

Testimony of:
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Introduction

Chair Porter, Ranking Member Gosar, and members of the subcommittee, on behalf of American Trails and the Trails Move People Coalition, I thank the Committee for the opportunity to provide testimony on the importance of providing accessible outdoor recreation opportunities to people of all backgrounds, ages, and abilities on our nation's trails and public lands.

American Trails has a mission to advance the development of diverse, high quality trails and greenways for the benefit of all people and communities. Through collaboration, education, and communication, American Trails raises awareness of the value these trail systems offer. The member organizations of the new Trails Move People Coalition represent millions of Americans who spend their time, money and energy to get out on trails for transportation, health, fun, and to volunteer. The Coalition strives to elevate the prioritization of trails by developing funding and research resources so that everyone, irrespective of geography, mode of recreation, socio-economic status, or experience, will have access to more and better trail opportunities and in turn more fulfilling personal experiences outside.

The demand for outdoor recreation on federal lands has increased dramatically over the last 30-years, and it is expected to continue to rise. The COVID-19 pandemic has brought this into dramatic focus, as trails and public land use across the country are seeing 200-400% increases by Americans seeking the respite and well-being that outdoor recreation can provide. Yet, for a multitude of complex reasons, the majority of Americans—including persons with disabilities—still do not participate in outdoor recreation.

What are the obstacles to accessibility on Public Lands

Lack of Information: In my opinion, the single greatest barrier to accessibility on public lands is a lack of information, especially for new trail users. The most effective way to improve access to Federal public lands is to provide clear objective information to the public on what exists. Disability is a spectrum, and no two people experience it the same way. By providing objective details about what a person can expect when they venture into the outdoors, every person can decide for themselves whether a trail or experience meets with their own personal requirements. In this way, without touching a shovel or a mini-excavator, trail accessibility can be improved by simply letting people know where they can go to get the experience they desire.

The Federal government has existing resources that could be leveraged to help provide this information.

1. The **USGS has a National Digital Trails [Trail Explorer Map](#)** that could include basic accessibility information on the above listed elements on trails. This resource meets the goals of equitable access because it is publicly available, free of charge to everyone. It needs increased funding to build the database and associated tools, and to effectively include access information.
2. **[recreation.gov](#)** acts as a repository for information on outdoor recreation facilities on Federal lands. Funding an effort to include accessibility information on facilities on this platform could be an effective way of improving accessibility
3. **Training** of Federal land managers in accessibility needs and accessibility assessment of trails and outdoor developed areas.

Beyond lack of information, there are also several inherent obstacles that today's land managers face when they consider providing access to people with disabilities lands. These include:

Setting of Precedent: Many land managers are concerned that if they allow for a special use by one person or group of persons, it will "open the floodgates" for special requests, making it difficult to manage a large volume of requests for similar treatment by others. To be sure, the agencies do have many examples of how this has happened in the past with many issues. This speaks to the importance of doing the right thing the first time, so the precedent that is set is the precedent that is desired. This is part of the reason why federal agencies are urged to use caution in the use of "special" programs and treatment.

Allocation of resources: Access for people with disabilities is often perceived as a secondary consideration to other, more pressing needs. One of the underlying issues here is that many people (not just federal land managers) tend to "pigeon hole" the access issue as simply another special need of yet another minor constituency. For accessibility to receive a higher share of the resources that are available, resource allocators need to recognize that accessibility is an issue that does or will effect everyone. While it is true that the federal land management agencies have been expected to do more with less in recent years, it is also true that accessibility for persons with disabilities can be advanced in ways that compliment and augment other efforts to better serve ALL Americans who recreate on public lands.

Use of disability access issue to repeal environmental protections: A third major obstacle to promoting greater opportunities for accessibility is the perception among many land managers that many accessibility initiatives are simply disguised efforts to repeal policies and practices intended to protect natural resources. Unfortunately, the land management agencies have many examples where this perception appears to be accurate—most notably in challenges to road closures by persons or organizations who claim these closures violate the civil rights of persons with disabilities. This negative reaction among land managers is most unfortunate, because it instantly polarizes discussions about access and casts doubt on the motives of people and organizations who advocate for legitimate opportunities for improved access to outdoor recreation.

In order to move the accessibility agenda forward it is important that the concerns of the land management agencies be addressed.

Status of Accessible Trails and Outdoor Developed Areas

Current accessibility standards for outdoor developed areas can be found in the Architectural Barriers Act (ABA) which applies to Federal lands or Federally funded projects. The Americans with Disabilities Act (ADA) does not currently include guidance on accessibility of outdoor developed areas. This causes confusion for State and local land managers who are unsure what guidelines they should follow when building new trails or outdoor developed areas.

In order to alleviate this confusion, we would encourage the current trail and outdoor developed area guidelines for accessibility contained in the ABA be added to the ADA as well. We believe that the last 20 years of effective implementation on the part of Federal land management agencies proves that implementation at the State and local levels will not cause undue financial burden on these entities, and will create the further benefit of having consistent and clear guidance for how to meet the needs of people with disabilities when building, re-building, and modifying trails and outdoor developed areas like campgrounds, picnic areas, trailheads, etc.

Accessible Trails are Sustainable Trails

I have been teaching the concepts of universal trail assessment, design, and construction for over 30 years, and I have come to understand one thing very clearly. There is almost no difference between a trail that is designed to maximize access to persons with disabilities and one that is well-designed to fit the environment, properly built according to industry best practices, and is sustainable for years to come.

The elements of trails that affect both accessibility and sustainability are:

1. Grade (10% max, with exceptions to 12% for water drainage)
2. Cross Slope (3% max, with exceptions to 5% for water drainage)
3. Width (minimum of 32", wider for other trail uses)
4. Surface (firm and stable)
5. Obstacles (less than 2" in height)

Other Power Driven Mobility Devices

On March 15, 2011 the Department of Justice (DOJ) revised rules went into effect allowing "other power-driven mobility devices" to be used by "individuals with mobility disabilities." This DOJ ruling applies to any place, indoors or outdoors, that is open to the public. Under the American with Disabilities Act (ADA) Title II this DOJ rule applies to trails on State or local government lands. Also under the ADA Title III it applies to other "public accommodations" that would include trails open to the public on privately or commercially managed lands. Federal agency managed lands are not directly covered under the ADA, however this rule sets legal precedents the Federal agencies must watch. So the Federal agencies are also reviewing their policies, procedures, and the way in which trails on the land base they manage have been assessed.

The DOJ rules require an entity open to the public to make reasonable modifications in its policies, practices, or procedures to determine when a reasonable accommodation can be made to allow the use of an other power-driven mobility device by individuals with mobility disabilities, UNLESS: that entity can document that it has completed an assessment of the facility, trail, route or area, before the person requesting use of the device arrived onsite, and the entity found that class of other power-driven mobility device could not be used in that location due to one or more of the following DOJ assessment factors:

- (a) "The type, size, weight, dimensions, and speed of the device;
- (b) The volume of pedestrian traffic (which may vary at different times of the day, week, month, or year);
- (c) The design and operational characteristics (e.g., whether its service, program, or activity is conducted indoors, its square footage, the density and placement of stationary devices, and the availability of storage for the device, if requested by the user);
- (d) Whether legitimate safety requirements can be established to permit the safe operation of the other power-driven mobility device in the specific facility; and
- (e) Whether the use of the other power-driven mobility device creates a substantial risk of serious harm to the immediate environment or natural or cultural resources, or poses a conflict with Federal land management laws and regulations."

Those are the only factors a public entity is allowed to use in determining whether a particular class of other power-driven mobility device may be allowed in a specific location. However, knowledge of this DOJ rule is exceedingly lacking amongst land managers. It is important to spread the word that this process is required to protect against litigation, and to encourage land managers to engage in this informative process, which gives guidance to all land managers in how to make decisions about providing access to people with disabilities.

Recommendations

Based on the above testimony, we would make the following recommendations for action in order to improve accessibility to trails and outdoor recreation opportunities on Federal, State, and local public lands.

1. Encourage the Accessibility Guidelines for Trails and Outdoor Developed Areas found in the ABA be taken up and approved under the ADA as well.
2. Agencies should conduct baseline assessments of existing facility and programmatic accessibility, and develop and implement transition plans for facilities and programs that are not now accessible to bring them into compliance.
3. Increase accessibility related awareness and educational opportunities for agency personnel, service providers, and partners.
4. Allocate resources, staffing, and funding to federal land management agencies that specifically addresses accessibility.
5. Leadership of all agencies should make it explicit that accessibility improvements are a high priority in manager's workloads.
6. Improve communications about opportunities for outdoor recreation to persons with disabilities, organizations serving people with disabilities, concessionaires, outfitters, and agency partners.
7. Clarify the balance between resource protection and accessibility by encouraging the OPDMD rule analysis on all trails.

Conclusion

Simply put, there is no greater statement of social acceptance than being asked to recreate together as a friend, peer, or colleague. When people enjoy each other enough to extend the invitation to recreate together, they will—usually voluntarily—seek to make accommodations to facilitate participation. For most people, the accommodations they make in a social, recreational context do translate into other areas of life—including employment, health care, and access to basic services.

This is why increasing opportunities for integrated outdoor recreation is so important—it serves as an effective catalyst in changing attitudes. It is far more efficient and effective at accomplishing what legislated mandates can only attempt to do—promote equality. It serves to motivate people to change because they want to, not because the law is telling them they have to. Once this attitudinal change is accomplished, the implementation of other aspects of the civil rights of any minority group becomes far easier.

Thank you Chair Porter, Ranking Member Gosar, and members of the subcommittee for the opportunity to testify today. I am eager to answer any questions you might have today or any time in the future.