" vote would forbid transfers.

In Missouri voters will be asked to weigh in on a ten-year extension of an existing one-tenth of one percent sales tax. It would put up about \$42 million per year with the money equally divided between the state park system and soil replenishment programs.

LandVote says that communities around the country have already approved 15 initiatives with more than \$250

million to be allocated to conservation purposes.

The last national election in 2014 was a gangbuster year for conservation initiatives. Florida voters led the way, approving a \$9 billion conservation amendment to the state constitution.

Altogether voters in 2014 approved some \$16 billion in conservation initiatives, somewhat surprising in a time of political retrenchment.

Other approved 2014 initiatives included a \$2,150,000,000 open space program in New Jersey; a \$1.5 billion water bond in California; the renewal of a \$1.3 billion Los Angeles County program that allocates money for parks, recreation, and open space; and the renewal of a \$131 million open space program in Larimer County, Colo.

Here's a thumbnail summary of conservation initiatives approved by voters in the last half-dozen national elections:

2004 = \$3.801 billion  
 2006 = \$6.747 billion  
 2008 = \$8.053 billion  
 2010 = \$2.192 billion  
 2012 = \$819 million  
 2014 = \$13.203 billion  
 2016 = up for a vote, \$5.4 billion (\$257 million previously approved)

The Trust for Public Lands assembled the data. The data is available at [www.landvote.org](http://www.landvote.org).

## **Wyoming report warns that fed land takeover ain't easy**

A landmark report commissioned by the State of Wyoming advises against the state attempting a wholesale takeover of management of federal lands.

The report, mandated by the state legislature, says that federal laws governing federal lands and Wyoming laws governing state lands are too conflicting for wholesale land transfers. (The report looks only at state *management*;

it doesn't address possible state ownership.)

At bottom the report, prepared by Y2Consultants, LLC, says that federal land management agencies manage for multiple use, while the State of Wyoming often manages its lands for the single purpose of making money.

The 357-page report, *Study on Management of Public Lands in Wyoming*, warns of the difficulties of management transfers.

"Transfer of management of these federally owned public lands would require Congressional action to implement," says the report. "If the legislature pursues this course of action, negotiating the details would be complicated and politically it appears it would be an exceptionally drawn out and contentious process. Even with political will, it appears there may be a vast number of entwined and overlapping federal laws that would have to be changed and unwound, as well as issues that would have to be addressed both at the state and federal level."

The report goes on, "A sizeable infrastructure of human capital, infrastructure, and administrative and technological resources would have to be developed by the state in order to manage an additional 25 million acres of federally owned public land in addition to the roughly 3.5 million acres that the state currently manages."

Instead, the report recommends a piecemeal approach to improving the management of federal lands.

"In essence, our recommendation is to work to phase more management to the state gradually with the ultimate goal of providing the state and local communities with more influence over federal land management activities while avoiding inheriting the crippling bureaucracy, costs, and litigation and without jeopardizing the critical federal payments such as Payments in Lieu of Taxes (PILT) and Secure Rural Schools (SRS) that are made to states and local communities to compensate for the presence and financial impact of

federal owned and managed lands in their communities," the report says.

The Theodore Roosevelt Conservation Partnership (TRCP) said the report confirms what it has been saying for some time - state management or ownership of federal lands would be exorbitantly costly in terms of lost revenues from PILT and SRS and the assumption of enormous fire-fighting costs.

"We're not surprised by the findings, although sportsmen in the West should be heartened by the independent confirmation of what experts have been saying for years—the transfer or sale of America's public lands to individual states would be a financial disaster for local governments and would threaten our access to hunting and fishing," said Nick Dobric, Wyoming field representative for TRCP.

The Wyoming study surfaces barely a month after western attorneys general en banc questioned the legality of state claims to *ownership* of federal lands. Again, the State of Wyoming was only talking about the *management* of federal lands.

The attorney generals said in their report, the Supreme Court has ruled twice that the feds can retain public lands indefinitely, although those decisions apply only to the cases in hand and don't necessarily set precedents.

The attorney generals report intentionally does not address the legality of a claim by the State of Utah to 31 million acres of public lands in the state. It says instead that each state's laws are different.

Throughout the Obama years western states and western Congressmen with strong Republican ties have asserted claims to federal lands. They argue essentially that the federal government is crippling local economies by not allowing enough energy, mineral and timber development or enough grazing.

Now comes the report of the Conference of Western Attorneys General

that cautions western states about the legality of their claims to public lands. Eleven of the state attorneys general signed the report; only Nevada's Adam Laxalt did not.

On the general subject of political equality, the report concludes, "Equality of sovereignty is an important constitutional principle that can help prevent federal intrusions upon the sovereignty and independence of the states. Court precedents, however, provide little support for the proposition that the principles of equal footing or equal sovereignty may compel transfer of public lands to the western states."

The Wyoming Y2 Consultants report is available at <http://slf-web.state.wy.us/osli/News/FinalStudyFedLand.pdf>.

The attorney generals report is available at: <https://www.documentcloud.org/documents/3117841-CWAG-Public-Lands-Subcommittee-Report-PDF.html>.

**UTAH SITUATION:** The State of Utah has been leading the western campaign to take over federal lands. On March 23, 2012, Utah Gov. Gary Herbert (R) signed a law (HB 148) that demands the transfer of most federal land in the state to Utah, about 31 million acres. The law exempts only national parks (save for portions of Glen Canyon National Recreation Area), national monuments and wilderness areas.

The law demanded transfer of those lands by Dec. 31, 2014, but no lands have been transferred yet. State officials say that deadline just begins the transfer process.

Some 12.7 million acres of federal land in Utah are presently reserved for conservation purposes, including national parks, wilderness, wilderness study areas, wild and scenic rivers, and national monuments. In addition Congressional Democrats are pushing for the designation of 9.1 million acres of new wilderness, mostly from Bureau of Land Management lands.

**NATIONAL POLITICS:** As for the disposal of public lands in general the

Republican Party platform adopted in July appears to be for it. "Congress shall immediately pass universal legislation providing for a timely and orderly mechanism requiring the federal government to convey certain federally controlled public lands to states," says the platform. "We call upon all national and state leaders and representatives to exert their utmost power and influence to urge the transfer of those lands, identified in the review process, to all willing states for the benefit of the states and the nation as a whole."

But Democratic Presidential candidate Hillary Clinton is against it. "In recent years, special interest groups have been supporting efforts to dispose of or sell off America's public lands, which would privatize national forests, national monuments, and even national parks," says a campaign position paper. "Clinton strongly opposes these proposals to sell off America's natural heritage."

## **NPS would allow distribution of electronic media in parks**

With no fanfare the Park Service October 14 proposed to extend permission to distribute printed matter in the parks beyond paper products, including to electronic media.

In addition NPS in a proposed rule would allow the free distribution within specific areas of parks other items, such as clothing, buttons, pins, key chains and bumper stickers. But the park would not allow sale of the items, as it does of paper products.

The catch for all these media would be that the sale or distribution "is not solely commercial advertising."

The Park Service has often had difficulty navigating the free speech shoals in the National Park System. It is caught between the First Amendment right to free speech and a desire to protect park visitors from unwanted literature and demonstrations.

The Reagan administration in

1983 established a controversial rule that required a permit from NPS for any individual or group that wished to speak within a national park. Each park set aside free speech areas. The rule also required a permit to distribute literature.

In 2007 that rule was tested. Michael Boardley attempted to distribute papers on the Gospel of Jesus Christ in a free speech area of Mount Rushmore National Memorial. A ranger blocked the attempt because Boardley and friends had not obtained a permit. He took NPS to court.

On Aug. 6, 2010, the U.S. Court of Appeals for the District of Columbia agreed with Boardley and a U.S. District Court.

Said the appeals court, "Given the breadth of these proscriptions, virtually anyone engaging in any permitless expressive activity in a national park risks a penalty. Thus, the NPS regulations not only lack narrow tailoring, they fail to leave open ample intra-forum alternatives for communication."

So on June 24, 2013, NPS issued a final regulation to settle the lawsuit that allows individuals or groups of 25 or less to demonstrate in national parks without a permit. It also allows individuals and groups of 25 or less to distribute literature in the parks.

In its proposed regulation the Park Service explained its stance on the sale of nonprinted matter. "Under the proposed rule, message bearing items other than printed matter may not be sold within a park unit; they may only be distributed free of charge," said NPS.

The proposal adds, "This restriction is necessary to prevent the proliferation of unregulated commercial activity that would be inconsistent with park resources and values, that would impinge upon and degrade park scenery, and that would disrupt the atmosphere of peace and tranquility that is an important part of the visitor experience in many park units."

The proposal would add the following to the list of items that may be distributed in parks: "CDs, DVDs, and flash drives; articles of clothing like hats and accessories like buttons and pins; key chains; and bumper stickers."

Of importance, the distribution of the items would only be allowed in areas of a park designated by the superintendent.

NPS is accepting comments on the proposal by December 13 at <http://www.regulations.gov>, and search for RIN 1024-AE32.

## **Rec industry has big year and looks forward to even more**

Even though the Park Service's 2016 Centennial will soon end, along with its stimulation to outdoor visitation of all stripes, the recreation industry anticipates a continued boom for next year. And perhaps for several more years.

An annual report prepared for the American Recreation Coalition says, "Most components of the recreation industry reported significant gains in 2016 and the general outlook for the industry in 2017 is optimistic. Our conclusion in the comparable forecast last year was that recreation activities will increase as more people seek active, 'high value' vacationing. Even more now, we see America's great outdoors as a perfect fit for this desire."

The report counts a nearly across-the-board increase in park and recreation business, led by a 3.4 percent jump in visitation to the National Park System thus far in 2016, an anticipated 8.3 percent increase in recreation vehicle shipments in 2016, a camping increase thus far in 2016 of 4.5 percent and an increase of 15.5 percent in personal watercraft sales.

One area that didn't have a substantial increase in participation was skiing in the East and Midwest, but that was caused more by warm weather than anything else. On the other hand

ski resorts in the Rocky Mountain West enjoyed a 13 percent increase in ticket sales over the previous year.

The reason for all the positives, of course, is the economic recovery from the big recession that hit bottom in 2009. The report cites state spending on parks as an example of the recovery.

"More and more, the importance of state parks and their growing attendance is being recognized by state legislatures, with total capital expenditures for state park operations increasing by \$159 million (25.3%)," says the report, prepared for the recreation industry by the 2016 Marketing Outlook Forum. "This is a result of increased funds and bonds thanks to the recovering economy."

The National Marine Manufacturers Association anticipates that the economy will keep humming, at least for boat sales. After increases in boat sales every year from 2011 until now, the association projects continued increases.

"The marine industry should grow for two to three more years as consumer confidence and spending continue to strengthen," said the report, citing the marine manufacturers as a source.

**National Parks:** A 3.4 percent increase in visitation in this calendar year means 9.7 million more visitors. But, says the report, a maintenance backlog and a demand for increased visitor services is putting a squeeze on the agency's budget. And Congress is not likely to address that.

"NPS needs to adopt innovative financial practices that could ensure national parks remain relevant, accessible and sustainable as they enter their second century," says the report. "A new Presidential Administration and a new Congress are about to take shape, making this a perfect time to look at these challenges with an optimistic spirit and an open mind."

**RV industry:** RV sales have increased by more than 125 percent since recession year 2009. Sums up

the report, "RV shipments are expected to total 405,300 in 2016, an 8.3% gain over 2015, and eclipse the 2006 peak as the best year since 1977. RV shipments are forecast to increase to 411,000 in 2017, which represents the eighth consecutive year of gains, the longest ever recorded."

**Camping:** Kampgrounds of America reports a 4.5 percent increase in camping this year. Of note the company's North American Camping Report says that about 20 percent of new campers are African-American, an often-underrepresented group of outdoor participants.

**Boating:** The report quotes National Marine Manufacturers Association President Thom Dammrich, "Pontoon boats and outboard [boats] are almost back to pre-recession levels in terms of units, and with the exception of runabouts, sterndrive cruisers and inboard cruisers, most of the other segments are 60 to 75 percent of the way back toward those pre-recession levels. Most of the boating segments are back to pre-recession levels in terms of dollar sales."

**State parks:** While the Park Service reports north of 300 million visitors per year, that pales in comparison to state participation, which in 2014 hosted 759 million visitors.

The report is available at: [www.funoutdoors.com/Outlook2017](http://www.funoutdoors.com/Outlook2017).

## **Additional sexual impropriety charges in national parks**

The Interior Department Inspector General reported October 14 on still more charges of sexual misbehavior in the National Park System, this time at the Chattahoochee River National Recreation Area (CHAT).

Two CHAT employees said that a law enforcement supervisor had touched them inappropriately and taken other unwarranted actions against them. As in previous charges of sexual misbehavior at other national parks, the CHAT superintendent took no actions.

"These incidents were reported to the CHAT superintendent, but he did not investigate them or report them to the Human Resources or Equal Employment Opportunity offices, as required by U.S. Department of the Interior policy," said the Inspector General (IG) in a report at <https://www.doioig.gov/>.

The IG referred the case to the U.S. Attorney's Office for the Northern District of Georgia; that office deigned to prosecute.

In the situation in CHAT a division chief said that in 2014 the law enforcement official twice touched her on her upper thigh, among other things. A separate CHAT employee said that in 2016 the same law enforcement official made her uncomfortable by standing close to her, among other things. The two employees did not file formal complaints against the law enforcement official.

The IG said that the superintendent said he took no action because no formal complaints were filed. The IG took exception to that theory and said a superintendent does not have to wait for a formal complaint to address alleged misconduct.

The CHAT report caps a year of harsh charges of (1) sexual harassment in the Park Service followed by (2) lack of action by agency supervisors. The most egregious examples identified by the Interior Department Inspector General occurred in Grand Canyon National Park and Cape Canaveral National Seashore.

According to a January report of the department IG, numerous employees reported instances of sexual harassment in the Grand Canyon River District over 15 years. And the response of National Park Service supervisors was muted, at best.

At Cape Canaveral the IG in a June 13 report said that a law enforcement supervisor over the last five years "has shown a pattern of sexual harassment involving (a) law enforcement employee and two other female employees at CANA."

NPS Director Jonathan B. Jarvis in July reemphasized to all agency

employees that he expects zero tolerance of sexual harassment in the agency.

In a memo to all 22,000 NPS employees Jarvis wrote, "I want to clearly state that this means that when incidents of harassment are reported, I expect NPS managers to follow up on those allegations. Specifically, in situations involving alleged harassment, including sexual harassment, I expect NPS managers to initiate an investigation of the allegations and to act promptly to ensure that harassment, if confirmed, does not continue. I also expect appropriate disciplinary action to be taken if any allegations are verified."

In addition to the sexual misbehavior charges the House Committee on Government and Oversight is investigating charges that the National Park Service is a hostile workplace, system-wide.

House Committee on Government and Oversight members from both parties wrote NPS October 5 and demanded numerous documents that may describe discord in both individual parks and nationally. The Park Service said it supplied the documents on October 12. Those documents would:

- \* list employees "fired, dismissed, or retired" at Yellowstone National Park in the last four years,
- \* describe an alleged "hostile work environment" at Yosemite National Park,
- \* list the number of employees fired for sexual misbehavior in the last four years; and
- \* list complaints of sexual harassment over the last four years.

The committee was following up on a damning hearing on NPS it held September 22. The committee majority, led by chairman Rep. Jason Chaffetz (R-Utah), blasted NPS for a "hostile workplace environment." The committee letter to NPS was also signed by ranking committee minority member Elijah E. Cummings (D-Md.)

The committee is particularly interested in obtaining a "complete and

unredacted" copy of an internal report on Yosemite. At the September hearing the Yosemite complaint was advanced by Kelly Martin, chief of fire and aviation management in the park. She said that she and "dozens of employees" have complained of a hostile workplace.

"Some employees chose not to come forward for fear of retaliation; however it is my understanding from support and park friends groups that many did come forward and that they provided written and oral statements to investigators," said Martin. The Interior Department IG is now investigating those complaints.

Chaffetz questioned the accountability of Yosemite Superintendent Don Neubacher, because he allegedly did not follow through on hostile workplace complaints. Chaffetz suggested a conflict of interest because Neubacher's wife, Patricia, is the deputy director of the Pacific West Region.

NPS put out the word a fortnight ago that Neubacher has retired as superintendent. *The Washington Post* said Neubacher was forced out by the Park Service.

## **Oregon senators seem to like Cascade monument expansion**

It's not the biggest national monument proposal on the table but an expansion of the Cascade-Siskiyou National Monument is drawing attention from Oregon's senators.

Sen. Jeff Merkley (D-Ore.) hosted a public hearing October 14 on a possible doubling of the size of the monument that would add more than 66,500 acres to the current 66,000 acres east of Ashland, Ore. Deputy Secretary of the Interior Mike Connor attended the meeting. The Bureau of Land Management manages the monument and the possible additions.

Before the hearing Merkley made clear to the Obama administration that monument expansion is the way to go. In a letter to Secretary of Interior Sally Jewell he first highlighted the

environmental importance of the area as an "ecological crossroads."

He then added, "However, mounting pressures on adjacent and nearby public lands, combined with the increasing effects of climate change, have scientists convinced that the original June 2000 boundaries are no longer adequate to protect the native species and habitats the monument was established to protect - and they urge expansion of the monument's boundaries."

Even before the hearing the timber industry weighed in against the proposal. The American Forest Resource Council said the short notice of the meeting (seven days before it was held) precluded a thorough analysis.

"However," said council president Travis Joseph in a letter to Merkley and Sen. Ron Wyden (D-Ore.), "I do want to highlight serious concerns with the monument expansion and respectfully urge you to advise President Obama not to designate the area and to work with the public and impacted stakeholders on comprehensive legislation instead."

The council's recommendation of legislation is effectively a nonstarter in the House where western Republicans control the House Natural Resources Committee and are in no mood for additional national monuments in the West.

Substantively, the American Forest Resource Council argued that some of the area to be added to the national monument requires thinning to prevent forest fires. "Many of the lands within the proposed monument expansion are in need of forest thinning and restoration activities to reduce the risk of catastrophic wildfire," wrote Joseph.

The Interior Department's Connor, without endorsing the monument expansion, certainly sounded sympathetic. "For more than five years, local scientists and communities have worked to ensure that this ecological wonder is protected and preserved for future generations," he said.

Meanwhile, Congressional

Republicans continue to introduce legislation to curb a President's authority to designate national monuments under the Antiquities Act of 1906. For instance, Sen. Steve Daines (R-Mont.) last month introduced a bill (S 3460) that would condition a President's authority to designate national monuments under the Antiquities Act of 1906.

Daines would forbid the reduction of most existing uses in a designated area until a review period had expired and a state wildlife agency had concurred in the reduction.

Like a sea of other Republican bills designed to limit a President's Antiquities Act authority S 3460 is probably not going anywhere. But it is on the table as a possible negotiating tool.

Meanwhile, of no surprise to anyone, the Obama administration last month "strongly" opposed three Senate bills to limit a President's authority to designate national monuments under the Antiquities Act.

BLM Director Neil Kornze criticized a sweeping measure from committee chairman Lisa Murkowski (R-Alaska), S 437, that would require the approval of both Congress and a state governor before a President could designate a national monument anywhere in the country; a bill, S 3317 from Sens. Mike Lee (R-Utah) and Orrin Hatch (R-Utah), that would forbid the designation of a national monument anywhere in Utah; and a bill, S 1416, from Sen. Jeff Flake (R-Ariz.), that would not allow a President to reserve water rights associated with a monument. Instead the federal government would have to acquire the water under state law.

The big action right now on the monument front is in the House where the House Natural Resources Committee September 22 approved an omnibus Utah lands bill (HR 5780) designed in large part to head off the designation of a Bears Ears National Monument by President Obama. Reps. Rob Bishop (R-Utah) and Jason Chaffetz (R-Utah)

introduced the Utah legislation.

Instead of a national monument Bishop and Chaffetz would protect 1.4 million acres in the Bears Ears area in the form of two national conservation areas totaling 858,000 acres and in a wilderness area.

Five Indian tribes located near the Bears Ears area - Ute Mountain Ute, Zuni, Hopi, Navajo, and Ute Tribe of the Uintah - are leading the campaign for a 1.9 million-acre national monument, along with environmental groups.

President Obama has now designated 26 national monuments. Most recently on September 15 he designated a 4,913 square-mile Coral Canyons and Seamounts monument 150 miles off the New England coast. The Departments of Commerce and Interior will jointly manage the monument.

## Notes

### **Thicket newest wildlife refuge.**

The Interior Department said October 25 that it has established a new national wildlife refuge - a Great Thicket National Wildlife Refuge in New England and eastern New York. It is the 565th unit in the National Wildlife Refuge System. Now comes the hard part, acquiring the 15,000 acres of private land for the refuge. Before establishing Great Thicket the Fish and Wildlife Service (FWS) prepared an environmental assessment and land management plan. FWS said the refuge is needed because of the loss of thickets in the northeast to development and forest growth. The Interior Department said, "As this habitat has disappeared, populations of more than 65 songbirds, mammals, reptiles, pollinators and other wildlife that depend on it have fallen alarmingly." FWS said it proposes to acquire 10 focus areas in Maine, New Hampshire, Massachusetts, Connecticut, Rhode Island and New York over decades at a price ranging between \$84 million and \$129 million. FWS will use money from the Land and Water Conservation Fund and the Migratory Bird Conservation Fund. Congress has given the Fish and Wildlife Service authority to establish new wildlife refuges and to acquire

land for those refuges without explicit Congressional approval. The service has created 90 percent of the refuges in the system. Congress has betimes considered legislation that would require its approval of any new refuges, without success. Loads of information on the new refuge at:

<http://www.fws.gov/northeast/refuges/planning/lpp/greatthicketLPP.html>.

#### **Xanterra keeps Rockies store.**

Xanterra Parks & Resorts, Inc. will continue to operate a major Trail Ridge Store concession at Rocky Mountain National Park. The company said October 24 that it had won a new contract to operate the food and gifts concession for ten more years, beginning January 2017. The store is located along the highest paved road in the country, the Trail Ridge Road, which sits 12,000 feet up. In addition to the Trail Ridge Store concession the park is home to 20 guides and two campgrounds. Xanterra is one of the big hitters in the Park Service concessions system, holding contracts at Mount Rushmore, Yellowstone National Park, Crater Lake National Park, Grand Canyon National Park, Rocky Mountain National Park, Glacier National Park and Zion National Park. The Park Service concessions system has had a rocky go of it in the last few years. Xanterra in 2014 sued the Park Service when its Grand Canyon contract came up for bid on the grounds that NPS was demanding too much money for the existing concessioner investments in the park, so-called leasehold surrender interest. The Park Service has since reduced the demand and made up the difference from Park Service revenues. And late last year at Yosemite National Park the former and present concessioners got in a three-way battle with the Park Service over naming rights. The former concessioner, Delaware North Companies, asked the incoming concessioner, Aramark, for \$51 million for the transfer of intellectual property rights. But the feds said the intellectual property is only worth about \$3.5 million. That dispute went to federal court, but it is understood negotiations are underway among the parties.

#### **FS proposes planning change**

**rule.** The Forest Service proposed October 12 procedures for field offices to follow to *amend* rules prepared under a 1982 planning rule in conformance with policies set forth in a 2012 planning rule. The service simply wants to ensure that field offices apply principles to amendments from the 2012 rule on such topics as sustainability, plant and animal diversity, multiple use, and timber. The service says the proposed procedure for amending rules "does not alter or change the process for forest planning, it simply clarifies interpretation." The March 2012 planning rule guides individual national forests in writing new forest plans developed under the 1982 rule. Information on the October 12 proposal is available at: <http://www.fs.usda.gov/detail/planningrule/home/?cid=fseprd520491>. Comment by November 14 to [https:// cara.ecosystem-management.org/Public/CommentInput?project=NP-1403](https://cara.ecosystem-management.org/Public/CommentInput?project=NP-1403).

#### **Fire, global warming linked.**

The National Academy of Sciences earlier this month inserted a major new factor in the debate over federal wildfire policy; it published a study that asserts global warming is greatly expanding the acreage at risk from fires. Researchers from two universities, publishing in the academy's *Proceedings*, said dryness from climate change has increased the area at risk from forest fires between 1984 and 2015 to 4.2 million hectares (ha's). "We estimate that human-caused climate change contributed to an additional 4.2 million ha of forest fire area during 1984-2015, nearly doubling the forest fire area expected in its absence," report the researchers. The report surfaces just as Congress begins grappling with wildfire policy in a House-Senate conference committee. While the bill on the table (S 2012) in conference putatively addresses energy policy, a House version of the measure contains a major provision to revise wildfire policy. That measure would transfer wildfire spending above the 10-year average to disaster spending and limit environmental reviews for wildfire-related timber projects. Both House and Senate members see the House provision as a vehicle for addressing

broad wildfire policy in a three-week lame-duck session of Congress beginning November 15. The principal authors of the National Academy of Sciences study are John Abatzoglou of the University of Idaho Department of Geography and Park Williams of the Columbia University Lamont-Doherty Earth Observatory. They acknowledge that the increased wildfire activity in the West is caused by numerous factors, such as human settlement, and not just climate change. Abatzoglou and Williams conclude that the situation is not likely to improve soon. Their report, *Impact of anthropogenic climate change on wildfire across western US forests*, is available at: <http://www.pnas.org/content/early/2016/10/05/1607171113.abstract>.

#### **Wyoming Gov. promotes rec.**

Wyoming Gov. Matt Mead (R) a fortnight ago established a new task force to promote outdoor recreation in his state. The task force will coordinate advocacy of state recreation sites with private and public stakeholders. Mead emphasized the economic benefits of the state's outdoor recreation economy. "There is no better place for outdoor-related businesses than Wyoming," he said. "Our business climate, workforce, cost of living and quality of life make Wyoming a great option for new and existing businesses." In addition to state and local parks Wyoming is home to Yosemite National Park, Grand Teton National Park, several other national park sites, and five national forests packed with trails, campgrounds and wilderness areas. Mead is keying on the renowned 2012 Outdoor Industry Association report that said outdoor recreation generates \$4.5 billion per year in consumer spending in the state.

#### **Maryland, Missouri get LWCF aid.**

The State of Maryland will receive \$75,000 and the State of Missouri \$23,000 in competitive grants in a pilot program under the Land and Water Conservation Fund (LWCF), the Park Service announced October 18. The money is to be used to identify areas underserved by parks and outdoor recreation areas. The Outdoor Recreation Legacy Program complements the State and Local Assistance Program of LWCF.

## **Conference Calendar**

### NOVEMBER

15-18. **The National Trust for Historic Preservation Conference** in Houston, Texas. Contact: National Trust for Historic Preservation, 1785 Massachusetts Ave., N.W., Washington, DC 20036. (202) 588-6100. <http://www.nationaltrust.org>.

16-19. **National League of Cities City Summit** in Pittsburgh, Pa. 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. **America Outdoors Marketing and Management Conference** in Daytona Beach, Fla. Contact: <http://www.americaoutdoors.org/>.

### DECEMBER

8-11. **Council of State Governments National Conference** in Colonial Williamsburg, Va. Contact: Council of State Governments, P.O. Box 11910, Lexington, KY 40578. (859) 244-8103. <http://www.csg.org/>

### JANUARY

5-8. **Archaeological Institute of America & SCS Joint Annual Meeting** in Toronto, Canada. Contact: Archaeological Institute of America, 656 Beacon St., Boston, MA 02215-2006. (617) 353-9361. <http://www.archaeological.org>.

10-12. **Outdoor Retailer Winter Market** in Salt Lake City, Utah. Contact: Outdoor Retailer, 310 Broadway, Laguna Beach, CA 92651. (949) 376-8155. <http://www.outdoorretailer.com>.

17-18. **National Ski Areas Association Western Winter Conference** in Steamboat, Colo. 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>.