

Six Shutdown Lessons for the National Park Service and its Supporters

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JUST AFTER MIDNIGHT ON OCTOBER 17, the final curtain rang down on the latest revival of Shutdown Theater, bringing an end to a show that had a riveting, baffling, infuriating, and—finally—mind-numbing run at venues across America. Truth be told, the US federal government shutdown of 2013 was Theater of the Absurd. There are plenty of images from the shutdown that qualify as absurd, some of which—such as that of the congressman berating the ranger at the World War II Memorial, or the congressman who, during a televised inquisition of the National Park Service director, mockingly held up a mirror to his colleagues in the hearing room when they were searching for someone to blame for the closures—are not soon to be forgotten.

Too bad, because most of us would love to just wipe the whole thing from our memories. But that would be a mistake. For both the National Park Service and those who support it, there are valuable lessons to be drawn from the shutdown, dispiriting though it was. One of the lessons is blindingly obvious; the others less so, but just as important.

The obvious

1. The National Park Service is the face of the US federal government. If there ever were any doubt about this, it was laid to rest first thing on October 1. That morning I got up, turned on my laptop, and did the first of several screen grabs throughout the day of the front page of the *New York Times* website (see Figure 1). I knew what I would find, for it was easy to predict. If I'm an editor at a big newspaper with a heavy web presence, or the producer of a TV news show, what I need to lead with is a compelling visual. If the story is the shutdown of the federal government, what picture do I go for? Is it, say, the exterior of the deserted Department of Justice headquarters ... which looks precisely like a hundred other federal buildings? How about a picture of a woman in a robe and slippers standing on her front porch holding a sign that says "Hi, I'm a furloughed budget analyst with the Social Security Administration"? A black square with a note at the bottom that says "This used to be the National Zoo's Pan-

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daCam”)? No, what you show is a person in uniform doing an activity, such as putting up a fence or blocking off a road, that is instantly recognizable as the act of shutting something down, preferably in a place that is easily identified as belonging to the federal government. Hence the photos of Figure 1, and the countless variations on them that appeared in the news across the country.

The not-so-obvious

2. The fact that NPS is the face of the federal government now makes it a special target of those who have built an ideology around the assertion that government can't do anything right. This, I think, is one of the key differences between the 2013 shutdown and its predecessors in the mid-1990s. There was vitriol aimed at NPS back then, but the intensity of the hatred this time around was on another order of magnitude. The fact that the Park Service is popular across the political spectrum, and is widely viewed as being effective¹ is a resounding slap in the face to those whose political agenda depends on promoting the idea of universal government incompetence. This minority is small but intensely vocal, and their reach through websites and social media is far beyond anything attainable in the 1990s. This time around their reaction was to try to undermine NPS by any means possible.²

3. In times of crisis, the focus is on symbols, not places. The National Park Service is place-based: it runs beautiful landscapes, solemn battlefields, inspiring historic sites, and so on. However, emotions run highest around those places with the most overt symbolic value; hence the intensity of feeling surrounding access to the National Mall sites. One lesson that was very clear this time is that people of all political persuasions see national parks as not just symbols of democracy, but places where democracy can and should be enacted. As such, they are seen as a fundamental entitlement of every citizen, a key part of which is an implied right of access.

4. Making the NPS director a de facto political appointment opened a door to partisan sniping that can never be closed again. Several students of the agency have noted the increasing politicization of the Park Service, and usually trace it to 1972 when George B. Hartzog, Jr., the last of the directors in the grand Mather–Allbright–Wirth mold, was forced to resign in favor of a White House staffer. Since then, the position of NPS director has been made subject to Senate confirmation, so that now the incumbent is expected to offer his or her resignation at the start of every new presidential term. No one should be so naïve as to think that the position of NPS director was ever entirely free from political meddling, but



Figure 1. Two screen grabs from the front page of the New York Times website on October 1, 2013. Above, taken just before 10:00 am; below, just before 2:00 pm.

today's incumbents have to overcome powerful assumptions of partisanship that their predecessors did not. This has made it open season for pundits to treat the position as just another political appointment, even if the director is a career Park Service employee. The idea that the NPS director is just a pawn of the current administration conveniently slots into a worldview that the federal government consists of a revolving cast of political hacks and functionaries rather than conscientious professionals who have chosen public service.³

Not only does this view undercut the very idea that park management is a profession with standards of competence and codes of conduct, it's an open invitation for pundits far and wide to poison the well of public opinion. One conservative blogger concluded an anti-NPS diatribe by identifying Director Jonathan Jarvis as a "30-year civil servant"—note, please, not a "career NPS employee" or a "30-year parks professional"—before going on to compare him to an overzealous meter maid determined to make the pain of the shutdown as acute as possible.⁴ Insulting as this is, it pales in comparison to other epithets and actions intended to portray all of the Park Service as nothing more than a strong-arm of the current president. In the blogosphere, no hyperbole is out of bounds, so NPS employees became "shock troops" and rangers who refused to allow a tour group to proceed into Yellowstone "acted like the Gestapo."⁵ Sarah Palin gleefully urged her supporters to "storm the *barrycades*" to protest the unjust closures by the Park Service, puppets of President Obama that she believes them to be. Indeed, some Tea Party protesters (at least one of whom brandished a Confederate flag), removed barricades from the National Mall and stacked them outside of the White House.⁶ These coded and explicit references to Nazism⁷ and to racism should be deeply offensive to all citizens.

5. NPS needs to rethink the differential treatment of national park units under the "First Amendment exception." This exception to general NPS policy, which was used to allow Honor Flight veterans to enter the World War II Memorial after the initial brouhaha at the barricades, was widely decried on the right as a flimsy ploy by NPS to dial back public relations damage. With apologies for the lengthy quotation, here's an enlightening excerpt from a story in the conservative *Washington Times*:

In downtown Washington, where the civil disobedience began with veterans bursting through barricades to get to the World War II Memorial, the Park Service has relented to some extent.... Rangers told visitors Wednesday that they could not deny entry to anyone who wanted to exercise First Amendment rights, and could not interrogate visitors, which effectively means the monument is open to those aware of the loophole.

'The First Amendment trumps all,' a Park Service ranger told visitors....

Some visitors Wednesday didn't realize the monument was essentially open.

One woman jumped the front fence to get inside just around the corner from the area where barricades had been opened. Renee Younk, visiting from Wisconsin on a work trip, said she probably wouldn't have gone into the monument based on the

sign that read, ‘Due to the Federal government shutdown, this National Park Service area is closed, except for 1st Amendment activities.’

Donna Chapman, another out-of-town visitor, said she felt like she was exercising her First Amendment rights just by visiting the memorial.

‘I don’t think they should have gates up at all. It’s open air,’ she said. ‘It’s ridiculous.’

But the service had to relent Tuesday after it allowed a major pro-immigration rally on the otherwise closed Mall, drawing rebukes from rally participants and from others who said the administration shouldn’t be able to choose who is and who is not allowed to exercise rights.

Michael Litterst, a National Park Service spokesman, said the First Amendment exception applies only to several Washington and Philadelphia parks related to the government and its history, ‘due to these parks’ long history of hosting First Amendment events, their expansive outdoor grounds, and their location in major metropolitan areas.’

‘You could not host a First Amendment rally at Chaco Culture, Grand Canyon, Manassas or any one of the 395 other parks where such activities are prohibited during the shutdown. They can be held only at the National Mall and Memorial Parks, the areas of the White House administered by the NPS, and Independence National Historical Park,’ he said.⁸

The points being made here by the disgruntled visitors are not easily dismissed. It seems to me that the exceptions for the National Mall and Independence—based on historical precedent and their physical circumstances—would have trouble standing up if challenged in court. As far as I’m aware, all 401 park units have a designated area for First Amendment activities, and it seems indefensible to maintain that a handful can allow such activities during periods when the park is otherwise closed, but none of the others can.

There are many other legal issues to be disentangled here as well, the most basic of which is, Who owns the national parks? In the House hearing on the shutdown, a member asked Director Jarvis a leading question along these lines, one designed to elicit an answer to the effect that “the American people do.” The questioner, who was critical of NPS, presumably would then have made the point that, as owners, American citizens cannot be denied access to any national park. In rhetorical contexts like this the exchange amounts to little more than political jousting, but there is a serious underlying question of law: if the American people are in fact the collective legal owners of the parks, then under what circumstances (if any) can NPS deny owners access to their property? Moreover, what constitutes legitimate civil disobedience with respect to public areas that have been closed (for whatever reason)? Does an action taken avowedly in protest (such as bypassing a barricade solely and specifically to make a political point) constitute “protected speech”?⁹ (See Figure 2.) Does it make a difference if such an action *inadvertently* causes (or could cause) resource damage? Since NPS (rightfully) cannot question people about their speech intentions, in practical terms on

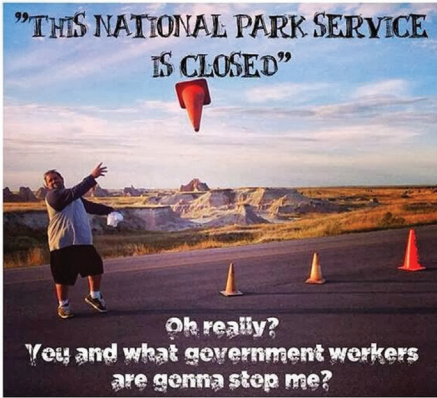


Figure 2. Free speech, civil disobedience, or illegal activity? Photo accompanying a tweet by Noelle Bruno (aimed at the conservative pundit Michelle Malkin), which read “@michellemalkin my husband throwing the cones out of the way at the Bad Lands [sic] National Park, South Dakota” (posted October 5, 2013).

what basis can they deny anyone access to a designated First Amendment free speech area within an otherwise-closed national park?¹⁰

6. There is a widespread failure to understand the NPS mission and the basic requirement that national park resources need both protection and professional stewardship. This failure is bipartisan: liberals as well as conservatives don’t really get it. Early on in the shutdown, the Republican National Committee offered to pay to reopen the World War II Memorial. The committee’s chair, Reince Priebus, said that “ideally, I’d hope to hire furloughed employees for this job” but failing that, he thought that a handful of “security personnel” would do.¹¹ In a letter to Secretary of the Interior Sally Jewell, the top official in Blount County, Tennessee, which covers part of Great Smoky Mountains National Park, proposed to use sheriff’s deputies and volunteer firefighters to reopen the county’s portion of the park. In this official’s opinion his plan “had everything covered” and, if only the federal government would have agreed, “we could have opened those gates and it could have been business as usual for that area and for the Great Smoky Mountains National Park in Blount County.”¹²

Far more ominous was a plan by officials in San Juan County, Utah, to unilaterally remove barricades at several national park units in order to reopen them using emergency services and law enforcement personnel. The plan was conceived after several southern Utah counties declared a “state of emergency” because of the tourism revenue being lost due to the shutdown. Although some of the officials were careful to say that the move was not intended as a showdown with the federal government, others spoke of “storming the barricades,” and rumors flew that there might be an armed confrontation between a “sheriff’s posse” and NPS rangers. The officials felt their plan was analogous to actions they would take under other “normal” emergency declarations.¹³ Tensions were defused and the plan was shelved only after the Interior Department reversed course and allowed state governments to pay for the cost of reopening the parks, with the proviso that they be staffed entirely by NPS personnel.

You might think these sentiments are primarily the province of people on the conservative end of the political spectrum. My experience suggests that this isn’t so. During the shutdown I spent a fair amount of time monitoring “chatter” in the comments section of various political and news websites—left, right, and center. In all, posters of all political stripes

expressed befuddlement at why the national parks simply couldn't be reopened and staffed with ... you name it: local law enforcement, the National Guard, volunteers and docents, state park workers, EMS squads, search-and-rescue teams, the state police, and so on. In fact, more than a few people suggested that you wouldn't need any personnel at all on duty, so long as somebody could be found to jimmy open the restrooms and keep them clean: just open the gates and let the people flow in.

This, to me, is the most important—and most disturbing—shutdown lesson of all: the average person seems to think that practically anyone can do what it takes to run a national park. Obviously NPS is aware of this, and in interviews during and after the shutdown Director Jarvis made the point that the national parks “are irreplaceable assets and they don't manage themselves” and that “nobody can run the national parks except the National Park Service.”¹⁴ But aside from such general statements, there was no concerted effort by the agency to communicate the breadth of professionalism, and the diversity of specializations, that are needed to manage a national park effectively, whether in law enforcement, facilities management, research, resource management, interpretation, or administration. To be fair, NPS had its hands more than full during the shutdown, and during a crisis one can hardly expect it to mount a thorough campaign to educate the public about what it takes to run national parks. But the immediate crisis is past, and now is the time for the agency—and partners such as GWS—to begin thinking about how to successfully convey this information to the public. Doing so would help ameliorate the worst effects of Shutdown Theater if and when the next sequel comes along.

Acknowledgments

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Endnotes

1. A June 2013 national opinion poll found 68% of Americans overall (73% of Democrats, 68% of Independents, and 65% of Republicans) think the federal government is doing a good job taking care of national parks and open space. See Jeffrey M. Jones and Steve Ander, “Americans Praise Gov't Work on Natural Disasters, Parks,” <http://www.gallup.com/poll/163487/americans-praise-gov-work-natural-disasters-parks.aspx>, July 12, 2013; and Jeffrey M. Jones, “Party Satisfaction on Healthcare, Foreign Affairs Varies Most,” www.gallup.com/poll/163496/party-satisfaction-healthcare-foreign-affairs-varies.aspx, July 12, 2013.
2. Not surprisingly, some commentators on the right used the shutdown to push a privatization agenda for the national parks, which they view as chronically mismanaged. See Nick Gillespie, “Who Knew that National Parks were Such a Vital National Interest?,” <http://reason.com/blog/2013/10/02/who-knew-that-national-parks-were-such-a>, October 2, 2013; J.D. Tuccille, “It's Time to Let Somebody Competent Run National Parks (Hint: Private Enterprise),” <http://reason.com/blog/2013/10/16/its-time-to-let-somebody-competent-run-n>, October 16, 2013; Paul Kengor, “The National Park

Service's Behavior has been Shocking, and It Should be Privatized," <http://forbes.com/sites/realspin/2013/10/11/the-national-park-services-behavior-has-been-shocking-and-it-should-be-privatized/>, October 11, 2013.

3. A case in point is the much-discussed, videotaped confrontation between a Tea Party-affiliated member of the House of Representatives and a female ranger at the World War II Memorial, which became an instant Internet meme. The representative, Randy Neugebauer of Texas, told the NPS employee that she should be ashamed of closing the memorial. She replied that it was difficult to turn visitors away, but she was not ashamed of doing her job. He was immediately confronted by a passerby, a man who turned out to be a furloughed federal employee, who chastised Neugebauer for the confrontation. The whole exchange, which took less than two minutes, went viral. As a result, Neugebauer's Facebook page received thousands of comments from people defending the ranger (who actually was not a line interpreter, but the deputy superintendent for operations at the National Mall). Later—and with almost no media attention—Neugebauer tried to walk back his comments in a special newsletter to his constituents, saying, "I want to be clear: I meant no disrespect to the Park Ranger, who was simply doing her job." See Emily Wilkins, "Park Rangers Call Rep. Randy Neugebauer's Outburst 'Shameful,'" <http://trailblazersblog.dallasnews.com/2013/10/park-rangers-call-rep-randy-neugebauers-outburst-shameful.html/>, October 15, 2013.
4. The exact sentence was: "But he [Jarvis] has taken to his political duties with all the fervor of a third-tier hack from the DNC [Democratic National Committee], marrying the disinterested contempt of a meter maid with the zeal of an ambitious party apparatchik." "Rightstuff" [pseud.], "Is Jonathon [sic] Jarvis Now a Favorite of the American Public?," <http://answers.yahoo.com/question/index?qid=20131009131430AARWb8k>, October 13, 2013.
5. Daniel Strauss, "How the National Park Service Became Obama's Shutdown 'Shock Troops,'" <http://talkingpointsmemo.com/dc/parks-and-museums>, October 2, 2013.
6. Lynh Bui, "Veterans Protest Closure of Monuments and Memorials during Shutdown," http://www.washingtonpost.com/local/veterans-protest-closure-of-monuments-and-memorials/2013/10/13/adaf699c-342e-11e3-be86-6aeaa439845b_story.html, October 13, 2013. A photo showing the protester carrying the Confederate flag is in the accompanying slide show.
7. In another example, an Arizona state representative, Brenda Barton, posted this on Facebook: "Someone is paying the National Park Service thugs overtime for their efforts to carry out the order of De Fuhrer ... where are our Constitutional Sheriffs who can revoke the Park Service Rangers authority to arrest:?? Do we have any Sheriffs with a pair?" [Spelling as in original.] See Hunter Walker, "Arizona Lawmaker Rages Against 'De Fuhrer' Obama in Angry Facebook Post," <http://talkingpointsmemo.com/livewire/arizona-lawmaker-rages-against-de-fuhrer-obama-in-angry-facebook-post>, October 7, 2013. See also the blog post by "Allahpundit" [pseud.] on the Hot Air website, "National Park Spokesman: The 'First Amendment Exception' to Shutdown Closures Only Applies to Certain Parks," <http://hotair.com/archives/2013/10/10/national-park-spokesman-the-first-amendment-exception-to-shutdown-closures-only-applies-to>

certain-parks/, October 10, 2013. The comments on this post have references to NPS rangers as “brownshirts” doing the bidding of President Obama as “Führer,” calls to arrest rangers for treason, etc.

8. Stephen Dinan, “We’re Not Gonna Take It! Americans Use 1st Amendment to Storm Shutdown Barriers,” <http://www.washingtontimes.com/news/2013/oct/9/first-amend/>, October 9, 2013.
9. For example, how do you treat this published admission, from an editor at the website of *Road and Track* magazine, of entering a closed park—which he styled as a “middle finger” to the shutdown: “I’m not typically one for politics. My life soldiers on, regardless of the state of our government, so I saw no need to burden myself with concern over the latest antics on Capitol Hill. Then someone told me Cades Cove was closed. The thought of the loop completely abandoned, devoid of traffic and the suburban flatlanders responsible for it, was too much to ignore. Rumor had it that rangers would slap anyone caught in the park with a \$125 fine. If they charged that much to run the loop by your lonesome, there’d be a line clear to Maryville. Totally worth it.” An obnoxious brag? To be sure. But obnoxious speech is protected just like any other speech, and when the man went ahead and drove his dirt bike around the Cades Cove loop in Great Smoky Mountains National Park and through a creek to boot, was he trespassing (can you do that, if you are one of 300 million part-owners of the property?) or was he just enacting dissent? A motorcycle ride is not speech, but could it be argued that the action of entering a closed national park is a necessary element of civil disobedience if one wishes to protest this particular consequence of a government shutdown—an element without which the speech is rendered empty? See Zach Bowman, “A 250cc Middle Finger to the Government Shutdown: Civil Disobedience on Two Wheels,” www.roadandtrack.com/features/web-originals/a-2013-honda-crf250l-middle-finger-to-the-shutdown, October 7, 2013. In November, Bowman was charged with three misdemeanors in relation to the incident; see Kurt Repanshek, “Road & Track Editor Facing Charges for Dirt Bike Ride Through Great Smoky Mountains National Park,” <http://www.nationalparkstraveler.com/2013/11/road-track-editor-facing-charges-dirt-bike-ride-through-great-smoky-mountains-national-park24319>, November 27, 2013. See also Patrik Jonsson, “Government Shutdown: Do National Parks Really Need to be Barricaded?,” www.csmonitor.com/USA/Politics/2013/1003/Government-shutdown-Do-national-parks-really-need-to-be-barricaded, October 3, 2013; and E.M. Swift, “Thoreau Would be Proud: Civil Disobedience in the Time of the Shutdown,” <http://cognoscenti.wbur.org/2013/10/08/old-north-bridge-e-m-swift>, October 8, 2013.
10. The American Center for Law and Justice, a law firm founded by the evangelical minister Pat Robertson, sent a letter to Director Jarvis on October 4, 2013, contending that NPS was violating the First Amendment, due process, and equal protection rights of citizens seeking to enter the World War II Memorial, and threatening a lawsuit if NPS did not immediately allow access to the memorial for everyone. See <http://media.aclj.org/pdf/letter-to-national-park-service.pdf>.
11. Strauss, “Shock Troops.”
12. Jonathan Serrie, “Tennessee Mayor Offers to Manage National Park during Partial

Shutdown,” www.foxnews.com/politics/2013/10/10/tennessee-mayor-offers-to-manage-national-park-during-shutdown/, October 10, 2013.

13. Erin Alberty, “San Juan County Considers Taking Over National Parks,” www.sltrib.com/sltrib/news/56976191-78/county-lyman-national-park.html.csp, October 9, 2013. For the “storming the barricades” quote, see Howard Berkes, “County In Utah Threatens Takeover of National Park Areas,” www.npr.org/blogs/thetwo-way/2013/10/09/231086726/county-in-utah-threatens-takeover-of-national-park-areas, October 9, 2013.
14. Howard Berkes, “National Parks Close as Other Public Lands Stay Open,” www.npr.org/2013/10/03/228719015/national-parks-close-as-other-public-lands-stay-open, October 3, 2013; Judith Lewis Mernit, “NPS Director Jarvis on Shutdown Rage and Funding Needs for the Service,” www.hcn.org/blogs/goat/national-parks-service-director-jon-jarvis-on-shutdown-rage-we-should-be-proud-1, October 31, 2013.

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