

**STATEMENT OF
UNITED STATES DEPARTMENT OF AGRICULTURE—FOREST SERVICE
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
June 21, 2023
Concerning**

S. 594 Continental Divide Trail Completion Act

Chairman Manchin, Ranking Member Barrasso, and Members of the Committee, thank you for the opportunity to present the views of the U.S. Department of Agriculture (USDA) on S. 594, the “Continental Divide Trail Completion Act.” The objective of the bill is to prioritize completion of the Continental Divide National Scenic Trail (CDNST or Trail).

Designated in 1978, the CDNST stretches 3,100 miles from the deserts of New Mexico to the alpine peaks of the northern Rockies and traverses stunning and diverse landscapes. The Trail connects many of the defining moments and movements in our nation’s history along the spine of the continent.

USDA supports the goals of S. 594 and would like to work with the Committee and bill sponsors to address the concerns identified in this testimony. Completing land acquisition for the CDNST meets Congress’s intent in designating the Trail in 1978. USDA is committed to working with its partners to achieve this goal. USDA defers to the U.S. Department of the Interior regarding provisions in the bill affecting management of lands administered by the Bureau of Land Management and the National Park Service.

Section 3(a) – Completion of the Trail

This section of the bill would require the Secretaries of Agriculture and the Interior to substantially conclude acquisition of land or interests in land necessary to complete the Trail by the 50th anniversary (November 10, 2028) of its designation. The intended acquisitions of land or interests in land under this bill would focus on meeting the nature and purposes of the CDNST, which are to provide for high-quality, scenic, and primitive hiking and horseback riding and to conserve natural, historic, and cultural resources along the CDNST corridor. No additional funding would be authorized by the bill to substantially complete the Trail.

USDA supports the need to substantially complete the CDNST but has concerns with meeting the proposed timeline to meet this goal by the 50th anniversary of the Trail. Progress towards this goal is in large part determined by private landowners’ willingness to sell or lease their property or put it under a conservation easement. Approximately 95% of the CDNST is protected on lands in public or tribal ownership or through easements across private lands. The 5% of the Trail that is incomplete and on which this bill is focused is primarily co-located on major highways or secondary roads that do not provide for the safety of hikers or meet the nature and purposes of the CDNST. This work has not been completed due to lack of dedicated staff

and funding, as well as a lack of willing sellers in some areas. Once the optimal location review for the Trail is completed, we expect to have a better idea of the workload for acquisition of land and interests in land and could then establish a manageable timeline for completion.

Section 3(b) – Trail Completion Team

This section of the bill would establish an interagency team to work with the Trail Administrator (USDA’s Forest Service) to facilitate optimal location of additional segments for completion of the Trail. USDA supports establishment of an interagency team consisting of USDA’s Forest Service and the U.S. Department of the Interior’s Bureau of Land Management to work on conveyances of land and interests in land for completing the Trail. The work described in section 3(b)(2) under “Duties of the Team” would best be suited to the Trail Administrator, specialists with skills such as geographic information system mapping, lands and reality management, cadastral surveying, landscape architecture, and natural resource management, and key partners such as the Continental Divide Trail Coalition.

USDA is concerned about the consultation requirement for the Trail Completion Team in section 3(b)(2)(C). This subsection would require the Team to consult with other federal agencies, affected Indian Tribes, Governors of affected States, local governments, affected landowners, land grant-mercedes, acequias, applicable owners or users of a land grant-merced or acequia, the Continental Divide Trail Coalition, and other volunteer and nonprofit organizations.

“Consultation” as it pertains to federal agencies has a specific meaning when relating to federally recognized Indian Tribes. Tribal consultation is a government-to-government process between sovereigns that involves receiving input from Indian Tribes regarding proposed federal actions or policies that have Tribal implications. USDA is committed to collaboration and transparency that address the unique needs of all the entities listed in section 3(b)(2)(C), but seeks to avoid misinterpretation or dilution of its obligation to federally recognized Tribes as sovereign nations through use of the term “consult” in the bill. USDA would like to work with the bill sponsors and the Committee to differentiate work with non-Tribal entities from work with federally recognized.

Section 3(c) – Comprehensive Development Plan

This section would require the Secretary of Agriculture to submit to Congress a comprehensive development plan for the CDNST within two years. This plan would have to identify gaps in the CDNST where the Secretaries have been unable to acquire land or interests in land, a plan for closing the gaps, and general and site-specific development plans, including anticipated costs, for closing the gaps.

USDA supports addressing gaps in the Trail in a planning document but has concerns with the term “comprehensive development plan,” as it may be confused with the CDNST comprehensive plan, which is already in place, as well as concerns with the requirement for site-specific development plans, which would be difficult to complete in the required timeframe due to the need for interagency and partner coordination and anticipated environmental reviews.

Section 3(d) – Methods of Acquisition of Land or Interests in Land

This section would specify methods of acquisition of land or interests in land for the Trail. USDA supports these methods of acquisition of land or interests in land from willing sellers, lessors, or grantors.

Section 3(e) – Maintaining Partnerships

This section would require the Secretary of Agriculture and the Trail Completion Team to maintain partnerships with volunteer and nonprofit organizations that assist with development, maintenance, and management of the CDNST. USDA supports this section, although it is redundant with existing cooperative authority in the National Trails System Act.

Section 3(f) – Reports

This section would require the Secretary of Agriculture to submit an annual progress report to Congress until the acquisition of land or interests in land for the CDNST is complete. USDA supports submission of an annual progress report to Congress but requests flexibility to deliver this report as a briefing rather than as a written report.

Conclusion

USDA supports the goals of S. 594 and would like the opportunity to work with the Committee and bill sponsors to address the concerns identified by the Department.