

**Statement of the
U.S. Department of the Interior
Before the
Senate Energy and Natural Resources Committee
on
S. 3266, Outdoor Recreation Act
S. 1229, Simplifying Outdoor Access for Recreation (SOAR) Act
S. 1874, Recreation Not Red Tape Act
S. 1269, Concerning Environmental Justice in Recreation Permitting
S. 3264, Biking on Long-Distance Trails Act
and
S. 1616, Federal Interior Land Media Act
S. 2258, Parks, Jobs, And Equity Act
S. 2886, Cape and Antler Preservation Enhancement Act
S. 2887, Outdoors For All Act**

December 2, 2021

Public Land Recreation Bills

Thank you for the opportunity to provide testimony on S. 3266, the Outdoor Recreation Act; S. 1229, the Simplifying Outdoor Access for Recreation (SOAR) Act; S. 1874, the Recreation Not Red Tape Act; S. 1269, concerning environmental justice in recreation permitting; and S. 3264, the Biking on Long-Distance Trails Act.

S. 3266 proposes to modernize and improve outdoor recreation opportunities and encourage economic growth in rural communities through a variety of provisions. S. 1229 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. S. 1874 contains substantially similar provisions to those of S. 1229 regarding SRPs, but also provides for online sales of interagency “America the Beautiful – the National Parks and Federal Recreational Lands” passes and establishes a National Recreation Area System, among other provisions. S. 1269 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.” Finally, S. 3264 requires the identification of long-distance bike trails on Federal lands.

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 Committee 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 (Forest Service).

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 Forest Service 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 Forest Service 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.

S. 3266, Outdoor Recreation Act

S. 3266 proposes to modernize and improve outdoor recreation on Federal lands by addressing permitting processes, land management planning, broadband connectivity at recreation sites, visitation data analysis, travel management, and public-private partnerships to renovate campgrounds on Federal lands, among other provisions.

Title I

Title I of S. 3266 aims to increase outdoor recreation opportunities by directing a study on permitting challenges that hinder youth groups' ability to access and recreate on Federal land and easing permit requirements for outfitters and guides serving fewer than 40 clients at picnic areas. Title I also outlines additional requirements for the BLM and Forest Service land use planning process by requiring recreation resource inventories and consideration of future recreation needs in developing land use plans. Finally, Title I requires at least one designated shooting range to be established in each National Forest and BLM district.

Regarding designated shooting ranges in Section 104 of the bill, the BLM notes that it currently manages only six designated shooting ranges, with plans to open four more in BLM Arizona's Phoenix District in the near future. To determine whether to establish such ranges, the BLM works with the local communities to assess the demand and viability. While the BLM recognizes the sponsors' interest in increasing access to designated shooting ranges, we note that significant resources are required to develop and maintain shooting ranges, including removal of lead ammunition, clean-up of hazardous materials, and berm management. The BLM further notes that, given the many uses of the public lands that compete for resources, it would be challenging to manage such a large number of designated shooting ranges, as envisioned in the bill, without the ability to charge a user fee, which the bill currently prohibits. Finally, the BLM notes that over 99 percent of public lands are open to recreational shooting and the BLM works with local communities and our partners to provide access for these opportunities. Currently, there are over 20 shooting ranges on public lands that are administered by non-Federal entities through a Recreational & Public Purpose (R&PP) Act lease, and over 50 shooting ranges that have been patented and conveyed under the R&PP Act.

Title II

Title II of the bill seeks to modernize and improve recreation on public land by requiring the Department and the Forest Service to publish a list of high priority Federal recreation sites that lack broadband access and estimate the cost of facilitating that access. The bill directs the Department and the Forest Service to partner with the Department of Agriculture's Rural Utilities Service to construct broadband infrastructure at recreation sites. Title II also establishes a competitive grant program to enable non-Federal partners to help with inspection and decontamination of watercraft at reservoirs managed by the Department to prevent the introduction and spread of aquatic invasive species.

Title II requires collection and publication of real-time visitation data on a single interagency system and directs the Forest Service and BLM to prioritize completion of travel management plans. Section 204 of Title II requires the BLM to develop a ground transportation linear feature or motor vehicle and over-snow vehicle use map for each BLM district in a GIS-compliant format within five years of enactment. The bill also requires the BLM to update any travel management plan that is fifteen years or older.

The BLM recognizes how important visitation data is to enhancing recreational opportunities and experiences for visitors while protecting natural and cultural resources. Most recreational opportunities on BLM-managed public lands are not directly tied to developed sites and

facilities. Due to the dispersed nature of these recreational activities, it would be challenging for the BLM to provide the real-time, site-specific visitation data required by the bill, and thus we are concerned that the provision could not be implemented as currently drafted. The Department would like to work with the Committee and bill sponsors to address technical issues in order to achieve the sponsors' goals.

Additionally, 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 as appropriate. 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 for the linear feature within five years of enactment. The BLM further recognizes that it must balance the need for public access with protecting natural and cultural resources through upholding the long-standing minimization criteria for travel management planning when designating travel and trail routes.

Title III

Title III seeks to encourage economic growth by providing for financial and technical assistance to develop visitation infrastructure in rural communities adjacent to recreation destinations. Specifically, Title III directs the Department and the Forest Service to explore extending recreation shoulder season opportunities and establishes a pilot program for public-private partnership agreements to modernize campgrounds on Forest Service and BLM-managed lands. In addition, Section 304 of the bill requires the BLM to enter into at least 1 public-private partnership agreement to modernize campgrounds in no fewer than 5 states in which the BLM administers public lands.

The BLM appreciates the sponsors' interest in finding innovative ways to modernize recreation facilities and meet the growing demand for outdoor recreation opportunities. The BLM notes that it does not currently have the authority to enter into concessions agreements, and the pilot program established in section 304 gives the BLM a similar authority for modernizing campgrounds covered by the pilot program. Finally, section 304 only allows the Secretaries to enter into agreements for modernizing campgrounds with private entities. Since the BLM currently engages with non-profit groups and local, state, and Tribal governments to cooperatively manage sites, the BLM recommends that the sponsors consider expanding this pilot program to include those entities, as they may also benefit from participating.

S. 1229, SOAR Act

S. 1229 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 7 of S. 1229 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. S. 1229 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 3 of S. 1229 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 (for activities included in the definition of SRPs under the bill) under the authority of the National Park Service Concessions Management Improvement Act of 1998, not under FLREA. Additionally, the NPS issues special use permits and recovers associated costs under 54 U.S.C. 103104 for many of the activities that would be permitted under SRPs. The Department would like to continue to work with the sponsors and Committee on modifications to these provisions.

Expedited Permitting

S. 1229 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 piloted RAPTOR in seven field offices during fiscal year 2021, and successfully issued 38 permits through the system. An additional 17 field offices will be added to the RAPTOR pilot in 2022.

S. 1229 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 6 of S. 1229 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 Committee 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 9 of S. 1229 determines the terms under which agencies require permittees to waive the liability of the United States for permitted recreation activities. Section 10 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. 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 Committee 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.

S. 1874, Recreation Not Red Tape Act

Title I of S. 1874 contains substantially similar provisions authorizing single joint SRPs for multi-jurisdictional trips across Federal lands to the language in S. 1229 discussed above. Like S. 1229, Title I of S. 1874 also makes various amendments to FLREA aimed at improving the process and reducing the cost of applying for and administering SRPs. Titles II through IV of S. 1874 address access to public lands for recreation, job opportunities for veterans at Federal land management agencies, and establishment of a National Recreation Area System and interagency trail management program, among other provisions.

Title I

Title I of S. 1874 contains two sections that are not included in S. 1229. Sections 111 and 112 of S. 1874 encourage the agencies to work with states to allow a purchaser to buy a Federal recreation pass and state recreation pass in the same transaction and requires the Secretaries to sell the Federal America the Beautiful passes through the website of each Federal land management agency. The Department supports improvements in the retail of recreation passes for the recreating public and would like to work with the sponsors to ensure the Department has the ability to perform revenue transfers across multiple entities. We note the Federal America the Beautiful passes are currently available online through the USGS Store, including the free Annual Military Pass for Gold Star Families and Veterans. Further, since Veteran's Day 2020, Gold Star Families and U.S. military veterans are eligible to receive free access to more than 2,000 Federal recreation areas, including national parks, wildlife refuges, and forests. The free access program is a way to thank America's veterans, Gold Star Families, and current military and their dependents for their support of our country and to encourage them to explore recreational opportunities on their public lands and waters.

Title II

Title II of S. 1874 directs agencies to work with branches of the military to improve veterans' and service members' opportunities to engage in outdoor recreation, and to hire veterans at Federal land management agencies. The Department is working diligently to expand recreation access for our military families and veterans, and strongly supports these provisions.

Titles III & IV

Title III establishes a National Recreation Area System composed of existing Forest Service and BLM National Recreation Areas and any future areas designated by Congress. It includes provisions to protect valid existing rights within the National Recreation Areas, as well as livestock grazing units, state and Tribal jurisdiction over fish and wildlife, water rights, and ski area land. Further, the title requires agencies to develop comprehensive management plans associated with each National Recreation Area. Title III also directs agencies to develop appropriate recreation performance metrics for evaluating public land managers and adds recreation to the missions of other Federal agencies. Title IV promotes the use of volunteers to support the stewardship of public lands and directs agencies to establish an interagency trail management plan.

The Department appreciates these efforts to highlight and support the incredible recreation values of our public lands and generally supports the goals of these provisions. We would like to work with the Committee and bill sponsors to ensure the necessary capacity is available and strategically placed to address the associated workload to achieve the bill's intent.

S. 1269, Concerning Environmental Justice in Recreation Permitting

S. 1269 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 Committee 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.

S. 3264, Biking on Long-Distance Trails Act

S. 3264 requires the Secretary of the Interior and Secretary of Agriculture to identify no less than 10 existing long-distance bike trails and 10 areas presenting an opportunity to develop or complete long-distance bike trails. The long-distance trails would cross no less than 80 miles of lands managed by the Department of the Interior and National Forest System Lands to provide opportunities for mountain biking, road biking, touring, and gravel biking. S. 3264 directs the long-distance trails to be consistent with the management requirements of the Federal lands crossed and requires coordination with stakeholders to evaluate resources and feasibility. Further, Federal agencies may publish maps, install signage, and issue promotional materials for any identified long-distance bike trails under the bill. Lastly, S. 3264 requires the Secretaries, in partnership with interested organizations, to prepare and publish a report listing the trails within two years.

The Department supports the goals of establishing additional opportunities for bicycling on Federal lands. The diverse lands managed by the various agencies of the Department provide tremendous opportunities for cycling. The BLM, for example, has a longstanding partnership with external organizations to provide information, GPS trail maps, and interactive virtual tours for mountain biking on public lands, and promotes the "Top 20 Mountain Biking Opportunities" on BLM-managed lands.

We would also welcome the opportunity to work with the sponsor and the Committee on some of the bill's provisions. For example, we would like clarification regarding each Secretary's responsibilities toward achieving the number of identified areas conducive to long-distance bike trails and opportunities for developing trails. Additionally, the Department notes that some of the

best opportunities for developing long-distance bike trail routes could likely traverse non-Federal lands, and we would like to work with the sponsor to allow for the inclusion of non-Federal land segments in the trails. We would also like to ensure sufficient time and resources are provided in the bill for stakeholder outreach, coordination of public input on the feasibility of the trails, completing environmental analyses and any changes to local land use plans – as well as for managing and maintaining the trails upon their establishment. Finally, the Department would like to discuss further with the sponsor how to best define the intended use of these trail segments, including how uses such as electric bicycles would affect that use and the management of other uses, such as hiking, or off-highway vehicles, as appropriate.

Additional Bills

In addition to providing testimony on these public land recreation bills, the Department also provides testimony today on S. 1616, the Federal Interior Land Media Act; S. 2258, the Parks, Jobs, And Equity Act; S. 2887, the Outdoors For All Act; and S. 2886, the Cape and Antler Preservation Enhancement Act.

S. 1616, Federal Interior Land Media Act

S. 1616, the Federal Interior Land Media Act, would provide exceptions from permitting and fee requirements for content creation, regardless of distribution platform, including digital or analog video and digital or analog audio recording activities, conducted on land under the jurisdiction of the Secretary of Agriculture and the Secretary of the Interior.

In litigation pending before the U.S. Court of Appeals for the D.C. Circuit, *Price v. Garland*, No. 21-5073 (D.C. Cir.), a federal district court ruled that aspects of the existing commercial filming statute for the National Park Service violates the First Amendment. Judicial resolution of this pending litigation would inform whether and how Congress may choose to legislate in this area. The Department would like to work with the committee and bill sponsor on this issue once a decision is rendered in the case to consider legislative or other approaches to balance the interests and rights of those engaged in filming with the government's interest in protecting lands and resources.

S. 2258, Parks, Jobs, & Equity Act and S. 2887, the Outdoors for All Act

The Department is committed to ensuring that the public has access to the great outdoors, and developing parks for this goal, particularly in underserved and economically disadvantaged areas lacking in outdoor recreation opportunities. The NPS currently supports this goal by implementing the Outdoor Recreation Legacy Partnership (ORLP) program to assist the acquisition and development of outdoor recreation in urban areas that lack such resources with 50:50 matching Land and Water Conservation Fund (LWCF) grants as well as by jointly administering the LWCF State and Local Assistance program, which provides grants to states based on a legislated formula. The Great American Outdoors Act, which became law in 2020, permanently appropriated funds for these programs.

The Department supports the intent of both S. 2887 and S. 2258 to further this goal by legislating grant programs targeted to developing parks in underserved and economically disadvantaged areas. S. 2887, the Outdoors for All Act, would establish an outdoor recreation legacy partnership program under which the Secretary may award grants to eligible entities for

prioritized projects that would serve qualifying areas, similar to the ORLP program. S. 2258, the Parks, Jobs, and Equity Act, would authorize a one-time grant program of \$500 million with the intent to support park development and the delivery of recreation services to help create and preserve jobs while providing economic stimulus. This grant program would provide funds based on a mandated formula, rather than a competitive process, the funds would not be subject to a matching grant or other requirements of the ORLP program regarding land protections and accountability.

The Department would like to work with the committee and sponsors on amendments that would more closely align S. 2887 and S. 2258 with the goals and structure of the current, successful ORLP Program.

S. 2886, Cape & Antler Preservation Enhancement Act

S. 2886, the Cape and Antler Preservation Enhancement Act, would amend title 54, United States Code, to authorize the donation and distribution of capes, horns, and antlers from wildlife management activities carried out on National Park System land. It also authorizes the Secretary to give priority consideration in the donation and distribution of these items to qualified volunteers that participate in wildlife management activities.

The Department opposes S. 2886 unless amended as follows. The Department recommends amending the language of S. 2886 to state that all portions of animals removed from NPS-managed lands, rather than only meat, capes, horns, and antlers, may be donated to outside entities including, but not limited to, food banks, Indian Tribes, and qualified volunteers. This will allow the NPS to utilize the carcass of removed animals to the greatest extent and will allow for scientific study or natural degradation of the carcass if these practices are deemed the most important endpoint for the animal.

Additionally, the Department recommends striking the language that prioritizes qualified volunteers to receive meat and parts of animals removed as a result of management activities. Lethal removal is different from hunting and this language limits the ability to use the animal to fulfill the highest need(s). By striking this section it allows the NPS to determine the highest and best use of these carcasses whether it be donation to Tribes, food banks, or volunteers, and it allows for scientific research when warranted. If this language remains, it may compromise the ability to work productively with Tribes and local communities to meet nutritional and cultural needs, as well as impair the ability to manage wildlife resources with best available science and management actions.

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 the Committee on these important issues.