

**Statement of
Nada Wolff Culver
Principal Deputy Director
Bureau of Land Management
U.S. Department of the Interior**

Senate Committee on Energy & Natural Resources

S. 4424, Recreation and Public Purposes Tribal Parity Act

December 1, 2022

Introduction

Thank you for the opportunity to testify on S. 4424, the Recreation and Public Purposes Tribal Parity Act. S. 4424 would amend the Recreation and Public Purposes (R&PP) Act, to make Indian Tribes eligible to obtain Federal lands for certain recreation and public purposes.

The bill under consideration aligns with the Administration’s efforts to strengthen opportunities for Tribal engagement in the management of Federal lands. In January 2021, President Biden established his commitment to strengthen nation-to-nation relationships in his Presidential *Memorandum on Tribal Consultation and Strengthening Nation-to-Nation Relationships*. Consultation and collaboration are essential for Tribal governments to shape decisions for the protection of sacred sites and traditional cultural properties, conservation of native plants and wildlife, recreation, and other uses and values.

Furthermore, President Biden built upon this commitment in announcing that the Departments of the Interior (Department) and Agriculture created the “Tribal Homelands Initiative.” Through joint Secretarial Order 3403, the two Departments codified a policy to facilitate agreements with Tribes to collaborate in the co-stewardship of Federal lands and waters. Moreover, the Departments have also entered into the multi-agency *Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights and Reserved Rights*, which will increase collaboration with Tribes to ensure stewardship and access to sites, and invite Indigenous Knowledge into management, treatment, and protection procedures. The Administration recognizes and affirms that the United States’ trust and treaty obligations are an integral part of each Department’s responsibilities for managing Federal lands.

Recreation & Public Purposes Act

In 1976, the passage of the Federal Land Policy and Management Act (FLPMA) gave the BLM its mission to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. Under FLPMA, the BLM retains management of most public lands; however, Section 203 of FLPMA also authorizes the sale of certain public lands when the sales are in the public interest and consistent with publicly approved land use plans. Land sales conducted under FLPMA occur at the discretion of the Secretary and are made at fair market value in accordance with Federal law.

The BLM regularly leases and conveys lands to local governments and nonprofit entities for a variety of public purposes. These leases and conveyances are typically accomplished under the

provisions of the R&PP Act to help States, local communities, and nonprofit organizations obtain lands at no or low cost. The R&PP Act authorizes the sale or lease of public lands for recreational or public purposes to State and local governments and to qualified nonprofit organizations. The amount of land an applicant can purchase is set by the R&PP Act. Any State, State agency, or political subdivision of a state may purchase for recreation purposes up to 6,400 acres annually. In addition, any State, State agency, or political subdivision of a State may acquire 640 acres annually for each public purpose program other than recreation. Because these public purpose lands are conveyed at far below market value, R&PP Act conveyances and many similar legislated conveyances include a reversionary clause requiring that lands be used for the intended public purposes or revert to the Federal government.

S. 4424, Recreation and Public Purposes Tribal Parity Act

S. 4424, the Recreation and Public Purposes Tribal Parity Act, would amend the R&PP Act to add Indian Tribes to the list of entities to which land can be sold or leased for recreational and other public purposes. Under S. 4424, Federally recognized Indian Tribes would be eligible for conveyances of up to 6,400 acres a year for recreational purposes or 640 acres a year for other public purposes.

Analysis

The Department supports amending the R&PP Act to increase Tribal eligibility in public land laws. The transfer of public land under the R&PP Act helps States, local communities, and nonprofit organizations obtain lands, at no or low cost, for important public purposes such as parks, schools, hospitals and other health facilities, fire and law enforcement facilities, courthouses, social services facilities, and public works. Including Tribes as one of the entities eligible under the R&PP Act is long overdue, bringing parity to Tribes, and the Department supports this provision.

The Department further acknowledges that S. 4421, the Advancing Tribal Parity on Public Lands Act, also amends the R&PP Act to include Tribal entities as part of a broader effort to give the Department more flexibility in responding to Tribal requests and considerations for land tenure adjustments. We appreciate Congress's attention to these issues, as they align with our commitment to collaborate with Federally recognized Tribes in the management of Federal lands and waters.

Conclusion

Thank you for the opportunity to provide this testimony in support of S. 4424.

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Senate Committee on Energy & Natural Resources

S. 4542, Dolores River National Conservation Area & Special Management Area Act

December 1, 2022

Thank you for the opportunity to testify on S. 4542, the Dolores River National Conservation Area and Special Management Area Act. S. 4542 establishes the Dolores River National Conservation Area (NCA) on approximately 45,455 acres of public lands managed by the Bureau of Land Management (BLM) and the Dolores River Special Management Area (SMA) on approximately 15,664 acres of National Forest System lands managed by the U.S. Department of Agriculture Forest Service (Forest Service) across Dolores, Montezuma, and San Miguel Counties in southwest Colorado. The bill also generally withdraws these newly designated areas from the public land and mining laws, subject to valid existing rights. Finally, the bill provides for the Bureau of Reclamation's (Reclamation) continued operation of the Dolores Project and McPhee Reservoir in cooperation with the Dolores Water Conservancy District.

On January 27, 2021, President Biden signed Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, which launched a government-wide effort to confront climate change and ensure balance on public lands and waters. The President's directive recognizes the opportunities America's lands and waters offer to be part of the climate solution and outlines a historic and ambitious challenge to the nation to conserve them. The Biden Administration's America the Beautiful initiative calls for collaborative, locally led conservation efforts of diverse landscapes that provide habitat for fish and wildlife, and supports Tribally led conservation and restoration priorities. The Department welcomes the Sponsor's efforts to support designations to improve conservation and appreciation of our nation's public lands, and we support S. 4542.

The Department notes the bill states that all provisions of the bill, including the withdrawal, are subject to valid existing rights, which means that nothing in its provisions affects uranium leases issued by the Department of Energy. The Department defers to the Department of Energy and Forest Service concerning the bill's provisions which pertain exclusively to the jurisdictions of their agencies.

Background

The Dolores River originates near San Miguel Peak in Colorado and runs approximately 241 miles before it flows into the Colorado River in Grand County, Utah. The Dolores River is a popular recreation destination for hiking, camping, hunting, fishing, wildlife viewing, off-highway vehicle use, and other outdoor activities. The technical rapids of the river are well known among whitewater rafting enthusiasts. Additionally, the proposed NCA supports a variety of wildlife and plant species including canyon tree frogs, the Roundtail Chub fish, and Kachina

daisy, among others. Some of these species are particularly sensitive and have suffered population declines throughout their native range.

S. 4542

Dolores River National Conservation Area

S. 4542 establishes the Dolores River NCA on approximately 45,455 acres of BLM-managed public lands in southwestern Colorado and requires the BLM to develop a management plan for the NCA within three years of the bill's enactment. Under the bill, all Federal land in the NCA, including land acquired within the NCA after the bill's enactment, would be withdrawn from operation of the public land, mining, mineral leasing, geothermal leasing, and mineral materials disposal laws, subject to valid existing rights. The bill also releases portions of the Dolores River and certain tributaries within the NCA from potential designation or study under the Wild and Scenic Rivers Act.

The BLM supports the designation of the NCA as it aligns with the Administration's conservation goals. The designation would enhance the BLM's ability to manage and protect the many existing conservation and recreation values within the area, particularly sensitive native fish species and whitewater rafting opportunities supported by the Dolores River.

The BLM would appreciate the opportunity to work with the Sponsor on some technical aspects of the bill, such as ensuring consistent use of terminology between Departments and modifications to the legislative map referenced in the bill. In addition, the BLM recommends that the bill's definition of public land be expanded to ensure inclusion of lands managed by the Forest Service.

Dolores River National Conservation Area Advisory Council

S. 4542 requires the BLM to establish the Dolores River National Conservation Area Advisory Council ("Council") within 180 days of the bill's enactment to advise the BLM on the preparation, implementation, and monitoring of the NCA management plan. Under the bill, the BLM is to appoint thirteen members to the Council, representing agricultural, conservation, and recreation interests, in addition to members representing local counties, Colorado Parks and Wildlife, an owner of private land in immediate proximity to the NCA, a holder of a grazing allotment in the NCA, and a representative of the Ute Mountain Ute Tribe.

The BLM notes that the Southwest District Resource Advisory Council (RAC) is active in the area, and we would appreciate the opportunity to work with the Sponsor to clarify their intent regarding the potentially overlapping roles of the existing RAC and the new Council. The BLM recommends that the Sponsor also include representation on the new Council for additional affiliated Tribes.

Dolores River National Conservation Area Management

Section 401 of the bill outlines management direction for the proposed Dolores River NCA. The bill provides for motorized vehicle access within the NCA along designated routes, except in cases where motorized vehicles are needed for administrative purposes or to respond to an emergency. The bill also prohibits the construction of new permanent or temporary roads within

the NCA, except for administrative purposes, protection of public health and safety, or to provide reasonable access to private property. County-managed roads and the Dolores River Road are exempted from the bill's restrictions on use and maintenance, provided that the Federally managed portions of the Dolores River Road are not to be improved beyond its existing primitive condition.

S. 4542 provides for continued grazing in the Dolores River NCA. The bill permits the BLM to take any measures determined necessary to control fire, insects, and diseases in the Dolores River NCA. It also allows the BLM to issue new permits and rights-of-way less than 150 feet wide within the Dolores River NCA for servicing transmission lines in existence on the date of enactment, on the condition that the BLM relocates the right-of-way in a manner that furthers the purposes of the bill. Additionally, the bill permits the installation and maintenance of hydrologic, meteorological, or climatological collection devices in the NCA if essential to public safety, flood warning, flood control, water reservoir operation, or collection of hydrologic data for water resource management. Lastly, S. 4542 allows for the continued use of the lands within the NCA by members of Indian Tribes for traditional ceremonies and as a source of traditional plants and other materials.

The bill requires the BLM to manage the Ponderosa Gorge within the Dolores River NCA in a manner that maintains its wilderness character. To this end, the bill prohibits the construction of new permanent or temporary roads within the Ponderosa Gorge area, as well as the renovation of existing non-system roads. The use of motorized vehicles or equipment are prohibited within the Ponderosa Gorge, except as necessary to meet the minimum requirements for the administration of the land, protection of health and safety, or carrying out ecological restoration activities to improve the aquatic habitat of the Dolores River. Under the bill, commercial timber harvest would not be permitted in the Ponderosa Gorge, other than the harvest of merchantable products that are the byproducts of ecological restoration activities or activities furthering the purposes of the bill. However, the bill exempts the operation, maintenance, or location of an existing utility right-of-way in the Gorge.

The bill's management provisions will enhance the BLM's efforts to protect the remote nature of the area. The BLM would like to work with the Sponsor on some technical modifications to the management section of the bill. The BLM recommends that the Sponsor provide clarification on the term "motorized vehicle," as the BLM and the Forest Service define the term differently. We would like to work with the sponsor on the appropriate terminology to maintain "wilderness character" within the context of an NCA. Additionally, the BLM recommends that the Sponsor clarify whether the construction of temporary roads to respond to wildfire is intended to be included within the allowable measures necessary to control fire, insects, and diseases in the NCA. The BLM also recommends the addition of language allowing for construction and maintenance of motorized routes and parking areas to mitigate potential adverse impacts to natural resources. Finally, the BLM would also like to work with the Sponsor to clarify their intent for the bill's conditions governing rights-of-way serving transmission lines in section 401(i).

The Dolores Project, McPhee Dam / Reservoir, & Water Management

Section 402 provides that Reclamation remains the owner and operator of McPhee Reservoir and the Dolores Project (Project), in cooperation with the Dolores Water Conservancy District. The Dolores Project includes one dam, a dike, and nearly two hundred miles of canals, tunnels, pipelines, and laterals and provides water for recreation, fish, wildlife, flood control and production of hydroelectric power. Under this section, the creation of the NCA and SMA would allow for the Project to continue to be operated as it is currently.

Section 402(a) maintains existing operations of the Project pursuant to its authorization and governing agreements. Reclamation's interpretation of this provision is that the establishment of the NCA and the SMA would not change current or future operation of the Project unless such changes would be consistent with current Project authorities and agreements.

Section 402(b) requires Reclamation to continue regular and meaningful consultation and collaboration with interested stakeholders and to prepare an annual report, to be made publicly available, regarding progress on the conservation, protection, and enhancement of native fish in the Dolores River.

Sections 402(c)(1)(A) places restrictions on the Federal government participating in the construction or modification of water resource projects within the NCA or the SMA that could impact the free-flowing character of any stream, or from participating in water resource projects outside the NCA or the SMA that would unreasonably diminish the resource values within those areas.

Reclamation appreciates the work to protect the free-flowing nature of the river within these areas while retaining the use and benefits provided by the Project. Reclamation anticipates that its existing annual report on flow management of the Dolores River would address this annual reporting requirement of Section 402(b). Reclamation would like to work with the bill sponsor and the Committee on technical modifications to ensure the continued operation of the Project and consistency with potential future operations and agreements, and to address concerns by the Dolores Water Conservancy District.

Conclusion

The BLM recognizes the importance of locally crafted recreation and conservation areas on public lands and waters, and believes the most effective and enduring conservation strategies are those considering the priorities, needs, and perspectives of the families and communities that live and work among the public lands and waters. The Sponsor's efforts to develop S. 4542 follow this approach, and we appreciate the opportunity to testify in support of the bill.

**Statement of
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Senate Committee on Energy & Natural Resources

S. 4860, Malheur Community Empowerment for the Owyhee Act

December 1, 2022

Thank you for the opportunity to testify on S. 4860, the Malheur Community Empowerment for the Owyhee Act. S. 4860 would designate approximately 1.1 million acres of wilderness while providing for increased grazing flexibility intended to improve long term ecological health on certain public lands in Malheur County, Oregon. It would also release approximately 200,000 acres of existing Wilderness Study Areas and direct approximately 800,000 acres of lands with wilderness characteristics to be managed under the applicable Bureau of Land Management (BLM) land use plan. Further, the bill would transfer nearly 32,000 acres of BLM-managed, state-owned, and private lands to be held in trust for the Burns Paiute Tribe.

On January 27, 2021, President Biden signed Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, which launched a government-wide effort to confront climate change and restore balance on public lands and waters. The President's directive recognizes the opportunities America's lands and waters offer and outlines a historic and ambitious challenge to the nation to conserve at least 30 percent of our lands and waters by 2030. The President's America the Beautiful initiative specifically emphasizes the value of conserving the nation's natural resources, recognizing that multiple use of our lands and waters, including working lands, can be consistent with the long-term health and sustainability of natural systems.

S. 4860 aligns with the Administration's conservation goals through its wilderness designations as well as its approach to improving the ecological health of working lands and restoring Tribal homelands to Tribal ownership. The BLM supports S. 4860 and appreciates the opportunity to continue working with the Sponsor on these critical conservation goals and Tribal conveyances.

Background

Malheur County is located in the southeast corner of Oregon. It is the second largest county in the state, spanning 9,874 square miles or 6.3 million acres, and has a population of approximately 31,000 according to the United States Census Bureau. For many years, cattle ranching and agriculture have been the major economic enterprises in the county. Over 70 percent of the county is in public ownership, including 4.4 million acres of public lands managed by the BLM.

The BLM is committed to ensuring the long-term sustainability of healthy and productive lands, consistent with its multiple-use mandate under the Federal Land Policy and Management Act. We believe partnerships and local public involvement are vital to managing sustainable, working

public lands. This means respecting the ties that communities have to public lands, allowing state and local economies to prosper, and welcoming and valuing diverse views into our planning processes. As part of our commitment to healthy and productive landscapes, the BLM is in the process of amending the Resource Management Plan (RMP) for public lands within Southeastern Oregon, including public lands managed by the BLM in Malheur County covered by S. 4860.

S. 4860

Malheur County Grazing Management Program (Sec. 3)

Section 3 authorizes the Secretary of the Interior (Secretary) to carry out the “Malheur County Grazing Management Program” to provide grazing permittees and leaseholders with increased operational flexibility intended to improve long term ecological health. Under the bill, when renewing a grazing permit or lease under the program, the Secretary would develop and analyze at least one alternative to provide operational flexibility to permittees and leaseholders to address changing conditions on the ground. The proposed operational flexibilities would be developed pursuant to the National Environmental Policy Act (NEPA).

Additionally, the Secretary would be required to develop cooperative rangeland monitoring plans and rangeland health objectives to assess natural resource conditions and identify situations where operational flexibility is appropriate to improve long-term ecological health. Eight years after enactment of the bill, the Secretary would be required to conduct a review of the grazing program to determine whether the objectives of the program are being met. If the Secretary finds the objectives of the grazing program are not being met, the program would need to be modified or terminated by the tenth year following enactment.

Our nation’s rangelands provide and support a variety of goods, services, and values important to all Americans. In addition to being an important source of forage for livestock, healthy rangelands conserve soil, sequester carbon, store and filter water, provide a home for an abundance of wildlife, provide scenic beauty, and are the setting for many forms of outdoor recreation. We appreciate the Sponsor’s effort to provide the BLM with the grazing flexibility outlined in S. 4860 for grazing to restore the ecological health of public lands, and conserve resource values in the face of climate change and extreme drought. Further, the BLM welcomes the opportunity to continue working with the Sponsor to ensure the health of the public lands while still allowing them to be used for grazing, recreation, and other uses.

Malheur Community for the Empowerment of the Owyhee Group (Sec. 4)

Section 4 establishes the Malheur Community Empowerment for Owyhee Group (Malheur CEO Group) that includes representatives of the Burns Paiute and Fort McDermott Tribes, ranchers, and other county businesses, conservation organizations, or recreation organizations as voting members. Representatives from Federal, State, and County governments would be included as non-voting members. Under the bill, members of the Malheur CEO Group are to be appointed by the Secretary of the Interior and would review program projects submitted to the BLM and monitoring data, while providing opportunities for interested parties to participate in program project development and implementation. In addition, all meetings of the Malheur CEO Group would be noticed and open to the public.

The BLM notes that the Southeast Oregon Resource Advisory Committee currently provides advice and recommendations on all aspects of public land management to the BLM's Burns and Vale District Offices, including lands in Malheur County. The bill assigns the Malheur CEO Group with a role that is dedicated to the grazing program and not duplicative of the Southeast Oregon Resource Advisory Committee, and as such, the BLM supports the creation of the Malheur CEO Group.

Wilderness & Land Designations (Sec. 5)

S. 4860 establishes 1.1 million acres of wilderness and releases approximately 200,000 acres of wilderness study areas from non-impairment management under Section 603 of FLPMA. It also directs approximately 800,000 acres of lands with wilderness characteristics to be managed under the applicable BLM land use plans, which is the BLM's current practice. The BLM recognizes that the wide-ranging lands proposed for wilderness designation encompass scenic canyons, volcanic rock formations, and rolling hills that serve as habitat for a diversity of plant and animal life and provide important opportunities for hiking, camping, horseback riding, and other forms of outdoor recreation.

Wilderness is a key component of conservation. The Biden Administration recognizes wilderness is a fundamentally important part of the American landscape, not only for practical and scientific values, but also for the beauty, majesty, and solitude it provides. The BLM supports these wilderness designations and would appreciate the opportunity to work further with the sponsor to refine the initial maps referenced in S. 4860.

Additionally, the BLM supports the bill's approach in section 5 that directs lands released from further wilderness study to be managed consistent with local land use plans. It is the local planning process through which the BLM makes important decisions on management of these lands, including, among other things, mineral development, grazing, off-highway vehicle use, hunting, and the consideration of natural values. Further, the BLM uses the land use planning process to determine how to manage lands with wilderness characteristics as part of the BLM's multiple-use mandate.

Economic Development (Sec. 6)

Section 6 of the bill directs the Department, the County, and "Travel Oregon" to establish requirements for four loop roads to promote tourism. Safety upgrades, including surfacing and signage, to improve access to recreational opportunities are to be completed within one year of the bill's enactment. The BLM supports these provisions and recommends providing additional time for the completion of environmental analysis under the NEPA and other applicable laws, which could lengthen the time for completing safety upgrades to the loop roads.

Further, the bill requires the Bureau of Reclamation (Reclamation) to carry out a feasibility study in coordination with the Owyhee Irrigation District to improve recreation opportunities on and around the Owyhee Reservoir. The bill authorizes \$1 million to carry out the feasibility study in 180 days. In carrying out this feasibility study, Reclamation notes that different requirements will apply between the multiple jurisdictions. Further, Reclamation notes that certain construction activities would also require Reclamation to complete environmental compliance and dam safety requirements prior to construction. Reclamation appreciates the work to enhance recreation

opportunities around Owyhee Reservoir, and would like to work with the Sponsor and the Committee to address some concerns and propose technical modifications.

Land Conveyance to the Burns Paiute Tribe (Sec. 7)

Under Section 7, approximately 21,000 acres of BLM-managed public lands, 6,686 acres of certain private land, and 4,137 acres of State land would be held in trust for the benefit of the Burns Paiute Tribe to protect and conserve cultural and natural values, and to be part of the reservation of the Burns Paiute Tribe. Further, Section 7 specifically directs that any land taken into trust would remain eligible for payments under the Payment in Lieu of Taxes (PILT) program established under chapter 69 of title 31, United States Code.

Both the Departments of the Interior and Agriculture recognize, through Secretarial Order 3403, *Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters*, that it is the policy of the United States to restore Tribal homelands to Tribal ownership and to promote Tribal stewardship and Tribal self-government. The Department supports consolidation of Tribal landholdings within reservations, including Tribal acquisition of Federal lands and private inholdings. The BLM has conducted an initial review of existing land uses on the lands affected by the provision and supports the proposed conveyance of lands to be held in trust for the Burns Paiute Tribe. The BLM would like to work with the Committee and bill Sponsor on technical modifications to the land transfer provisions, and inclusion of standard conveyance language.

Finally, the BLM notes that Federal payments to local government through PILT payments offset losses in property taxes due to the existence of nontaxable Federal lands within their boundaries. In 2022, nearly \$550 million was distributed through the PILT program to help local governments administer firefighting and police protection, construction of public schools and roads, and search-and-rescue operations. The Department further notes that as drafted the provision would increase overall PILT acreage due to the inclusion of non-Federal land taken into trust.

Conclusion

Thank you again for the opportunity to provide this testimony in support of S. 4860. We look forward to continuing to work with the sponsor and the Committee on these important public land management matters in Malheur County.

**Statement of
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Senate Committee on Energy & Natural Resources

S. 4995, Continental Divide Trail Completion Act

December 1, 2022

Thank you for the opportunity to testify on S. 4995, Continental Divide Trail Completion Act. S. 4995 directs the Secretaries of Agriculture and Interior to complete the 3,100-mile Continental Divide National Scenic Trail (CDNST) by November 10, 2028, – the 50th anniversary of the trail’s designation. The bill also establishes a joint U.S. Forest Service (Forest Service) and Bureau of Land Management (BLM) Trail Completion Team to facilitate the voluntary acquisitions, rights-of-ways and conservation easements needed to complete the trail.

On January 27, 2021, President Biden signed Executive Order 14008, *Tackling the Climate Crisis at Home and Abroad*, which launched a government-wide effort to confront climate change and restore balance on public lands and waters. The President’s directive recognizes the opportunities America’s lands and waters offer and outlines a historic and ambitious challenge to the nation to conserve at least 30 percent of our lands and waters by 2030. The CDNST provides a place to reconnect with nature by offering high quality hiking, horseback-riding, and other recreational opportunities along the Continental Divide. The Department of the Interior (Department) supports S. 4995 as it aligns with our priorities to provide safe and equitable access to outdoor recreation opportunities for all Americans. We believe the bill has the potential to address some long-standing challenges, and we look forward to working with the sponsors and the Committee on minor modifications. We defer to the Department of Agriculture regarding provisions affecting the management of lands administered by the Forest Service.

Background

In 1968, Congress established the National Trails System Act to create trails in both urban and rural settings for people of all ages, interests, skills, and physical abilities. Today, there are 30 congressionally designated National Scenic and Historic Trails, many within an hour's drive from most urban areas. The lands these trails traverse often have complex jurisdictions, which requires substantial partnering among Federal agencies, non-profit organizations, and dedicated volunteers.

In 1978, Congress added the CDNST to the National Trails System and identified a corridor straddling along the backbone of the North American continent – the Divide – for the future placement of the CDNST. The entire CDNST corridor is approximately 3,100 miles long, extending from the Canadian border in Montana to the border of Mexico in New Mexico. Today, the completed portions of the CDNST traverse approximately 2,100 miles of Forest Service-managed lands, 400 miles of BLM-managed lands, 260 miles of National Park Service-managed lands, 60 miles of State lands, and 2 miles of Tribal lands. The trail was designated for its scenic

significance and is considered the “King of Trails,” more difficult than its sister long distance trails, the Appalachian and Pacific Crest Trails. It navigates dramatically diverse ecosystems through mountain meadows, granite peaks, and high-desert surroundings.

S. 4995

S. 4995 requires the Secretaries of Agriculture and the Interior to ensure the completion of the CDNST as a contiguous route, to the maximum extent possible, by November 10, 2028. To complete and optimize the trail, the bill establishes the Trail Completion Team composed of Forest Service and BLM employees. The Trail Completion Team is directed to carry out land and right-of-way acquisitions, easement acquisitions, relocations, and trail construction activities required for completion. Lastly, S. 4995 requires the Secretary of Agriculture to submit a Comprehensive Development Plan to Congress that identifies and plans the elimination of trail gaps, and submit annual reports to Congress.

The Department supports the completion of the CDNST and has consistently worked towards this goal since its designation. Today, only 5 percent of the trail remains incomplete. The Department supports the creation of the Trail Completion Team to resolve long-standing barriers to completing the remainder of the trail. The Department notes that success of achieving the Sponsor’s intent to complete the CDNST, on or before the 50th anniversary of its designation, is dependent on strong community-led efforts to work with willing landowners to connect the lands through means such as of a rights-of-ways, access and conservation easements, and acquisition of land. The Department acknowledges the challenges in completing the final portion of the trail given the presence of private lands within the trail corridor and is committed to completing the trail to the maximum extent possible, as provided by the bill.

Finally, the Department defers to the Department of Agriculture on provisions of the bill related to the Comprehensive Development Plan and reporting requirements.

Conclusion

The Department supports S.4995, and we would welcome the opportunity to work with the sponsor and the Committee on minor modifications to the bill.

Statement for the Record
U.S. Department of the Interior
Committee on Energy and Natural Resources Committee
U.S. Senate
December 1, 2022

S. 3957, Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines Act (STREAM Act)

Thank you for the opportunity to provide a written statement on behalf of the Office of Surface Mining Reclamation and Enforcement (OSMRE) on S. 3957, the Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines Act (STREAM Act).

Background

Through the Surface Mining Control and Reclamation Act of 1977 (SMCRA), Congress established OSMRE to achieve two basic goals:

- **First**, to ensure that the Nation’s coal mines operate in a manner that protects citizens and the environment during mining, and to restore the land affected to a condition capable of supporting the uses that it was capable of supporting prior to any mining, or higher or better uses following mining.
- **Second**, to implement an Abandoned Mine Land (AML) program to address the hazards and environmental degradation resulting from two centuries of coal mining activities that occurred before SMCRA was passed in 1977.

The enactment of the Bipartisan Infrastructure Law (Pub. L. 117-58) (BIL) further advanced these goals with a historic investment of \$11.293 billion to accelerate the restoration of coalfield communities and the extension of OSMRE’s authority to collect the AML reclamation fee for an additional 13 years.

Bipartisan Infrastructure Law Investments and Implementation

The BIL has provided OSMRE with a new opportunity to invest in the restoration of the Nation’s coalfield communities by significantly expanding the AML program and improving OSMRE’s ability to support state and Tribal partners, local governments, and stakeholders. Implementing the BIL and delivering meaningful results is a top priority for OSMRE.

The distribution announced on [February 7, 2022](#), was the first of 15 annual installments under the BIL that will provide approximately \$10.87 billion (after directed reductions) to eligible states and Tribes for AML reclamation projects, in addition to funds available under AML-fee based grants.

S. 3957 – Safeguarding Treatment for the Restoration of Ecosystems from Abandoned Mines Act (STREAM Act)

The STREAM Act amends section 40701(c) of the BIL to authorize states and Tribes receiving BIL grants to deposit up to 30 percent of their annual BIL grant funding into a state or Tribal

fund to be used for the abatement and treatment of the effects of acid mine drainage (AMD), as well as the construction, operation, maintenance, and rehabilitation of AMD treatment systems. Unlike the AML fee-based AMD set-aside program established under section 402(g) of SMCRA, 30 U.S.C. § 1232(g), the BIL funds would not be tied to a “qualified hydrologic unit.”

In addition, the STREAM Act requires recipients to update the existing AML inventory maintained by OSMRE to reflect the expenditure of the newly authorized AMD set-aside funds. Grant recipients would be required to include information in their annual grant reports specifying the status and balance of funds in their AMD accounts. Furthermore, the use of the newly authorized AMD set-aside funds would not be subject to any temporal limitations.

Analysis

OSMRE appreciates the opportunity this legislation provides to states and Tribes to mitigate legacy water pollution, now and in the future. The Department believes that this legislation will ensure that more waterways in coalfield communities are restored, providing clean, safe drinking water and increased recreation and tourism opportunities. Historically, both state and Tribal AML programs and non-governmental organizations have funded the construction of AMD treatment facilities; however, those programs and organizations have also expressed reservations about building new treatment systems without a reliable source of funds to ensure their continued operation and maintenance. By providing a reliable source of funds, this bill would ensure the long-term viability of AMD treatment systems and benefit coalfield communities.

Closing

The Department stands ready to assist with issues related to SMCRA, water improvement and treatment, and improving the environment. OSMRE will continue to work with states and Tribes, the Interstate Mining Compact Commission, the National Association of Abandoned Mine Land Programs, local watershed groups, and other stakeholders to identify opportunities to improve the quality of life for residents of coalfield communities. OSMRE is fully committed to restoring legacy mine lands and waters to productive and safe uses and we welcome the opportunity to work with the Committee on S. 3957. Thank you for the opportunity to provide this statement for the record.