

**Statement of
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**House Committee on Natural Resources
Subcommittee on Energy and Mineral Resources**

**H.R. 3113, Modernizing Access to Our Public Land Act
June 8, 2021**

Thank you for the opportunity to testify on H.R. 3113, the Modernizing Access to Our Public Land Act. The bill directs the Department of the Interior (Department), the U.S. Forest Service (USFS), and the Army Corps of Engineers to jointly develop and adopt interagency compatibility standards for Federal databases for the collection and dissemination of public lands recreation data. H.R. 3113 also requires Federal agencies to digitize geographic information system (GIS) mapping data related to recreational access and travel management and make it available to the public.

The Department supports the goals of the bill, which align with our vision to increase access to outdoor recreation opportunities for all Americans. Improving equitable access to the outdoors for all people and offering opportunities to fully enjoy our nation's public lands, including to communities that have disproportionately less access to nature, is an important priority for Secretary Haaland, and consistent with President Biden's call to action in Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, to conserve, connect, and restore 30 percent of our lands and waters by 2030 for the sake of our economy, our health, and our well-being. Achieving these goals will involve working collaboratively to pursue conservation approaches that benefit local communities, improve access to recreation, and expand economic growth.

Investing in technologies to help visitors locate and safely access public lands is essential to supporting a variety of recreational activities such as hunting, fishing, mountain biking, climbing, kayaking, camping, and hiking. We believe this bill has the potential to address some long-standing challenges surrounding public access and data management and we look forward to working with the sponsor and the Committee to address a number of technical issues in the legislation.

Background

Federal land management agencies oversee approximately 640 million surface acres. The Bureau of Land Management (BLM) is responsible for approximately 245 million of those acres while the USFS manages another 193 million. Most other Federal land is managed by the U.S. Fish and Wildlife Service (FWS), with over 92 million acres, and the National Park Service (NPS), with approximately 80 million acres. The Bureau of Reclamation (Reclamation) and the Army Corps of Engineers also manage Federal lands that are used for recreation.

Geospatial Data Management / Federal Geographic Data Committee

The Federal Geographic Data Committee (FGDC) is an interagency committee established in 1990 that leads the development, implementation, and review of Federal policies, practices, and standards related to geospatial data. The U.S. Geological Survey serves as its Executive Secretariat. Under the Geospatial Data Act (GDA; P.L. 115-254), the FGDC undertakes its mission with the understanding that jointly developing standards across agencies promotes the interoperability of Federal data and makes it more useful to more citizens.

For example, as part of the Federal Data Strategy FY2020 Action Plan, the FGDC and the Chief Data Officers Council will develop machine interpretable processes to better relate data kept in different databases. The Department also has agreements with the USFS to improve interagency data management. Lastly, Geoplatform, the Federal government's geospatial shared service, provides one place for national-level data to be registered and accessed by users. These ongoing efforts are improving the accessibility and usefulness of existing data assets.

Under the FGDC organizational structure, the BLM leads the FGDC Cadastral Subcommittee, which develops and implements plans to coordinate cadastral data-related activities among Federal, state, tribal, and local governments, and the private sector. The BLM publishes two key datasets through the FGDC: the Public Land Survey System (PLSS), which is a coordinate dataset based on cadastral survey information used for parcel level mapping, and the Surface Management Agency (SMA) dataset, which captures the best available Federal ownership information. Both datasets support large scale depiction of Federal ownership information and enhance our ability to depict parcel level data for many purposes, including public access.

H.R. 3113

H.R. 3113 directs Federal land management agencies to develop interagency standards to ensure compatibility among Federal databases related to outdoor recreation. The bill requires Federal agencies to digitize geographic information system (GIS) mapping data related to recreational access and travel management and make it available to the public.

Data Consolidation, Digitization, and Publication

Most of the data attributes identified in the bill will require agencies to coordinate across many locations and levels, and some attributes are likely to change regularly or may not currently exist in a digital format. The capacities of the FGDC will help agencies meet such challenges. The BLM notes several provisions within Section 5(a) appear to overlap with the requirements of the Dingell Act, which requires the BLM to solicit input from the public and other stakeholders every two years to identify and publish a priority list of BLM parcels with high recreational values that are either inaccessible or have significantly restricted public access. The BLM is currently reviewing more than 2,000 public priority access nominations for potential inclusion on the list to be published later this year. The BLM Public Lands Access Project has already begun an internal initiative to digitize recreational access information into geospatial files and make that information available to the public by the end of FY 2022.

In 2019, the BLM also initiated an effort to consolidate and modernize the BLM land status records systems, through the development of the Mineral and Land Records System (MLRS).

The future MLRS will replace the current systems used by BLM – the Legacy Rehost 2000 (LR2000) case management system, the Alaska Land Information System (ALIS), and the older status records—such as master title plats, historical indexes, and tract books. MLRS will be a customer-centric, geospatially-enabled land information system that employs nationally standardized business practices. The new system will help ensure the quality and accuracy of land and mineral records and data while allowing land records information to be securely delivered to BLM customers and the general public.

The NPS notes there are several additional ways for the public to access the NPS Land Resources Program's geospatial data through web map services and data downloads on platforms like the NPS Integrated Resource Management Applications data store and Data.gov. The NPS provides such web-based information to the public for all park units, including the routes of roads and trails, location of campgrounds and safety information. However, digitization of all maintained routes across NPS land may not meaningfully add to the visitor experience and would be a significant and costly undertaking.

The public can access FWS data using web maps and services that include National Wildlife Refuge System Land, National Fish Hatcheries, and Wilderness Areas. Hunting and fishing opportunities, along with visitor services amenities information are shared with the public through the “Find Your Hunt” interactive web map. Public FWS data is available on Data.gov and through FWS websites.

Definitions of Key Terms & Concepts

The Department believes additional definitions of key terms and concepts would provide clarity to the bill. Specifically, “outdoor recreation data relating to Federal land” as used in Section 4 could be interpreted to mean lands that are open to certain types of recreational activities, miles of roads and trails open to motor vehicles, or information referenced expressly in Section 5 of the bill. The meaning of “regulated” or “closed” as used in Section 5(a)(5), including any temporal restrictions on “closed” (e.g., short-term closures, long-term closures, seasonal closures, etc.), if intended, would also be helpful. Further, we would like to ensure definitions are consistent with BLM’s regulations for off-road vehicles and policy guidance for travel and transportation management.

The Department also suggests that with the increased popularity of e-bikes, section (5)(a)(4)(C) be revised to read “non-motorized bicycles” to distinguish traditional bicycles from e-bikes. Sponsors should consider including e-bikes as a standalone category in section 5(a)(4) given that several bureaus within the Department recently completed efforts to modify existing regulations to better define and manage e-bikes. Moving forward, there may be roads and trails that are open to e-bikes and traditional, non-motorized bicycles but not off-road vehicles, while other roads and trails may be open to non-motorized bicycles but not e-bikes or off-road vehicles.

Implementation Timeframe

Section 4 provides only 18 months to develop interagency geospatial data and/or metadata standards, but based on past experience this effort could take 36-48 months to complete. Section 5(a) requires the Secretaries to digitize and make publicly available the GIS data within 3 years

after enactment of the bill. If agencies fail to meet this deadline, the government could be open to liability through 5 U.S.C. § 706(1) claims being brought against named agencies. The extension of timeframes in this bill would provide more reasonable and achievable deadlines.

Digitization of Roads & Trails Data

Section 5(a)(2)-(4) requires the digitization of information regarding roads and trails. The BLM uses a travel and transportation planning process to incorporate roads and trails into its transportation system, which includes determining the status and usage information identified by Section 5(a)(2)-(4). To date, the BLM has incorporated 90,000 miles of roads and trail routes into its transportation system through completion of 153 travel plans, but there are an estimated 400,000 miles of routes remaining that would need to be inventoried, evaluated, and incorporated into the transportation system. Given the sheer volume of roads and trails on BLM lands and the process required to complete each travel plan, it may not be feasible to obtain the required road and trail information within three years, let alone digitally publish it.

Historic & Archaeological Resource Data

The Department also recommends the addition of a provision to Section 5 stating the GIS data made publicly available pursuant to section 5(a) should not divulge information regarding the “location, character, and ownership” of historic resources and the “nature and location” of archaeological resources, the disclosure of which is prohibited by the National Historic Preservation Act, 54 U.S.C. § 307103, and the Archaeological Resources Protection Act, 16 U.S.C. § 470hh, respectively.

Authorization of Appropriations

Finally, Section 7 authorizes appropriations of equal amounts to the Department of the Interior and the Department of Agriculture, with a smaller amount to the Secretary of the Army to carry out the bill’s requirements.

Conclusion

The Department is committed to expanding equitable access for the American people to the vast recreation opportunities on public lands and forming healthy connections between people and the outdoors, while strengthening local communities, working landscapes, and rural economies. The Department shares the sponsors’ interest in improving geospatial data to facilitate recreational access to Federal lands, and we look forward to working further with the sponsors and the Committee on these issues.

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**H.R. 3670, Simplifying Outdoor Access for Recreation Act
H.R. 3687, Environmental Justice in Recreation Permitting Act
June 8, 2021**

Thank you for the opportunity to testify on H.R. 3670, the Simplifying Outdoor Access for Recreation (SOAR) Act, and H.R. 3687, the Environmental Justice in Recreation Permitting Act.

H.R. 3670 aims to improve the process and reduce the cost of applying for and administering Special Recreation Permits (SRPs) and authorizes single joint SRPs for multi-jurisdictional trips across Federal lands. H.R. 3687, the Environmental Justice in Recreation Permitting Act, requires the Secretary of the Interior to submit a report to Congress on the estimated use of SRPs by recreation service providers serving “environmental justice communities,” among other provisions.

The Department of the Interior (Department) supports the overall goals of these bills, which align with the Secretary’s priorities to build healthy communities and economies, advance environmental justice, and provide safe and equitable access to outdoor recreation opportunities for all Americans. The Department is advancing these priorities as guided by the Great American Outdoors Act; the John D. Dingell, Jr. Conservation, Management, and Recreation Act (Dingell Act); Executive Order (E.O.) 14008, *Tackling the Climate Crisis at Home and Abroad*, and E.O. 13985, *Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*. Given this direction from Congress and the Administration, the Department is actively seeking ways to encourage, facilitate, and improve partnerships with and access for youth, tribes, and underserved communities to public lands. This includes improving public health, safety, and climate resiliency at developed recreation sites and areas by updating and modernizing infrastructure, with special consideration to meeting accessibility standards for people with disabilities.

We believe these bills have the potential to address some long-standing challenges, and we look forward to working with the sponsors and the Subcommittee to address a number of technical issues in the measures. We defer to the Department of Agriculture regarding provisions affecting the management of lands administered by the U.S. Forest Service (USFS).

Background

Federal land management agencies oversee approximately 640 million surface acres. The Bureau of Land Management (BLM) is responsible for approximately 245 million of those acres while

the USFS manages another 193 million. Most other Federal land is managed by the U.S. Fish and Wildlife Service (FWS), with over 92 million acres, and the National Park Service (NPS), with approximately 80 million acres. The Bureau of Reclamation (Reclamation) and the Army Corps of Engineers also manage Federal lands used for recreation.

The Department's bureaus contribute to its overall recreation mission and to the Secretary's recreation and equitable access priorities. The National Park System, which preserves some of our most important national treasures, hosts over 300 million visitors every year. The public lands managed by the BLM host a remarkable variety of recreational activities, and BLM lands supported more than 73 million recreational visits last year – an increase of three million from 2019. The National Wildlife Refuge System provides world-renowned places to see iconic wildlife and partake in a variety of outdoor activities, such as hiking, bird-watching, canoeing and hunting. The water projects of Reclamation, which is the largest wholesale water supplier in the nation, are among America's most popular sites for water-based outdoor recreation.

The Federal Lands Recreation and Enhancement Act (FLREA) authorizes the following four Interior Department agencies to collect fees on Federal lands and waters: the BLM, Reclamation, FWS, and NPS. FLREA also provides the USFS in the Department of Agriculture authority to collect recreation fees. Revenues collected under FLREA allow the Federal government to implement projects that benefit visitors, such as improving accessibility, maintaining recreation sites, and building informational exhibits. FLREA also authorizes agencies to issue SRPs, which include authorizations for commercial, competitive event, and group recreation uses of the public lands and waters. These permits are issued to manage visitor use, protect recreational and natural resources, and provide for the health and safety of visitors. The BLM administers approximately 4,700 SRPs per year. Other Interior bureaus use different authorities in addition to FLREA to manage recreation and collect associated fees: the FWS issues special use permits; Reclamation issues use authorizations; and NPS issues commercial use authorizations (CUAs) and special use permits.

H.R. 3670, the SOAR Act

H.R. 3670 authorizes single joint SRPs for multi-jurisdictional trips across Federal lands and makes various amendments to FLREA aimed at improving the process and reducing the cost of applying for and administering SRPs.

Single Joint SRPs for Multi-Jurisdictional Trips

Section 106 of H.R. 3670 authorizes agencies to issue single joint SRPs for trips crossing jurisdictional boundaries of more than one Federal land managing agency. When a single joint SRP for a multi-jurisdictional trip is proposed, the bill authorizes each of the land management agencies to identify a lead agency for the SRP. This designation is determined by the relative length of the portions of the proposed trip, the land use designations of the areas to be accessed during the trip, the relative ability of each agency to properly administer the single joint SRP, and any other considerations. Under the bill, the agencies would not be permitted to recover the costs of this coordination. H.R. 3670 also authorizes agencies to delegate their respective enforcement authorities to the designated lead agency.

The Department supports efforts to improve the permitting process for trips that cross jurisdictional boundaries and would like to continue to work with the sponsors on certain modifications. For example, the Department supports delegating enforcement authorities among agencies, but would like to ensure these delegations conform with the statutory authorities for each agency. In addition, the Department would like some clarity on how an environmental analysis would be handled by the identified lead agency to ensure compliance with standards for other agencies. Specifically, the Department is concerned that the use of categorical exclusions authorized by the lead agency and applied to a single joint SRP for a multi-jurisdictional trip could result in conflicts with another agency's established National Environmental Policy Act (NEPA) processes.

Although the Department appreciates the bill's option for agencies to withdraw from single joint SRPs, the Department feels the requirements to issue substantially similar permits with no new application may cause processing issues and other limitations that could impact the timeliness of the permitting process. If an agency needs to withdraw from a single joint SRP, presumably it is because the agency needs to issue a permit under terms different from the single joint SRP, whether due to differing management concerns or other circumstances. Lastly, the Department would like to continue to work with the sponsors to determine appropriate cost recovery options.

Alignment of Permitting Authorities & Fees

Section 102 of H.R. 3670 defines each land management agency's recreation permitting instruments as SRPs under FLREA and lays out a formula for the fees associated with SRPs, including alternative fees. NPS is excluded from these fee-setting provisions in the bill; however, the Department is concerned that these provisions, coupled with the limited cost-recovery provided in the bill, would severely limit the NPS's ability to fund the program.

The Department generally supports expanding FLREA to coordinate recreation permitting across agencies. However, the Department believes the bill, as currently written, could create conflicts with existing statutory authorities. For example, the NPS issues CUAs (which are defined as SRPs under the bill) under the authority of the National Park Service Concessions Management Improvement Act of 1998, not under FLREA. The Department would like to continue to work with the sponsors and Subcommittee on modifications to these provisions.

Expedited Permitting

H.R. 3670 provides authority for agencies to improve recreation permitting processes. This includes the expanded use of categorical exclusions, programmatic NEPA, and expedited rulemaking. The bill also directs agencies to make online permit applications available. The Department supports these efforts as we continue to pursue opportunities to facilitate increased recreational access for all Americans, especially underserved communities. The BLM has already taken significant steps to develop online access to recreation information and permits, most recently through its launch of the pilot Recreation and Permit Tracking Online Reporting (RAPTOR) system. RAPTOR allows users to apply for and renew SRPs online. The BLM is piloting RAPTOR in seven field offices through at least October 2022, and has already issued 24 permits through the system. Additional field offices will gradually be included.

H.R. 3670 authorizes permittees to voluntarily return unused service days to be available for other permittees. The bill also authorizes use of temporary SRPs and conversion of temporary permits to long-term permits. In addition, the bill includes provisions directing agencies to establish a permit administration protocol to automatically authorize permittees to engage in activities substantially similar to those for which they have a permit. The Department supports efforts to simplify the permitting process for applicants.

Permit Notifications

Section 105 of H.R. 3670 requires agencies to make notifications of permit opportunities available online. The Department supports these efforts and would welcome the opportunity to work further with the sponsors and the Subcommittee on necessary modifications to these provisions. For example, the Department is concerned that providing notification of all potential recreation permit opportunities could result in a speculative market for the most profitable ones. Additionally, recreation activities are generally proposed by the public, and bureaus then determine whether they require permits under Federal land management laws and regulations.

Liability & Cost Recovery

Section 108 of H.R. 3670 determines the terms under which agencies require permittees to waive the liability of the United States for permitted recreation activities. Section 109 also requires agencies to amend the cost recovery process for issuing and renewing SRPs. This section would exempt the first 50 hours of work from cost recovery in issuing and monitoring these permits, which is particularly problematic for the NPS, as under current authorities NPS can recover the full costs of these activities. Under the bill, the exemption would be applied to multiple permit applications for similar services in the same area. The agencies would be required to determine the share of the aggregate amount to be allocated to each application on an equal or prorated basis. While the Department supports the goal of simplifying processes when they are overly burdensome, we would like to continue to work with the sponsors and the Subcommittee to determine appropriate cost recovery options for the agencies. For example, limiting full cost recovery on larger, more complex applications could unintentionally prevent the effective administration of all SRPs.

H.R. 3687, Environmental Justice in Recreation Permitting Act

H.R. 3687 requires the Department to prepare a report to Congress on the use of SRPs by recreation service providers serving environmental justice communities. The bill defines environmental justice communities as communities “with significant representation of communities of color, low-income communities, or Tribal and indigenous communities, that experiences, or is at risk of experiencing, higher or more adverse human health or environmental effects than other communities.”

The bill requires the report to include estimated use of SRPs by recreation service providers serving environmental justice communities, and policies and barriers affecting their access. The report may also include illustrative case studies on effective use of SRPs to provide public land access for these providers, as well as recommendations for agency policy or Congressional action to encourage and simplify public land access for them. The bill does not require recreation service providers to participate in the Department’s information gathering for the report, and the Department is prohibited from requiring SRP applicants or holders to provide any information to the Department for the report as a condition of a permit.

The Department strongly supports the goal of promoting equitable use of public lands by all Americans, especially communities of color, low-income communities, and rural and indigenous communities that have long suffered disproportionate and cumulative harm from air pollution, water pollution, and toxic sites. As directed by E.O. 14008, the Department is committed to making environmental justice part of its mission by developing programs, policies, and activities to address the disproportionately high and adverse human health, environmental, climate-related, and other cumulative impacts on disadvantaged communities.

Finally, we would appreciate the opportunity to work with the sponsors and the Subcommittee to ensure the Department is able to obtain sufficient information to complete the report within the three-year deadline, as well as ensure that all applicable agencies that issue SRPs are covered by the legislation.

Conclusion

The Department strongly supports efforts to promote equitable access to outdoor recreational opportunities on our nation's public lands, and we look forward to working further with the sponsors and Subcommittee on these important issues.