

PENDING LEGISLATION

HEARING
BEFORE THE
COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE
ONE HUNDRED SIXTEENTH CONGRESS

FIRST SESSION
ON

S. 1665
S. 1723
S. 1967

OCTOBER 31, 2019



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CONTENTS

OPENING STATEMENTS

	Page
Murkowski, Hon. Lisa, Chairman and a U.S. Senator from Alaska	1
Wyden, Hon. Ron, a U.S. Senator from Oregon	2
Manchin III, Hon. Joe, Ranking Member and a U.S. Senator from West Virginia	3
Gardner, Hon. Cory, a U.S. Senator from Colorado	5
Barrasso, Hon. John, a U.S. Senator from Wyoming	5

WITNESSES

French, Chris, Deputy Chief, National Forest System, USDA Forest Service ...	7
Haskett, Nikki, Acting Assistant Director for National Conservation Lands and Community Partnerships, Bureau of Land Management, U.S. Depart- ment of the Interior	14
McGuire, Brendan, Vice President of Public Affairs, Vail Resorts	22
Davis, Lee, Executive Director, Outdoor Recreation Economy Initiative, Oregon State University – Portland Center	26
Bannon, Aaron, Environmental Stewardship and Sustainability Director, National Outdoor Leadership School	38

ALPHABETICAL LISTING AND APPENDIX MATERIAL SUBMITTED

America Outdoors Association: Letter for the Record	186
America Mountain Guides Association: Statement for the Record	187
Bannon, Aaron: Opening Statement	38
Written Testimony	40
Responses to Questions for the Record	82
Barrasso, Hon. John: Opening Statement	5
Coalition for Outdoor Access: Statement for the Record	194
Colorado Ski Country USA, et al.: Letter for the Record	199
Davis, Lee: Opening Statement	26
Written Testimony	29
Responses to Questions for the Record	78
French, Chris: Opening Statement	7
Written Testimony	9
Response to Question from Senator Heinrich	62
Responses to Questions for the Record	66
Gardner, Hon. Cory: Opening Statement	5
Haskett, Nikki: Opening Statement	14
Written Testimony	16
Responses to Questions for the Record	71
Manchin III, Hon. Joe: Opening Statement	3

IV

	Page
McGuire, Brendan:	
Opening Statement	22
Written Testimony	24
Responses to Questions for the Record	75
Murkowski, Hon. Lisa:	
Opening Statement	1
Outdoor Alliance and The Conservation Alliance:	
Letter for the Record	201
Outdoor Recreation Roundtable:	
Letter for the Record regarding S. 1665 and S. 1967	206
Letter for the Record regarding S. 1723	208
Recreational Equipment, Inc. (REI) Co-op:	
Letter for the Record	210
S. 1665, the Simplifying Outdoor Access for Recreation Act	85
S. 1723, the Ski Area Fee Retention Act	118
S. 1967, the Recreation Not Red Tape Act	127
Wyden, Hon. Ron:	
Opening Statement	2

PENDING LEGISLATION

THURSDAY, OCTOBER 31, 2019

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The Committee met, pursuant to notice, at 10:06 a.m. in Room SD-366, Dirksen Senate Office Building, Hon. Lisa Murkowski, Chairman of the Committee, presiding.

OPENING STATEMENT OF HON. LISA MURKOWSKI, U.S. SENATOR FROM ALASKA

The CHAIRMAN. Good morning, everyone. The Committee will come to order.

Happy Halloween. Happy World Series. Everybody stayed up late watching the game. Yeah.

Senator DAINES. Go Nats!

The CHAIRMAN. Yeah, yeah, yeah. It is kind of exciting, kind of exciting.

We are here today talking about good things, recreation, and I am going to keep my comments brief because I know colleagues have been very engaged in this and a couple of you want to make some opening comments as well.

We have three pieces of legislation before us this morning that we are considering. S. 1665, the Simplifying Outdoor Access for Recreation Act. Senator Heinrich calls it the SOAR Act. I like the acronym there, pretty good.

S. 1723, the Ski Area Fee Retention Act from Senator Gardner. We all love skiing.

Senator GARDNER. And they are open.

The CHAIRMAN. Already?

Senator GARDNER. Already.

The CHAIRMAN. Extraordinary. Can't wait.

S. 1967, the Recreation Not Red Tape Act from Senator Wyden.

This hearing is building off of one that we held in March where we focused on improving access, infrastructure and permitting to meet the increasing demand and provide high quality recreation opportunities on our federal lands. So the proposals that we are looking at today, I think, are a good start in addressing those issues.

Senator Heinrich and Senator Wyden have put forward legislation to streamline and simplify the systems in place to process permits for our outfitters, guides and non-profits for those who operate across the spectrum of federal lands.

Senator Gardner's bill would help facilitate the private investment needed for infrastructure to meet the demands for four season recreation at ski areas that operate in our nation's forests.

All of these measures recognize the important role that recreation is playing in our economy. According to the Bureau of Economic Analysis in 2017, outdoor recreation accounted for 2.2 percent of current dollar GDP, or about \$427 billion. This includes not only the impact to sectors like outfitting and guiding but all of the associated impact as well, such as lodging, transportation, and restaurants.

In my state we certainly see a big impact from recreation. In 2018, Alaska welcomed about 1.17 million cruise ship visitors. I think this next year we are up to about 1.3 million. This is in a state of about 720,000 people. So we certainly feel that impact. It is exciting, but sometimes it is a little bit overwhelming.

At the Mendenhall Glacier Visitor Center in Juneau, you have hundreds of people who want to get into the facility every day, but the facility is designed to hold a fraction of that. The Forest Service is developing a master plan to respond to the increased visitation, but it is a challenge.

I was with Senator Lee this past Friday. We had a Roundtable out in Moab, and we had an opportunity to go to Arches National Park. And to see the pressures—everybody wants to get into the park, but how do we accommodate, how do we facilitate?

Our outfitters and our guides are also trying to respond to growing demand. Heli-ski and backcountry ski guides want to go into new areas in the Chugach National Forest and on the BLM lands near Haines, but they are being delayed by a very lengthy and expensive environmental review process and a lack of capacity at the agencies to process the permits. These are all things that we hear about.

So what we are trying to do is to ensure that our federal land managers have the resources and the flexibility needed to respond to increasing and changing demand. Again, I appreciate our colleagues' work on these very important bills.

I am going to turn to Senator Manchin before I introduce our panel. I know that members, a couple of you, would like to make introductions for some of the witnesses who are here this morning.

Senator MANCHIN. Madam Chairman, if I can, I would like to defer to my good friend, Senator Wyden, he has a finance meeting coming up, before I give my opening statement.

**STATEMENT OF HON. RON WYDEN,
U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you, Senator Manchin and Chair Murkowski. I don't want to make this a bouquet tossing contest, but not only do I want to thank you for your courtesy so I can do this and see if I can get back, but I also very much appreciate your leadership on the recreation issues, the work we try to do up here in a bipartisan way.

I think we all understand every member here, particularly Westerners, we understand that this recreation effort, Senator Heinrich's bill and mine are very compatible, is clearly a boost both for our quality of life in the West and for our economy and a chance

to bring Americans together for better health. So I really appreciate this.

My bill with Congressman Bishop, RNR, Recreation Not Red Tape, is basically one that, kind of, updates the policies from yesteryear because in yesteryear recreation was not the big economic engine that it is today. So that is what our bill is all about. That is point one.

Point number two. We have an Oregonian, Lee Davis, here. He knows a lot about recreation. When he headed Mazamas, he was responsible for the outfitter and guide permit with the most user days in the State of Oregon and he also helped create an Oregon State Office of Outdoor Recreation. So Lee, I am going to be running back and forth and I have had the courtesy of the Chair and the Ranking Member, but colleagues, we are really talking to the gold standard when you hear from my fellow Oregonian.

Last point, and I am not interested in starting a big controversy, but I want to make sure we talk through the Chair and the Vice Chair about this in the days ahead. And that is, colleagues, we all know because we read the paper about these wildfires that are just ravaging the West and there are a host of issues that we are going to have to tackle.

I just want to put two up on the boards. One of them is climate change and I think there are some ways that we can work collaboratively on that. And second is collaboration which is what we have tried to stress on the ground. That is what the end of fire borrowing is all about. That is what stewardship has been all about.

If we want to have colleagues' wonderful places to recreate, we are going to have to do something to get an update of the policies for fighting fire or we are going to lose some of those places.

Madam Chair and the Vice Chair, I look forward to working with you on both fronts and to Lee, I will be back and forth.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Wyden.

Senator Manchin.

**STATEMENT OF HON. JOE MANCHIN III,
U.S. SENATOR FROM WEST VIRGINIA**

Senator MANCHIN. Thank you, Chair Murkowski, for holding the hearing, and I want to thank all of you all for being here today.

I commend the sponsors of the bills on today's agenda for exploring innovative ways to improve outdoor recreation and the business that supports it. Outdoor recreation has been a powerful economic driver in states across the country, and my home state of West Virginia is no exception. It has been wonderful.

I have seen firsthand the jobs that outdoor recreation economy has brought to rural areas in West Virginia. Outdoor recreation in my state now generates two percent of our Gross Domestic Product and supports 22,000 jobs. Three percent of our workforce is now employed in the outdoor recreational sector earning over \$688 million in salaries. So this is a topic that is near and dear to my heart, as I know it is to everybody here.

As our Committee reviews legislation related to outdoor recreation, I believe we must ensure the ideas being discussed will grow the economies of rural communities. All three bills before the Com-

mittee today attempt to do that and will have impacts, I believe, in the states not only where they are being introduced but for all of us and especially in West Virginia, if enacted.

Senator Gardner's bill would provide assistance to ski areas on federal land. While we will be hearing from Mr. McGuire about how this will impact the ski industry, I want to mention that we have two ski areas in West Virginia that use Forest Service land. Unfortunately, a third area located on the Monongahela National Forest closed earlier this year and is now for sale, but it will be back up and running. I look forward to the discussion about ways we can be better partners with the ski industry, the appropriate use of revenue from fees and a fair return to the taxpayers.

We will also be discussing a bill sponsored by Senators Heinrich and Capito that would provide assistance to those leading backpacking trips on federal land.

Senator Wyden's bill which he just spoke about proposes to establish a system of national recreation areas. West Virginia was actually home to the first national recreation area designated in the United States in 1965 which is the Spruce Knob-Seneca Rocks National Recreation Area.

These bills all have things in common: facilitating people's ability to enjoy our public lands while supporting jobs and the local economies. Following this hearing, Chairman Murkowski and I will get to work with our colleagues on a recreation package to report out of this Committee. The heart and soul of that package will be the same as the bills we are discussing today to not only make it easier for people to enjoy their public lands but also grow businesses in all rural communities.

Coming from Alaska and West Virginia, we have firsthand experience of the importance of recreation in our states and, with that as a basis, we have been developing additional ideas for inclusion in the forthcoming package. For example, one of the areas that I have been exploring is how we might be able to better support gateway communities. Those are the communities that are next to the recreation destinations where visitors eat and sleep before or after enjoying the sites that they come to visit.

Mr. Jeffrey Lusk, from our Hatfield-McCoy Trail System testified before our Committee earlier this year about how difficult it was to establish businesses in gateway communities. Mr. Lusk's trail system hosts 50,000 riders annually but 87 percent of those riders are non-West Virginian, meaning that they need hotels at which to stay and restaurants at which to eat. Unfortunately, in West Virginia and I am sure in my colleagues' home states, it continues to be very difficult to establish the infrastructure that is needed to accommodate increased visitation to some of these rural areas.

So I look forward to working with Chairman Murkowski and my colleagues on this and many other ideas as we assemble a bipartisan recreation package in the coming weeks.

With that, I want to thank the witnesses and Madam Chairman, thank you.

The CHAIRMAN. Thank you.

Senator Gardner, I know you had wanted to make introductions and perhaps briefly speak about your bill. Senator Barrasso, I know you wanted to make an introduction, and Senator Heinrich,

you have a bill up here. I have given everybody an opportunity; we are never going to get to these guys.

Senator HEINRICH. Yes, I was going to say, I just want to hear from our witnesses.

The CHAIRMAN. I wanted to share the same courtesies, but let me turn to Senator Gardner and then Senator Barrasso then.

Thank you.

**STATEMENT OF HON. CORY GARDNER,
U.S. SENATOR FROM COLORADO**

Senator GARDNER. Thank you, Madam Chair, and I will be very quick.

I am very pleased to have before the Committee a fellow Coloradan, Brendan McGuire, who is Vice President for Public Affairs at Vail Resorts testifying on behalf of the National Ski Area Association this morning.

Vail Resorts, of course, is headquartered in Colorado where its namesake, Vail Mountain, was started in 1962 by veterans of the famed 10th Mountain Division of World War II. Since then, Vail Resorts has grown into a huge Colorado success story spanning 37 ski areas across three countries and the United States all linked together by its industry leading Epic season pass, available online and around the country.

Correct, Brendan? Is that right?

Mr. MCGUIRE. For sale right now.

Senator GARDNER. Sorry about that commercial.

And all linked together that allows skiers and riders to access local, regional and destination ski resorts at a great value.

Brendan, a native Coloradan, former ski instructor, former Senate staffer for Senator Ken Salazar and, as Chair Murkowski can attest to, a pretty great guy to be in the mountains with. Thank you very much for being here today. And I think you have 86 acres open at Keystone right now.

Mr. MCGUIRE. That's right.

The CHAIRMAN. Wow. Amazing.

Great, thank you, Senator Gardner.

Senator Barrasso.

**STATEMENT OF HON. JOHN BARRASSO,
U.S. SENATOR FROM WYOMING**

Senator BARRASSO. Well, thank you very much, Madam Chairman. I am pleased to help you welcome Aaron Bannon to our Committee today as a witness. He and I share the hometown of Casper, Wyoming, and we share a love of the precious natural resources that Wyoming has to offer.

He has spent more than a decade with the National Outdoor Leadership School (NOLS) where he has been extraordinary in terms of being an advocate for issues relating to outdoor education, efficient, responsible use of public lands and efficient permitting, of course.

When we think about public lands in the history of this country, whether it was John Muir, whether it was Ansel Adams, whether it was Teddy Roosevelt—you know, John Muir carried a stick, Ansel Adams carried a camera, Teddy Roosevelt carried a gun. But

all of them saw the land. They all arrived at the same conclusion. We need to preserve and protect and then pass on these resources and allow others to enjoy them.

Aaron and I have had many conversations about ways to avoid the cumbersome permitting process that dissuades public use of public lands. So I am glad he is here today. Look, our State of Wyoming relies on recreation and tourism as a key component of our state economy. Much of the recreation occurs on public lands managed by federal agencies, so it is important that we combine thoughtful evaluation of the impacts with an effective and efficient permitting process that encourages public access and exploration of these magnificent landscapes.

Aaron, I look forward to the expertise that you are going to share with the Committee today. I also want to congratulate you. I know that Monday you will be starting work with American Outdoors as the Executive Director. So it is big news, and I look forward to continuing to work with you in your new role.

Thank you, Madam Chairman.

The CHAIRMAN. Great. Thank you, Senator Barrasso. Thank you, all.

Most of you have been introduced, but I will provide my welcome to each of you.

We will start off the discussion here this morning with an individual who has been before the Committee. We have certainly had many dealings with Chris French. He is the Deputy Chief for the National Forest System in the USDA Forest Service. Chris, we thank you for the many, many efforts that you have made, and I know you are spending a lot of attention and time on Alaska-related issues as you deal with Forest Service. Thank you for your leadership.

Nikki Haskett is with the Committee this morning. She is the Acting Assistant Director for National Conservation Lands and Community Partnerships over at the Bureau of Land Management (BLM). We thank you for being here this morning and look forward to your comments.

Brendan McGuire has been introduced and welcomed. It is always good to have somebody that can be, again, speaking with a firsthand relationship to the industry that he represents, and he certainly does. We welcome you to the Committee.

Mr. Lee Davis has been introduced by Senator Wyden. We are pleased that you are with us from Oregon. Welcome to the Committee.

And to Mr. Aaron Bannon, we appreciate what you will provide.

We ask you to try to keep your comments to about five minutes. Your full statements will be included as part of the record, and then we will have an opportunity for questions afterwards.

I am going to excuse myself for just for a couple minutes to go introduce an amendment in another committee, and I will be back in about five minutes.

We will lead off the Committee here with Mr. French.

Thank you.

STATEMENT OF CHRIS FRENCH, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, USDA FOREST SERVICE

Mr. FRENCH. Well, thank you very much, Madam Chair, Vice Chair and members of the Committee. I really appreciate the opportunity today to talk about our views on these three bills, the Recreation Not Red Tape Act, the Simplifying Outdoor Access Recreation Act and the Ski Area Fee Retention Act.

You know, when I glance back at my 30 years that I've been with the Forest Service, I started as a Recreation Technician. And now, as I sit here and think about my role as Deputy Chief, I realize I've always had a passion for connecting people to the recreational opportunities on our public lands and it's where I take my family.

Senator, I ski in those resorts in West Virginia. I know the one that closed and it was hard to see that happen.

Senator MANCHIN. It will be back—

Mr. FRENCH. That's good.

And I used many of the services provided by our outfitter guides.

You know, when I look at this, I think that anything that we can do to improve our ability to better serve our recreation community and our recreation partners and enhance those experience connecting folks to our public lands, that's a good day.

Outdoor recreation is a significant use of our National Forest System. The number of recreation visits to the National Forest System rose from 143 million in 2009, nine years later that was at 150 million. Recreation on National Forest System lands sustains more private sector jobs than any other Forest Service program and provides the single, largest stimulus for many local gateway communities.

Recreation on National Forest System lands contributes more than \$11 billion to America's Gross Domestic Product and supports more than 148,000 full- and part-time jobs, most of which are in those gateway and rural communities. Outdoor recreation opportunities and amenities are consistently ranked as one of the primary reasons people move to rural towns and can be a leading contributor to local communities.

At the Forest Service, we administer more than 30,000 recreation specialty use authorizations for activities that generate nearly \$2 billion to their holders. In particular, the Forest Service manages 122 ski area permits and approximately 8,000 outfitter and guide permits. These permits enable private sector professionals, educational institutions to lead a wide range of activities on National Forest System lands whether it's white river rafting, downhill skiing, horseback riding, big game hunting or youth education trips in wilderness or scenic jeep tours.

For many of these activities, they represent, this represents the first introduction that many folks have to the outdoors and the outfitter and guides that they employ are often small businesses that generate jobs and income for local communities.

We also manage nearly 159,000 miles of trails, the largest trail network in the nation. We host over 60 percent of the country's ski area visits, and we're proud to provide a vital respite from the fast-paced life in the form of thousands of campsites and day use picnic areas as well as opportunities for boating, fishing, hunting and hiking.

USDA supports the overall goals of these bills to improve recreational access on National Forest System lands. The Recreation Not Red Tape Act and the SOAR Act will complement agency efforts to streamline our processes, reduce inefficiencies and provide a higher level of customer service to our public and our valued partners. The Ski Area Fee Retention Act will increase available resources available to improve the administration of and the experience on our ski areas.

Finally, outdoor recreation provides millions of Americans rich opportunities to connect with their lands and their heritage. The USDA Forest Service is honored to serve in this vital link and enormously values this opportunity to work with Congress to improve the lives and livelihoods of Americans through outdoor recreation.

I, again, thank you to the Committee for the opportunity to provide testimony, and I look forward to working together on these important bills.

[The prepared statement of Mr. French follows:]

**STATEMENT OF CHRIS FRENCH
DEPUTY CHIEF, NATIONAL FOREST SYSTEM
U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

**BEFORE THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES
REGARDING**

**S. 1665, the SOAR Act, S. 1967, the Recreation Not Red Tape Act, and
S. 1723, the Ski Area Fee Retention Act
October 31, 2019**

Introduction

Thank you for the opportunity for the U.S. Department of Agriculture (USDA), Forest Service, to provide views on S. 1967, the Recreation Not Red Tape Act; S. 1665, the Simplifying Outdoor Access for Recreation Act, or “SOAR Act”; and S. 1723, the Ski Area Fee Retention Act.

The Forest Service is deeply committed to connecting all Americans to the outdoors, and we value the important role played by outfitters and guides, resorts, non-profit organizations, and others as partners in connecting people to recreation opportunities on national forests and grasslands. Outdoor recreation attracts people to visit, live and work in gateway and rural communities and supports the health, well-being, and economic vitality of those communities. Recreation on National Forest System lands contributes more than \$11 billion to America’s gross domestic product and supports more than 148,000 full and part-time jobs, the vast majority of which are in gateway and rural communities.¹

With certain exceptions, USDA supports the goals of S. 1665, S. 1967 and S. 1723 to improve recreational access to National Forest System lands and looks forward to working with the bills’ sponsors to effect necessary changes to achieve their goals. Our comments on these bills pertain to their effect on the Forest Service, including management of National Forest System lands. USDA defers to DOI on the effects of these bills on DOI bureaus and the federal lands under their jurisdiction.

Background

The USDA Forest Service manages 155 national forests and 20 national grasslands, comprising 193 million acres in 41 states and Puerto Rico. These lands contain 3 million acres of lakes, 400,000 miles of streams, 122 Wild and Scenic Rivers for rafting, kayaking and other watersports, and 159,000 miles of trails for horseback riding, hiking, snowmobiling, mountain biking, and more.

¹ 2018 National Visitor Use Monitoring survey. These numbers reflect total benefits (direct, indirect, and induced).

Outdoor recreation is a significant use of the National Forest System. The number of recreation visits to the National Forest System rose from about 143 million in 2009 to nearly 150 million in 2018. Annual visitation to national forests and grasslands increases to 450 million visitors if we account for the number of people who pass through our beautiful forests to enjoy the scenery and travel on our scenic roads and byways.

Moreover, recreation on National Forest System lands sustains more private sector jobs (full- and part-time) than any other Forest Service program and provides the single largest stimulus for many local economies containing National Forest System lands. Outdoor recreation opportunities and amenities are consistently ranked as one of the primary reasons people move to rural towns and can be a leading contributor to small town economies.

The Forest Service administers over 30,000 recreation special use authorizations for activities that generate nearly \$2 billion to their holders. In particular, the Forest Service administers 122 ski area permits and approximately 8,000 outfitter and guide permits. The agency issues between 1,500 to 2,000 new outfitting and guiding permits each year. These permits enable private sector professionals and educational institutions to lead a range of activities on National Forest System lands, from whitewater rafting, downhill skiing, horseback riding, and big game hunting to youth education trips in the wilderness and scenic jeep tours. For many, these activities represent their first introduction to the outdoors, and the outfitters and guides they employ are often small businesses that generate jobs and income for local communities.

In addition to these economic benefits, recreation on federal lands instills a greater understanding of their meaning and value. In a 2013 survey, 7 out of 10 Americans responded that protecting the national history and beauty of National Forest System lands is one of the best things we do.²

S. 1665 (the SOAR Act) and Title I of S. 1967 (the Recreation Not Red Tape Act)

S. 1665 (Section 4) and S. 1967 (Section 103): Permitting Process Improvements

The Forest Service supports the overall intent of these sections. Since 2016, we have taken steps to implement several of the objectives of these sections, including reducing the number of expired permits by more than 50% in the last 3 years. Specifically, we have conducted the Lean Six Sigma Analysis of our permitting process and are currently implementing recommended actions, many of which align with the intent of this bill. Additionally, we recently published proposed revisions to the Forest Service's NEPA regulations, some of which are specific to permitting for recreation opportunities and will enable the Forest Service to issue and reissue these permits more quickly. The Agency is also piloting an online application platform for special use permits and plans to continue expanding the capabilities of this digital platform.

Although the Agency is supportive of the intent of these sections, we are concerned that the language duplicates our current work. We would like to work with the Committee to remove any redundancy and ensure that the language accomplishes its intent.

² National Forest Foundation survey, 2013 (<https://www.nationalforests.org/who-we-are/press-news/survey-reveals-americans-overwhelming-support-for-our-national-forests>).

S. 1665 (Section 6) and S. 1967 (Section 105): Permit Administration

These sections would require the Forest Service to notify the public of available permit opportunities online. We have concerns about how this requirement would align with our current prospectus process for long-term outfitting and guiding opportunities. Additionally, we have concerns regarding the timeline for implementation because the notification requirement could create a significant additional workload for our permit administration staff. The Agency would like to work with the Committee to ensure that the Agency's current practices and processes of open seasons and prospectus announcements provide adequate notification of permit opportunities within our existing resource capabilities.

S. 1665 (Section 7) and S. 1967 (Section 106): Multi-Jurisdictional Permits

We support the intent of these sections to authorize the issuance of a single joint permit issued by the lead agency for multi-jurisdictional trips under a single set of authorities (the lead agency's authorities). We would like to work with the Committee to provide technical changes to the bill language that would achieve this intent. Specifically, the bill should be clarified to provide express statutory authority for the lead agency to apply its authorities to the lands covered by the permit under the jurisdiction of the other associated agency. This clarification would ensure that the lead agency is authorized to apply its statutes, regulations, and policies to lands under the other agency's jurisdiction. Otherwise, a second permit subject to the other agency's authorities would still be required for those lands. We also would like to work with the Committee on appropriate cost recovery provisions for the implementation of this program.

S. 1665 (Section 9) and S. 1967 (Section 108): Liability

Subsections (a) and (b) would allow permit holders to require their customers to sign a liability waiver. While we support authorizing use of waivers of liability, we are concerned about the requirement that customers sign a waiver with an indemnification requirement that would make them liable to both the permit holder and the United States for damages caused by the permit holder, not the customer. If the customer indemnification requirement is retained in the bill, we recommend that it be limited to damage caused by the customer.

Subsection (c) would exempt governmental entities from indemnifying the United States if they are precluded by state or local law from doing so. This provision should be clarified to state that the exemption would apply only to indemnity for tort, and not environmental, liability. Additionally, the insurance requirements for governmental entities are an insufficient substitute for indemnification of the United States because the insurance provisions do not require naming the United States as an additional insured. Many states' self-insurance covers only state employees and cannot be extended to an additional insured entity like the United States. We would like to work with the Committee to make targeted changes to address these important issues.

S. 1665 (Section 10) and S. 1967 (Section 109): Cost Recovery Reform

The Forest Service supports efforts to responsibly apply cost recovery for processing permit applications. However, we do not support these provisions in the bills because they would reduce our ability to process both simple and complex permit applications. Cost recovery has

provided more resources to the Forest Service, enabling the Agency to enhance customer service by processing applications faster. Small recreation service providers such as outfitters and guides are generally exempt from cost recovery fees under Forest service regulations. Expanding the exemption as proposed in the bill would generally benefit large recreation service providers and would adversely affect customer service, thereby counteracting the efficiencies gained from other provisions in the bill. The Agency believes that these efficiencies would reduce processing times sufficiently to obviate the need to limit our cost recovery authority further.

Titles II to IV of S. 1967, the Recreation Not Red Tape Act

Section 411, Interagency Trail Management

Section 411 directs the Secretaries of Agriculture and the Interior to establish an interagency trail management plan to uniformly maintain and manage trails that cross jurisdictional boundaries between federal land management agencies. The Forest Service supports the intent of this section of the bill. However, we would like to provide technical assistance to improve implementation and to minimize potential redundancy and process inefficiencies.

Trails crossing multiple federal jurisdictions include National Scenic and National Historic Trails, as well as hundreds and possibly thousands of other trails. In compliance with the National Trails System Act, National Scenic and National Historic Trails are managed in accordance with interagency comprehensive management plans that establish trail-wide management guidance and trail marking standards. Additionally, federally managed trails are subject to federal land management plans. The interagency trail management plan required by section 411 would need to take these existing plans into account and would add an unnecessary level of complexity.

Incorporating and applying standard management tools such as the Forest Service's Trail Management Objectives and working collaboratively through the interagency National Trails System Council to implement the intent of section 411 could be effective means for accomplishing its objectives without further legislative action.

S. 1723, the Ski Area Fee Retention Act

S. 1723 would amend the Omnibus Parks and Public Lands Management Act of 1996 to provide for the establishment of a Ski Area Fee Retention Account.

USDA supports the intent of S. 1723, as fee retention authority for ski area permits would improve ski area permit administration and customer service, increase efficiencies in processing proposals for ski area improvements and related infrastructure, and enhance avalanche-related safety education.

In 2019, \$55 million in ski area permit fees were submitted to the United States Treasury from National Forest System lands. The current five-year average for annual ski area permit fees is \$47 million. Based on the formula in the bill, we expect approximately \$24 to \$26 million in permit fees would be retained by the Forest Service each year. Retained permit fees would be

used to improve recreation opportunities that contribute to local economic activity across 122 ski resort communities operating on National Forest System lands in 14 states. It is anticipated that these improvements would spur industry growth and generate additional revenue for ski areas and additional permit fees to the federal government that exceed the value of current permit fees. The ski area permit fees retained under the bill would supplement cost recovery fees collected and retained under other authorities, but would also score under the "Pay as you Go" rules because it would divert these funds from going to the Treasury.

We would like to work with the Committee to further inform you about how the Forest Service delivers a full spectrum of services in the ski areas that are covered by this bill.

Conclusion

The Department appreciates the Committee's interest in these important topics. The Department strongly supports efforts to foster recreational use of federal lands and looks forward to working with the bill sponsors and the Committee on the bills to promote these important goals.

Senator HEINRICH [presiding]. Thank you, Mr. French.
Ms. Haskett.

STATEMENT OF NIKKI HASKETT, ACTING ASSISTANT DIRECTOR FOR NATIONAL CONSERVATION LANDS AND COMMUNITY PARTNERSHIPS, BUREAU OF LAND MANAGEMENT, U.S. DEPARTMENT OF THE INTERIOR

Ms. HASKETT. Good morning, Chairman Murkowski and Ranking Member Manchin. I am Nikki Haskett, Acting Assistant Director for National Conservation Lands and Community Partnerships at the Bureau of Land Management. Thank you for inviting me here today to testify on S. 1967, the Recreation Not Red Tape Act, and S. 1665, the Simplifying Outdoor Access for Recreation Act, or SOAR Act.

These bills which amend the Federal Lands Recreation Enhancement Act aim to improve the efficiency and reduce the cost for applying for and administering special recreation permits. They also authorize single, joint, special recreation permits for multi-agency trips. The Department supports the goals of both of these bills.

Federal land management agencies oversee about 640 million surface acres, including public lands managed by the BLM, the U.S. Fish and Wildlife Service, the Bureau of Reclamation and the National Park Service as well as the Forest Service. These lands host a remarkable variety of recreational opportunities.

Secretary Bernhardt is improving recreational access to public lands and has issued a number of orders in support of this priority. For example, Secretarial Order 3373 promotes improved access to public lands, and under this policy the BLM has acquired new lands such as 13,000 acres to improve access to the Blackfoot River in Montana and the 3,500 acres to improve access to the Sabinoso Wilderness Area in New Mexico.

Much of the changes proposed in the bills being considered today deal with special recreation permits and their associated fees. Fees collected for each permit allow the Federal Government to implement projects that benefit visitors such as maintaining recreational sites. The BLM issues over 1,000 of these recreation permits a year and oversees about 4,600 special recreation permits at any one time.

S. 1967 and S. 1665 align with the Secretary's priorities to increase access and promote recreational opportunities on public lands. We believe that these bills have the potential to address some longstanding challenges, and we look forward to working with the sponsors and the Committee to address a number of technical issues in the measures.

Both bills authorize agencies to issue single, joint recreation permits for trips that cross agency boundaries of more than one land management agency. When a single, joint recreation permit is proposed the bills authorize the designation of a lead agency for the permit. The bills also authorize agencies to delegate the respective enforcement authorities to the lead agency.

The Department has been pursuing efforts to make recreation permitting easier, and we support efforts to improve the permitting process. Americans should be able to access and enjoy their public lands with as much ease as possible. The Department supports the

goals of these provisions and would like to continue to work with the sponsors on certain modifications.

The bills also provide various other authorities for agencies to improve the permitting process such as expanded use of categorical exclusions and allowing permittees to return unused service days. The Department strongly supports these provisions.

Other provisions of the bills such as online and email notifications of permit opportunities and exemptions of the first 50 hours of work from cost recovery reflect the goals of the Department, and we support and appreciate the opportunity to continue working with the sponsors and the Committee on these provisions.

Lastly, the Recreation Not Red Tape Act includes a provision regarding retailing of recreational passes, encouraging veterans and service members to recreate on public lands and expanding the use of volunteers. The Department supports these provisions.

In conclusion, we are grateful that the Committee is considering legislation to make it easier for Americans to enjoy their public lands. Thank you again for the opportunity to testify today. I would be happy to answer any questions you may have.

[The prepared statement of Ms. Haskett follows:]

**Statement of
Nikki Haskett
Acting Assistant Director for National Conservation Lands and Community Partnerships
Bureau of Land Management
U.S. Department of the Interior**

Senate Committee on Energy and Natural Resources

**S. 1967, Recreation Not Red Tape Act
S. 1665, Simplifying Outdoor Access for Recreation Act**

October 31, 2019

Thank you for the opportunity to testify on S. 1967, the Recreation Not Red Tape Act, and S. 1665, the Simplifying Outdoor Access for Recreation Act (SOAR Act). Both bills amend the Federal Lands Recreation Enhancement Act (FLREA), aiming to improve the efficiency and reduce the cost of applying for and administering Special Recreation Permits (SRPs), and also authorize single joint SRPs for multi-jurisdictional trips. S. 1967 also includes additional provisions, such as the establishment of a National Recreation Area System.

SRPs are authorizations that allow commercial, competitive, and group recreation uses of the public lands and related waters. These permits are issued as a means to manage visitor use, protect recreational and natural resources, and provide for the health and safety of visitors. Revenue collected under FLREA allows the Federal government to implement projects that benefit visitors, such as improving accessibility, maintaining recreation sites, and building informational exhibits. The Bureau of Land Management (BLM) and the U.S. Forest Service (USFS) are both authorized to issue SRPs. The BLM issues over 1,000 SRPs each year, and oversees approximately 4,600 active SRPs at any one time. Other Interior bureaus use different authorities to manage recreation and collect associated fees: the U.S. Fish and Wildlife Service (FWS) issues special use permits; the Bureau of Reclamation (Reclamation) issues use authorizations; the National Park Service (NPS) issues commercial use authorizations and special use permits.

The Department of the Interior (Department) supports the overall goals of these bills which align with the Secretary's priority to increase access and promote recreational opportunities on public lands. Public lands have value for recreation only when people can access those lands, and the Department has issued several Secretary's Orders to pursue this priority, such as Secretary's Order 3347, *Conservation Stewardship and Outdoor Recreation*; Secretary's Order 3356, *Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories*; and Secretary's Order 3366, *Increasing*

Recreation Opportunities on Lands and Waters Managed by the U.S. Department of the Interior. In addition to these, Secretary's Order 3373, *Evaluating Public Access in Bureau of Land Management Public Land Disposals and Exchanges*, enables the BLM to more thoroughly consider public access when determining if public lands are suitable for disposal.

We believe that 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, as discussed further below. We defer to the Department of Agriculture regarding any changes to the management of lands administered by the USFS.

Background

Federal land management agencies oversee approximately 640 million surface acres. The BLM manages approximately 245 million of those surface acres while the USFS manages another 193 million. Most other Federal land is managed by the FWS, with over 89 million surface acres as part of the National Wildlife Refuge System, and the NPS, with approximately 80 million surface acres. Reclamation and the Army Corps of Engineers also manage Federal lands that are used for recreation.

The Department's several bureaus contribute to its overall recreation mission. The public lands managed by the BLM host a remarkable variety of recreational activities, from huge festivals like Burning Man, to solo backpacking excursions into splendid isolation, and everything in between. The National Wildlife Refuge System provides world-renowned places to see iconic animals 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. And of course the National Parks, which preserve some of our most important national treasures, host over 330 million visitors every year.

Each of the Department's land managing bureaus is actively contributing to the Secretary's recreation and public land access priorities. Some examples of these accomplishments include: the FWS has opened or expanded hunting and fishing opportunities on more than 1.4 million acres of national wildlife refuges and national fish hatcheries; the Department has worked with States and Tribes to improve habitat quality for big-game; the BLM has acquired 13,000 acres of land to improve public access to the Blackfoot River in Montana and 3,500 acres to improve access to the Sabinoso Wilderness Area in New Mexico; and the Department is actively working with Congress to address the maintenance backlog at the National Park Service which negatively impacts many of our national treasures.

S. 1665, the SOAR Act & Title I of S. 1967, the Recreation Not Red Tape Act

S. 1665 and Title I of S. 1967 authorize single joint SRPs for multi-jurisdictional trips and make various amendments to FLREA to improve the efficiency and reduce the cost of applying for and administering SRPs.

Single Joint SRPs for Multi-Jurisdictional Trips

Both bills (S. 1665 Section 7 and S. 1967 Section 106) authorize agencies to issue single joint SRPs for trips that cross jurisdictional boundaries of more than one Federal land management agency. When a single joint SRP for a multi-jurisdictional trip is proposed, the bills authorize 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 bills, the agencies would not be permitted to recover the costs of this coordination. The bills also authorize agencies to delegate their respective enforcement authorities to the designated lead agency. Lastly, the language authorizes agencies to withdraw from single joint SRPs and requires them to issue new permits under substantially similar terms with no new application.

The Department has been pursuing efforts to make recreation permitting more efficient, including streamlining the environmental reviews for recreation permits under Secretary's Order 3355, and we support efforts to improve the permitting process for trips that cross jurisdictional boundaries. American taxpayers should be able to enjoy the wonders of the outdoors with as much ease as possible. The Department supports the goals of this section 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 that these delegations conform with the statutory authorities for each agency. Also, although the Department appreciates that the bills give agencies the option of withdrawing from single joint SRPs, the Department feels that the requirements to issue substantially similar permits with no new application are overly restrictive. 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

The bills (S. 1665 Section 3 and S. 1967 Section 102) define 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. (The NPS is excluded from these fee-setting provisions, however the Department is concerned that these provisions, coupled with the limited cost-recovery provided in the bills, would severely limit the NPS's ability to fund the program.)

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

Expedited Permitting

The bills (S. 1665 Section 4 and S. 1967 Section 103) provide authority for agencies to improve permitting processes. This includes the expanded use of categorical exclusions, programmatic EISs, and expedited rulemaking. They also direct agencies to make online permit applications available. The Department is strongly supportive of these efforts as we continue to pursue opportunities to streamline the environmental review processes for recreation related projects as part of implementing Secretary's Order 3355.

The bills (S. 1665 Section 5 and S. 1967 Section 104) authorize permittees to voluntarily return unused service days to be available to any other permittee, and authorize the use of temporary SRPs and how they are converted to long-term permits. The bills also include provisions (S. 1665 Section 5(a) and S. 1967 Section 102(b)(2)) that direct agencies to establish a permit administration protocol to automatically authorize permittees to engage in activities that are substantially similar to those for which they have a permit. The Department supports efforts to simplify the permitting process for applicants.

Permit Notifications

The bills (S. 1665 Section 6 and S. 1967 Section 105) require 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 has some concerns that providing notification of all potential recreation permit opportunities could result in a speculative market for the most profitable recreation opportunities. Additionally, recreation activities generally are proposed by the public and bureaus then determine whether those proposals require permits under Federal land management laws and regulations.

Liability & Cost Recovery

The bills (S. 1665 Section 9 and S. 1967 Section 108) determine the terms under which agencies require permittees to waive the liability of the United States for permitted recreation activities. The bills (S. 1665 Section 10 and S. 1967 Section 109) also require agencies to amend the cost recovery process for issuing and renewing SRPs. This section would exempt the first 50 hours of work from cost recovery in issuing and monitoring these permits, which is particularly problematic for the NPS as under current authorities the NPS can recover the full costs of these

activities. Under the bills, 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 pro-rated basis. While the Department supports the goal of simplifying cost recovery policies and reducing them 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.

Recreation Pass Sales

Title I of S. 1967, the Recreation Not Red Tape Act, includes two additional sections (111 and 112) that are not in S. 1665, the SOAR Act. These direct the agencies to work with States to coordinate the availability of Federal and State recreation passes to allow a purchaser to buy a Federal recreation pass and State recreation pass in the same transaction, and to sell the Federal America the Beautiful passes through the websites of each Federal land management agency. The Department supports improvements in the retail of park passes for the recreating public, and supports these provisions.

Titles II-IV of S. 1967, the Recreation Not Red Tape Act

Titles II-IV of S. 1967 lay out several policies regarding recreation access to public lands. Title II 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.

Title III establishes a National Recreation Area System within the BLM and the USFS composed of all existing National Recreation Areas and all 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 language requires agencies to develop comprehensive management plans associated with each National Recreation Area. The Department appreciates this effort to highlight the incredible recreation values of our public lands. However, the Department would like to continue working with the sponsors and the Committee on finding the appropriate mechanism to manage public lands where recreational use is a priority, while also allowing for other important uses of the public lands.

Title III also directs agencies to develop appropriate metrics for recreation on public lands, and adds recreation to the missions of Reclamation and certain other Federal agencies. Finally, Title IV promotes the use of volunteers to support the stewardship of public lands, and directs

agencies to establish an interagency trail management program. The Department strongly supports these provisions.

Conclusion

The Department appreciates the Subcommittee's interest in this important topic. The Department strongly supports efforts to promote recreational use of public lands and looks forward to continue working with the sponsors and the Committee. Thank you for the opportunity to testify today. I would be happy to answer any questions you may have.

Senator HEINRICH. Thank you very much.
Mr. McGuire, you may begin.

**STATEMENT OF BRENDAN MCGUIRE, VICE PRESIDENT OF
PUBLIC AFFAIRS, VAIL RESORTS**

Mr. MCGUIRE. Good morning. Thank you, Senator Gardner, for that nice introduction. Ranking Member Manchin, members of the Committee, thank you for the opportunity to be here in support of S. 1723, the Ski Area Fee Retention Act (SAFRA) of 2019.

On behalf of Vail Resorts, my employer, and the National Ski Areas Association (NSAA), we'd also like to thank Senators Bennett and Wyden, for their leadership in introducing the bill and Committee members Barrasso, Cortez Masto, McSally and Risch for co-sponsoring this bipartisan measure to retain ski area permit fees locally.

NSAA has 325 members, 122 of which operate on the National Forest System. Vail Resorts, my company that I work for, owns and operates 37 ski areas including iconic public lands resorts: Vail Mountain in Colorado; Stevens Pass in Washington; Heavenly in Tahoe; and Mt. Snow in Vermont. So it goes all the way East as well.

SAFRA would retain a percentage of ski area permit fees in the forest in which they were generated. Those funds would be retained so that the Forest Service has the capacity to administer ski area permits and review ski area infrastructure projects.

Ski areas work in partnership with the U.S. Forest Service to deliver an outdoor recreation experience that is really unmatched in the world. This public-private partnership dates back to the 1940s and has a long history of providing benefits to all Americans through health and fitness, an appreciation of our natural environment and providing strong returns to the U.S. Government through those fees paid for the use of the land.

Over the past ten years, ski areas nationwide have averaged over 55 million visits annually. Sixty percent of those visits occur on Forest Service public lands. In total, the industry creates \$62 billion in tourist-related revenue, supports nearly a million jobs and generates nearly \$5 billion in annual retail sales.

Public land ski areas are typically the largest employer for the communities in which they operate. They pay for all onsite improvements, including roads, parking lots, chairlifts, as well as all the processes required to review and approve such projects. The ability for our ski areas to move forward as a business is linked to our most important partner, the U.S. Forest Service, and their capacity to review proposals and render decisions.

Fee retention as outlined in the bill is an important tool to boost the agency's capacity to review ski area proposals. This legislation would allow ski areas to invest more and sooner in much needed infrastructure.

Retaining these ski fees is necessary because funding and staffing for the Forest Service Rec program sits at nearly 20 percent below 2010 levels. Meanwhile, visitation has only grown, increasing by 30 percent in that same time period. The Forest Service's own data shows that 85 percent of visitors to the National Forests are seeking recreation opportunities. Of the ten most visited forests na-

tionwide, nine of them host ski areas and that visitation drives local economies.

Ski areas are less likely to receive timely reviews of project proposals when forests are operating at low permit administration capacity. Ski areas have experienced pauses during which proposals cannot be accepted by the agency. Some forests have seen a lack of bandwidth that allows them to only review one project at a time.

When projects are delayed and timelines uncertain, ski areas, like all businesses, find it harder to invest significant resources. That means ski areas are less likely or slower to upgrade chairlifts, to upgrade to energy efficient snowmaking systems and to transition to four season models capable of supporting jobs and the economy all year. This uncertainty has, unfortunately, shelved ski area investments that would have benefited workers, guests and communities. Dedicating a percentage of the nearly \$40 million in fees paid by ski areas will unlock new investment opportunities.

Since 2010, ski areas operating on Forest Service lands have experienced good revenue growth in the winter, and they were up over 100 percent from our summer activities thanks to the bill that this Committee and Congress passed in 2011, the Summer Activities bill. There's tremendous interest in our industry to harness this momentum and build the infrastructure necessary to support future growth.

We urge your support of S. 1723, and thank you again for the opportunity to be here.

[The prepared statement of Mr. McGuire follows:]



Statement of

Brendan McGuire, VP of Public Affairs, Vail Resorts
 Before the Senate Energy & Natural Resources Committee
Legislative Hearing on S. 1723 – The Ski Area Fee Retention Act (SAFRA) of 2019

October 31, 2019

Chairman Murkowski, Ranking Member Manchin, and members of the Committee, thank you for the opportunity to provide testimony on S. 1723, the Ski Area Fee Retention Act of 2019. On behalf of Vail Resorts and the National Ski Areas Association (NSAA), I would like to thank Senators Gardner, Bennet, and Wyden for their leadership in introducing the bill, along with Committee members Barrasso, Cortez Masto, McSally, and Risch for co-sponsoring this bipartisan measure to retain ski area permit fees locally.

NSAA has 325 ski area members, 122 of which operate on National Forest System lands across 13 states. Vail Resorts, the company for which I work, owns and operates 37 ski areas, including iconic public land resorts Vail Mountain and Beaver Creek in Colorado; Stevens Pass in Washington; Heavenly and Kirkwood in Tahoe; and Mt. Snow in Vermont.

S. 1723 would retain a percentage of ski area permit fees in the forests where they were generated. It would retain those funds so that the Forest Service has the capacity to administer ski area permits and review ski area infrastructure projects.

Background

Public land resorts work in partnership with the U.S. Forest Service to deliver an outdoor recreation experience unmatched in the world. Dating back to the 1940s, it is a public-private partnership that benefits all Americans by supporting public health and fitness, fostering an appreciation for our natural environment, and providing returns to the US government through fees paid for use of the land.

Over the past ten years, ski areas nationwide have averaged over 55 million visits annually. Approximately 60 percent of those visits occur on public land. In total, the US ski industry creates \$62 billion in tourist-related revenue, supporting 964,000 jobs and generating \$4.6 billion in annual retail sales.

Public land ski areas are typically the largest employer for the communities in which they operate. Ski areas pay for all on-site improvements, including roads, parking lots, and chair lifts, along with the processes required to review and approve such projects. The ability of ski areas to move forward as a business is inextricably linked to our most important partner, the U.S. Forest Service, having the capacity to review proposals and render a decision.

Fee retention, as outlined in S. 1723, is an important tool for boosting the agency's capacity to review ski area proposals. This legislation would allow ski areas to invest *more and sooner* in much needed infrastructure at public land resorts.

Need for Ski Fee Retention

Retaining ski fees locally is necessary because funding and staffing of the Forest Service Recreation Program sits 40 percent below year 2000 levels. Meanwhile, visitation to these lands has steadily grown,



increasing by 30 percent in just the last decade. The Forest Service's own data show that 85 percent of visitors to our national forests are seeking recreation opportunities. Of the 10 most visited forests nationwide, 9 of them host ski areas, attracting millions of visitors who spend money in local economies.

Ski areas are less likely to receive timely reviews of project proposals when forests are operating at low permit administration capacity. For example, ski areas have experienced "pauses" during which proposals are not accepted by the agency for extended periods of time. On some forests, the agency's lack of bandwidth limits them to reviewing one project at a time.

When projects are delayed and timelines are uncertain, ski areas – like all businesses – find it harder to invest significant resources. This means that ski areas are slower to replace ageing lifts, to upgrade to energy efficient snow guns, and to transition to a four-season model capable of supporting jobs and recreation all year long.

Benefits of Ski Fee Retention

The uncertainty resulting from the capacity shortages has delayed or, at times, shelved ski area investments that would have benefitted workers, guests, and communities. Dedicating a percentage of the nearly \$40 million in fees paid by ski areas to addressing this ski forest capacity issue will unlock new investment opportunities.

Since 2010, ski areas operating on Forest Service lands have experienced 36 percent revenue growth from winter sports activities and 126 percent from summer activities. There is tremendous interest among resorts in harnessing this momentum and building the infrastructure necessary to support future growth.

S. 1723 is consistent with previous federal actions, including the local retention of recreation user and permit fees through the Federal Land Recreation Enhancement Act. This legislation would also facilitate the implementation of year-round recreation activities consistent with the Ski Area Recreation Opportunity Enhancement Act, passed by Congress in 2011.

In closing, we urge the Committee's support of S. 1723. Thank you for the opportunity to provide this testimony.

The CHAIRMAN [presiding]. Thank you, Mr. McGuire.
Mr. Davis, welcome.

**STATEMENT OF LEE DAVIS, EXECUTIVE DIRECTOR, OUTDOOR
RECREATION ECONOMY INITIATIVE, OREGON STATE UNI-
VERSITY (OSU) - PORTLAND CENTER**

Mr. DAVIS. Thank you, Chair Murkowski and Ranking Member Manchin and members of the Committee. The Committee members here today are very, very aware of the details in these bills and the issues facing us and all the giant numbers and impacts that recreation bring to our economy and people.

I've been waiting for this day for about seven years, so I decided that you can read my written testimony and today I'm just going to tell you some stories.

Seven years ago, I was called to a meeting in Portland, Oregon, with some people that are here behind me. It was about trying to figure out how to get more permits for groups that were trying to get kids outside. I was called because, as Senator Wyden mentioned, at that time I was running the largest outfitter guide permit in the State of Oregon. And so, people were pretty regularly calling me, small business owners and other people were calling me and saying how do I get a permit? How do I get a permit? Do you guys have it? And you know, asking if we could broker permits, asking if they could, you know, is there any way they could work with us or could the Mazamas just buy them out so that they could do the things they wanted to do within our permit? And I bring up that meeting because what we ended up doing in that meeting was deciding that we had to create a private sector training program to teach small businesses and outfitters and guides simply how to navigate the permit process, you know?

And so, we built those with, again, some of the people in the room, Paul Sanford behind me helped with that. We built those training programs. We launched those training programs. We had to stop them within about a year because people were so angry by the end of the training. We'd teach them all the processes and procedures and all, and we'd have Forest Service staff come and tell them, you know, exactly what you need to do, step by step by step.

And then they would hear that there's been a 23-year moratorium on permits on Mount Baker National Forest or a 20-year moratorium on Mount Hood National Forest. And the permit staff, you know, was not available that day to help them with their request, you know? So we had to stop that training, and that's kind of ridiculous.

The other thing that I think is worth mentioning about those days is that the permit application that I would submit every year was 76 pages long. We had to tell them exactly where all 14,000 participants were going to be, every single year. If we were going to vary the date of participation because of weather or, you know, different seasonal issues or anything like that, we had to call them and notify them. It was just incredibly laborious.

The other thing I want to mention about that meeting was that day I met a man, a philanthropist from Seattle, named Doug Walker. Doug Walker was the person that explained to me that the biggest threat facing public lands and waters in the future is that our

kids aren't building a bond of care with the outdoors, that more than anything else if our future voters, our future workers and constituents don't understand the value of the place, they're not going to vote to protect it. So I think those are some real reasons why we need to work on permit reform.

Next, I want to talk a little bit about national recreation areas. Most of us are aware we have great tools like the Wilderness Act and the Wild and Scenic Rivers Act and monuments to protect natural and cultural assets in our country. But to my knowledge, we don't have great tools that help us protect places where the primary value is recreation. And that's, I think, some folks are afraid of creating a new designation because it might be misused. But I think even on Halloween we don't need to be afraid of that because of you guys. In other words, each new national recreation area would have to go through Congress, and the devil's in the details on these things. And there's nothing in this provision that prohibits, you know, the interchange between recreational uses and resource extraction.

The Dean of the College of Forestry at Oregon State University, where I work, often likes to talk about trails in Northern Europe where you can mountain bike by wineries and farms and sawmills. And they have recreational trails that effectively integrate resource extraction and recreation and celebrate all the great uses that our public lands bring to our people and our economies. And that's possible.

I think, you know, and you've heard in some, I think, in some previous hearings on this that people have had to go outside of the country just to operate sometimes because it was so hard to operate in this country. There's a rafting guide in Oregon that I know that does that. There's a mountain climbing guide in Oregon I know that leads trips in Africa and Nepal, because it's easier than running them in Oregon and Washington.

I, myself, spent eight years taking people to Chamonix, France, because it was easier for me to fly 15, 20 people to France than it was to get them to recreate in Alaska or Washington or Oregon. I mean, my most formative experience in the outdoors was traversing the Arrigetch Peaks in the Gates of the Arctic National Park in the Brooks Range. I would have loved to have taken those people there, but I just couldn't do it.

The last thing I want to talk about is making recreation a priority. I think in my written testimony I laid out a series of strategies that I think that we might want to look at and evolve into a national strategy to move the recreation economy forward. I think that the outdoor recreation economy is the future of natural, resource-based jobs in America. And certainly, resource extraction jobs will be with us forever, but I think that we need to invest in this economy the way we invested in 20th century in natural resource-based jobs and infrastructure.

Currently in my role at OSU I'm working on creating pathways to new and better jobs in the outdoor recreation economy, working on creating certificates and badges and degree programs eventually that will address the technical labor challenges and the, you know, leadership level challenges that all industries face and that also face our industry.

Through my work I also know that our industry really does back these bills. I work very closely with Jessica Wall at the Outdoor Recreation Roundtable representing 50,000 companies in America, and they support these bills. So this isn't just me and education and advocates saying this stuff's important—this is industry.

I think you all are also very aware that my work and Jess' work is about bringing it together, the entire recreation economy from hunt and fish to non-consumptive to, you know, across divides and we have a real opportunity here to bring people together in a different kind of way.

The last thing I'll say is that I think future visions of high-quality life in America include outdoor recreation out your doorstep. I often, sort of, joke that my kid can still draw you a better picture of what high-quality life in the '50s was supposed to look like than he can tell you what it's supposed to look like 20 years from now.

But we do know places like Bend, Oregon, and Ashland and Head River in Oregon, at least, are, sort of, icons of that. I think that if we can reform our permit process, if we can have dedicated accountable agency staff that are measured by outdoor recreation as a performance metric, and if we can have tools like National Recreation Areas to tell managers that they need to plan and manage around recreation, that we can move the needle on these, on this economy.

So, thank you.

[The prepared statement of Mr. Davis follows.]

Senate Energy and Natural Resources Committee

Legislative Hearing on Outdoor Recreation
Thursday, October 31st, 2019 at 10:00 a.m.
366 Dirksen Senate Office Building

Testimony in support of:

S.1967, the Recreation Not Red Tape Act (Wyden)
S.1665, the Simplifying Outdoor Access for Recreation Act (Heinrich);
and S.1723, the Ski Area Fee Retention Act (Gardner)

Lee Davis, Executive Director
Outdoor Recreation Economy Initiative
Oregon State University – Portland Center
Portland, Oregon, 97204

Dear Chair Murkowski, Ranking Member Manchin and Members of the Committee:

I'm honored to have the opportunity to provide testimony in support of three important bills which work together to create and enhance outdoor recreation opportunities and experiences for all Americans. While I currently lead the Outdoor Recreation Economy Initiative for Oregon State University, the testimony and views expressed and here are my own, and should not be construed as representing any official position of Oregon State University.

Background and Perspective:

I believe that the biggest issue and threat facing our public lands and waters in America today is that our youth are not consistently experiencing and building a relationship of care with the outdoors. If the next generation, who represent our future workforce, leaders, volunteers, taxpayers, and voters do not understand and appreciate the value of our public lands and waters they likely will not vote in the future to protect, maintain, and promote these incredible places, which represent a core component of the character of living in our beautiful country.

*"No one will protect what they don't care about and no one will care about what they have never experienced."
-- Sir David Attenborough, Broadcaster and Naturalist*

The Outdoor Recreation Economy represents the future of natural resource-based jobs in America, contributing visibly and positively to the health and happiness of our people, to community engagement, to the development of stewardship values, and to our citizen's interest in lifelong learning and exploration of the natural world. Thanks to the work of several members of this committee, and the passage of the REC Act in 2016, we now know the size and impact of the outdoor recreation economy, representing 2.2% of our GDP, growing faster than our economy, and supporting over 4.5 million jobs. My professional work with, and commitment to the Outdoor Recreation Economy spans fifteen years and is rooted in countless personal experiences recreating on our public lands and waters.

Currently, I work for Oregon State University (OSU) leading their Outdoor Recreation Economy Initiative. OSU's Outdoor Recreation Economy Initiative (OREI) was launched to help the University understand how it might productively work with the industry associations, companies, public agencies, and related organizations in this economy to provide value, help spur growth in this sector, and simultaneously promote social, environmental, and economic progress all in alignment with OSU's values, mission, and strategic plan.

Through OREI we are focused on understanding and responding to the workforce development needs of outdoor industry companies, public agencies, and the nonprofits groups and associations that support our work. In order to ensure we understand the future workforce needs of the economy, we work closely with well-organized industry associations, like the [Outdoor Recreation Roundtable](#) which represents more than 50,000 outdoor industry companies, retailers, manufacturers, and guides, and also with Agency leaders and Nonprofits across America.

In the year ahead through the OSU Outdoor Recreation Economy Initiative we plan to pilot innovative educational programs which will support public-private sector cohorts of students to address key workforce challenges faced by the business, organizations, and agencies in the outdoor recreation economy.

Previous to working with OSU, I served as the Executive Director of the Mazamas in Oregon, a nonprofit education organization whose mission is to inspire everyone to love and protect the mountains, and which was founded as Oregon's Mountain Club in 1894 on the summit of Mt. Hood. While working for the Mazamas I had the opportunity to lead and work on several projects which I believe relate strongly to the hearing and bills we are considering today.

In 2016-17, I, along with Adam Baylor on our staff at Mazamas, led and coordinated the advocacy efforts to create Oregon's office of Outdoor Recreation (HB3350), and Oregon's Outdoor Recreation Day (HB2143). We also built and staffed the Oregon Outdoors Coalition, a private sector lobbying coalition that works to ensure that outdoor recreation is celebrated and sustained as an integral part of the state's identity, culture, and economy.

At that same time I served on the Roadmap to the Outdoors Initiative, led by First Gentleman of Oregon Dan Little, which was (and continues to be) a working partnership between the Governor's office, State & Federal Agencies, and community groups with a goal of increasing the quality of life of all Oregonians by fostering an appreciation of Oregon's natural wonders by increasing access to the outdoors for everyone.

I also joined and continue to serve on the leadership team for Travel Oregon's Outdoor Recreation Initiative. The Oregon Outdoor Recreation Initiative is a statewide effort to bring together businesses, agencies, land managers, conservation groups and recreational user groups around the goal of expanding access to outdoor recreation and increasing the economic impact and sustainability of Oregon's tourism and outdoor recreation economy.

And finally, in 2018, I had the opportunity to serve on the Oregon Delegation to the Outdoor Recreation Confluence Accords meetings. My specific role at those meetings, along with my friend, industry colleague, and former legislative staffer for Senator Wyden, Erin Gaines, was to draft the pre-amble to the Confluence Accords.

To quote the Confluence website: "The Confluence Accords embody 12 principles contained in the four pillars of conservation and stewardship, education and workforce training, economic development, and public health and wellness. They were developed in 2018 by the Confluence of States, a bipartisan group of eight trailblazing states, to promote and advance best practices for all states to consider."

The original Confluence Accord signatories were outdoor recreation directors from the states of Colorado, Montana, North Carolina, Oregon, Utah, Vermont, Washington and Wyoming on behalf of their governors. There are now 16 states with offices of outdoor recreation or task forces created or under development following recent legislation."

The pre-amble we drafted for the Confluence Accords represents a clear statement of why this work is important:

We, a growing confluence of states with a shared passion for the outdoors and a commitment to cultivating a strong outdoor recreation economy, believe that outdoor recreation is core to the very character and quality of life we should all enjoy.

The outdoor industry is a powerhouse of meaningful job creation, and a driving force of our Nation's economy. Our industry is an economic multiplier, creating a unique quality of life in rural and urban areas, attracting new businesses and professional talent to our communities.

While each of our states is unique, our shared commitment to facilitating everyone's love of place through inclusion and diverse outdoor experiences has the power to unify communities, to bridge societal divides, and to improve the mental and physical health of all people.

The outdoors is the wellspring of adventure, camaraderie, and solace, inspiring us to both explore new places and set down roots. Whereas nature is the backbone of the recreation economy, we are committed to fostering conservation and stewardship values, ensuring environmental quality, and restoring sustainable access to the outdoors for current and future generations.

Recommendation for Priority Strategies to enhance the Outdoor Recreation Economy in America:

It is clear, from reading these bills, and reviewing previous committee proceedings and hearings that the ENR committee members and staff are highly aware of the problems and issues facing the outdoor recreation economy, and today we are talking about several pragmatic solutions we can enact immediately to address these issues.

The situation we are faced with often seems overwhelmingly complex, and because of that complexity, I believe we need a roadmap or a strategy map to guide our work, both on these bills and to in the years to come. I've organized my thoughts and testimony around the most common issues and strategies that I've heard over the years, many of which relate directly to the bills before us today.

I strongly support each of the bills we are discussing today because together they make real progress in many of these areas. At the risk of being audacious, I propose the following list of strategies as a priority list for how to approach enhancing the outdoor recreation economy in America. This list should be further evaluated, but I think a national level strategy document that looks something like this would be highly effective if adopted and funded:

- ⇒ **Prioritization:** Make Outdoor Recreation a Priority for our agencies and encourage States to do the same.
- ⇒ **Agency Staffing and Training:** Create accountable, full-time, agency positions to lead and coordinate this work.
- ⇒ **Permit Reform:** Improve Access for Guiding and Educational groups through Permitting Reform.
- ⇒ **Planning and Managing for Recreation:** Invest in adaptive management and planning systems for Recreation.
- ⇒ **Special Recreation Areas:** Bolster existing designations to help managers prioritize recreation & speed up permits.
- ⇒ **Infrastructure:** Invest in Modern Infrastructure and World Class Destination Development.
- ⇒ **Private Sector Partnerships:** Engage service corps & affinity groups to build and maintain special recreational facilities.
- ⇒ **Ease of Access for All:** Make it easier to find, reserve, and obtain passes, especially for youth and veterans.
- ⇒ **Digitization:** Digitize and modernize agency information systems.
- ⇒ **Rural Communities:** Re-invest in the Rural Communities that service, support, and provide SAR for recreation

Specific Recommendations:**Prioritization:**

Make Outdoor Recreation a Priority for our agencies and encourage States to do the same: These actions, which I strongly support, and which are well represented in the RNR Act are among the most important things we can do to move this work forward and enhance the outdoor recreation economy in the future.

In the 20th Century, outdoor recreation was known as what we did with our leftover time and money. Going forward, we need our agency leaders and staff to understand the incredible benefits that recreation provides to our people's mental and physical health, to jobs, to community engagement, to their interest in lifelong learning, and in developing stewardship values so that our citizens want to care for and protect our public lands and waters.

First and foremost, we need to encourage all fifty states to install State Offices of Outdoor Recreation, and to task these new Directors with not only coordinating the outdoor recreation economy in their state, but helping other state agency leaders to prioritize and promote the importance of outdoor recreation to our people, places, and economies. A stretch goal for consideration would be to direct a small portion of LWCF funds to create a matching grant or fund that incentivized the creation of these offices, and/or which enabled agencies like the National Park Service to support and bolster the work of these state offices of outdoor recreation with additional full time staff.

Next, we need to add outdoor recreation as a priority to the mission statements of our land management agencies, including the Corps of Engineers, the Bureau of Reclamation, FERC, and the Department of Transportation; and encourage the same among similar state agencies. A great example of why this is important is to consider that the Army Corps of Engineers manages more recreation visitors in a year than any other land management agency, and while recreation may be a note in their management plans, it's not a clearly stated focus of their work.

And finally, if we hope to incentivize our land managers to be innovative, efficient, and to invest in modern solutions to enhance the outdoor recreation economy we need to ensure that their job performance and evaluations are linked to goals that support outdoor recreation directly.

Agency Staffing:

Create accountable, full-time, agency positions to lead and coordinate this work: Our land management agencies, and the National Park Service in particular, should be funded and empowered to lead the work of enhancing and supporting the outdoor recreation economy nationally and regionally, rather than holding it back. Dedicated, full-time staff whose job performance metrics are tied directly to recreation metrics (and without embedded or cultural conflicts of interest) are key to moving much of the work forward that is described in the RNR Act and the SOAR Act.

Additionally, our land management agencies are, like many long-standing institutions, facing an impending retirement wave with nearly two thirds of the current workforce eligible for retirement in the next five years. This reality means that our agencies need to invest more than ever in training and knowledge transfer so that our future land managers can learn from our senior staffers before they retire. The RNR Act states the importance of providing adequate staffing for our land management agencies, which I strongly support, but we also need to ensure that staff training, and this transfer of knowledge is prioritized and funded.

Permit Reform:

Improve Access for Guiding and Educational groups through Permitting Reform: For over ten years, while working for the Mazamas, I managed and helped to process all of that organization's permits with local, state, and federal land management agencies. The most complex and difficult permit to administer was Mazamas USFS special use outfitting and guiding permit on Mt. Hood National Forest and in the Columbia River Gorge National Scenic Area, which at that time was the largest single outfitting and guiding permit held in Oregon by a significant margin.

The permit application was due annually and was often 50-75 pages long. Additionally, in most years it took the USFS over 6 months to respond to the permit application, and up to another year to reconcile and send us a bill for our permit fees. One year we were told that all of our 120+ leaders and guides would be required to have a full copy of the paper permit application and related documents at all times – meaning a hiking or climbing guide was expected to literally carry over 100 sheets of paper on all activities. Experiences like these, and others encouraged me to start advocating for changes to the permit system roughly ten years ago.

To say that I support the permit reform provisions in the SOAR Act, and in the RNR act would be an understatement. These changes are sorely needed and will help not only existing outfitters and guides but many new and entrepreneurial businesses that simply want to get youth and diverse populations outside. The permit reform language in the bill can be generally understood as being in two categories:

First, process changes that reduce the costs and barriers to applying for and obtaining a special use outfitter and guide permit. The bill language streamlines permit processing, offers more short-term and temporary permits, and offers the transfer of unused user days to other organizations, all of which will help new and small organizations get started guiding on public lands. And finally reducing total permit costs and cost-recovery fees related to getting a new permit will encourage and enable many more organizations to apply for permits.

And Second, process changes that make it easier to maintain, administer and keep a permit once an organization has an approved permit. Multi-jurisdictional permits, where organizations only need to work with one agency should make it much easier to manage many permits. Extending permits, adding flexibility to how the approved user days can be used, and requiring faster and reliable response times from agencies should have a strong positive impact.

I believe that these permit process improvements as seen in both the RNR and the SOAR are some of the most important steps we can take to improve access to recreation for everyone to the outdoors. Both the need and demand to get future generations outdoors, and to facilitate shared growth experiences for families, school groups, and community organizations continues to rise. Our current permitting systems and processes turn away and inhibit innovative groups from gaining access to our public lands, to starting and growing their businesses, and to getting new and diverse populations outside.

Planning and Managing for Recreation:

Invest in adaptive management and planning systems for Recreation: The RNR Act supports adaptive management and flexibility in planning for recreation by extending seasonal recreation opportunities, and by encouraging the public to participate in outdoor recreation year-round. A real and significant side benefit of extending seasonal activities is that it will allow us to transition more seasonal jobs into full time annual positions, and to more regularly support adjacent rural economies.

And finally, I believe we should encourage and incentivize a design thinking approach to recreation planning that focuses our attention on the user experience when visiting public lands and waters. University graduate students and/or local design firms could be engaged to help define a future vision for our recreational infrastructure that accounts for all of the complexities.

Current planning processes, often done by committee and without strong, visionary leadership often take extraordinary lengths of time to complete, and result in less than inspiring outcomes, and they tend to favor past practices rather than look to the future. I believe congress should consider directing a portion agency or LWCF Funds to support modern and coordinated Recreation Planning.

Special Recreation Areas:

Bolster existing designations to help managers prioritize Recreation and speed up permits. Given the positive impacts and importance of the outdoor recreation economy to the health of our people, to the resiliency of our communities, and to the future of natural resource-based jobs, congress should have more tools available to protect public lands and waters where recreation is the highest value and use of a place.

The majority of our public lands are managed under a multiple-use mandate, but some areas are so special they should be called out specifically for the recreation opportunities they provide. Designating recreation areas would align goals, resources and performance measures in a way that ensures recreation thrives will protecting the land, water and habitat that drive the outdoor recreation economy.

Steps like creating a National Recreation Area system and designation as defined in the RNR Act will not only provide a much-needed new tool but will also simplify and add efficiency to the permitting process in these areas. We need to continue to take strategic actions like those in the RNR act to improve our agency's ability to be flexible, and adapt to changing recreational needs and uses.

It is also important to note that we're not talking about creating new Wilderness Areas or "Light" versions of those designations. NRA's give us an opportunity to create front country areas that not only allow for appropriate integration of resource extraction and motorized activities but that celebrate and promote these values of our public lands. A great example to consider would be a hut-to-hut mountain biking trail system that not only stopped by agritourism facilities (farms, wineries, etc.) but also stopped into a local sawmill or wood products manufacturing facility that showcased how our forests contribute to our economy in many ways.

Infrastructure:

Invest in Modern Infrastructure and World Class Destination Development: The outdoor recreation economy in America is not only growing, but it is also changing fast. We can expect more interest and participation in outdoor recreation each year, and we know that very little of our current infrastructure was built with 140+million people participating in 11.6 Billion annual outings in mind. Additionally, the way people recreate is shifting with changes in technology, modes of recreation, and with climate change. So, as we consider how to address the nearly \$20 Billion backlog of maintenance faced by our land management agencies, we will obviously need to make some hard decisions about how and where to invest in our infrastructure.

I believe strongly that instead of focusing the narrative on "fixing the backlog" that we need to start talking about how to invest in and build an infrastructure that supports the future of our outdoor recreation economy. We need to strategically invest in future-forward solutions that are adaptable, flexible, and resilient to changes in the

environment and in modes of recreation. We need to be smart, and use available performance data, market research tools, and design-thinking as we decide where to invest our limited resources in infrastructure. And we need to invest in creating consistent, high quality user experiences regardless of whether a trail or waterway crosses a boundary. The RNR Act provisions on Priority Trail Maintenance are an example of this type of thinking and are a step in the right direction.

Private Sector Partnerships:

Engage service corps and affinity groups to build and maintain special recreational facilities: Private sector partners, like the conservation and service corps can effectively do much of our trail and landscape stewardship work for less than half the cost of using agency personnel or contractors and meet established quality standards for the work. Additionally, many special interest user groups (mountain bikers, snowmobilers, hikers, etc.) are very willing to invest in and volunteer to help build out the recreational infrastructure they believe is needed.

These partners are often ready and willing to do more of the work each year but navigating the permit and liability processes can inhibit their ability to grow programming. For example, in Oregon there are currently only a few organizations that can easily setup & run volunteer stewardship trips because it's so difficult and expensive to get the administrative support, insurance, and training needed. We quite simply need more people doing this work to address the backlog and to build for the future, and the volunteer provisions in the RNR Act are a great step forward.

Ease of Access for All:

Make it easier to find, reserve, and obtain passes, especially for youth and veterans: There are many existing private sector and agency pilot programs that are already working to make it easier for everyone to obtain recreation passes, make reservations, and pay user fees. There are also specific examples of pilot programs working to effectively get our youth and veterans outside, and even put them to work in the outdoors. Most notably our service and conservation corps provide entry level work opportunities in the outdoors for disadvantaged youth all across the country.

The Recreation Not Red Tape supports this strategy in several important ways. Making recreation passes more available, and available for purchase online and on our phones is an obvious and important step forward. The RNR act also works to make sure that all passes, state and federal are available together and consistently across vendors. And finally, the SOAR act removes key access and liability barriers for schools, city and county recreation departments, and state funded universities.

Finally, it is worth saying that our veterans and returning service members have fought to protect our country, and it seems obvious that when they return home they should have easy access to our public lands and water - the very places they fought for. We also have clear research and data from the Greater Good Science Center showing the health and healing benefits of time outside, and how outdoor experiences can help veterans re-engage in their community, find solace, and reconnect with the country they fought to protect. For these reasons and more I strongly support the RNR Act and specifically the recommendations to the Secretary of Defense to provide information, options for outdoor activities, and jobs in the outdoors for our veterans and returning service members and their families.

Digitization:

Digitize and modernize agency information systems: As was mentioned in previous hearings this calendar year on Recreation in both the House and the Senate, our land management agencies need help to digitize records on landholdings, easements, and even some long-standing permits and agreements. In order for us to efficiently move towards having interconnected recreational lands and waters and creating more guided experiences we need to empower our agencies with readily available and searchable data sources.

Rural Communities:

Re-invest in the Rural Communities that service, support, and provide SAR for recreation: A broad issue facing the future of the outdoor recreation economy in America is the decline in the health and resiliency of our rural economies. Because of urbanization, and the changing nature of work in America, many rural communities have less resources than ever to support visitors, provide services, and respond to safety and rescue issues that naturally will arise as people flock to nearby public lands and waters.

Seemingly far-fetched solutions like investing in regional airports and hospitals, broadband Wi-Fi, and access to outdoor recreation out your doorstep has helped iconic towns like Bend, Oregon grow quickly and provide a potential model of success for our rural economies. Quite simply, people are moving to bend because of access to outdoor recreation, and because Bend has a hospital, airport, and great Wi-Fi which enables people to live there and work remotely.

If we want to see the outdoor recreation economy continue to grow, we will need to reinvest in these rural communities. Many of our agency staff members and state tourism departments have the skills to help to provide technical assistance to rural communities so they can begin to plan for the future. Encouraging more states to form offices of outdoor recreation as listed in the RNR Act, and looking for ways to support rural technical assistance are great steps towards providing guidance and support for rural communities that wish to grow a local or regional outdoor recreation economy.

Thank you again for the opportunity to testify in support of these Recreation Bills. If there is anything I can do to help going forward or any follow up questions, please don't hesitate to contact me.

Sincerely,

DocuSigned by:

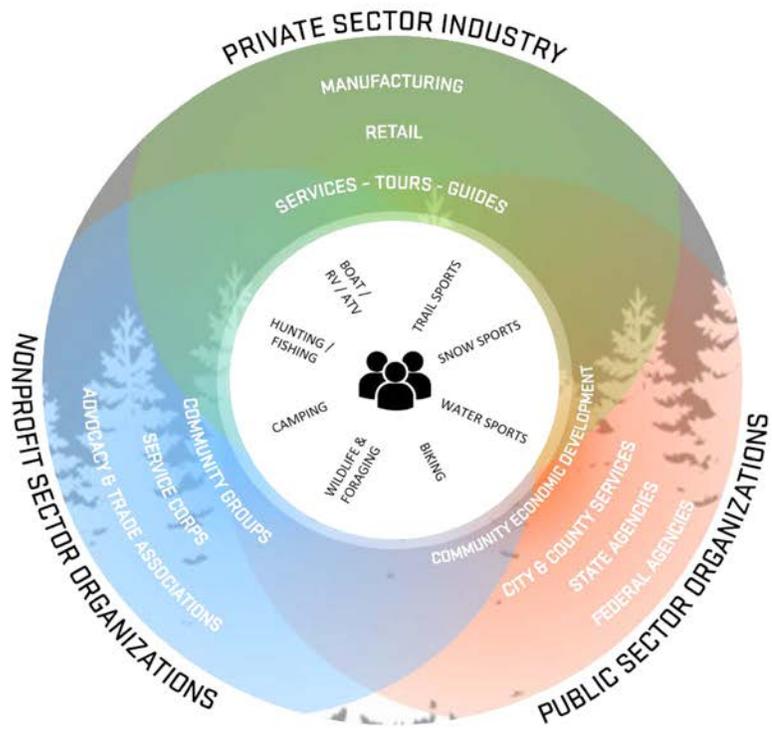
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Lee Davis, Executive Director
Lee.Davis@oregonstate.edu
Outdoor Recreation Economy Initiative
Oregon State University – Portland Center
Portland, Oregon, 97204

- End of Testimony

APPENDIX

Appendix A: Outdoor Recreation Economy Graphic



The CHAIRMAN. Thank you, Mr. Davis.
Mr. Bannon, welcome.

STATEMENT OF AARON BANNON, ENVIRONMENTAL STEWARDSHIP AND SUSTAINABILITY DIRECTOR, NATIONAL OUTDOOR LEADERSHIP SCHOOL

Mr. BANNON. Thank you very much, Madam Chairman, members of the Committee, for holding this very important hearing. We are doing critical work here today to address the persistent challenges that are constraining guided outdoor recreation experiences. And we at NOLS are very grateful for your diligence.

As Senator Barrasso mentioned, I find myself at a personal crossroads today. This week, today, I'm representing NOLS, the National Outdoor Leadership School, a non-profit, educational institution which has educated nearly 300,000 students in our 55-year history which was also, Senator, incidentally, started by a 10th Mountain Division member.

And next week, I will begin as the Executive Director of the America Outdoors Association. America Outdoors is a trade association representing hundreds of non-profit and for-profit commercial outfitters across the country.

So, NOLS and America Outdoors have been working hand in hand on this legislation for years Simplifying Outdoor Act—I'm sorry, Simplifying Outdoor Access for Recreation Act, and it is fitting and a positive development for both of our organizations to have this hearing on our bill today.

The SOAR Act is about finding legislative solutions to persistent barriers for commonsense permitting problems through rulemaking processes. Agencies have tried to reform their own permitting challenges to varying degrees of success. In the best cases, permit administrators are able to navigate the process successfully. In many cases, however, these administrators perceive too many obstacles in the successful processing of a permit application or modification is near impossible.

If a capacity analysis has not been completed, for example, administrators do not think they can make additional days available. If a review team is not available, administrators do not feel they have the resources to complete an environmental analysis. If there are other competing interests on the forest, those interests typically take priority over recreation permitting.

Fundamentally, agencies need to adapt simplified processes to streamline permit reviews and to empower line officers to be more responsive to the needs of their permittees. The SOAR Act would restore reasonable flexibility in permitting providing more options to permitted administrators who otherwise feel like their hands are tied.

Strained resources and a push for consistency compel the permit administrator on the river of no return, for example, to strengthen their permit there by two days. Traditionally, for 15 years, we ran a 12-day course through a 72-mile stretch of river training our students—having our instructors train our students first to canoe and kayak and then to run the river. As permit administrators retired and new people came into their place or, honestly, we're quickly replaced, the forest was constrained in managing a variety of permits

and asked to confine our permit to what everybody else was doing on the river.

That changed our ability to educate our students. We used to have two days of clinics and then they had a half day of clinic. So it's stressful. It's hard on the instructors and it's hard on the students. It's certainly a rewarding experience still, but we would welcome the flexibility that existed there before.

Federal land and water agencies are in the business of connecting more people with their landscapes. In practice, however, they are raising the cost of entry. Programs for profit and non-profit alike have no choice through the rising costs of running their business by either paying cost recovery fees or the layering of the three percent of gross fees and we are constraining our business or raising our prices.

And for NOLS, the increasing cost and decreasing efficiency is making it harder for our scholarship dollars to go as far as they could. These scholarship dollars are targeting hundreds of at-risk youth every year and trying to provide them that NOLS experience. We welcome an opportunity to free those dollars up and to make the courses more efficient so that they could, we could run more courses for more students.

Finally, a cost recovery, I would say, where an agency recoups its expenditures on permit analysis by billing a requesting party is not delivering as agencies hoped that it would. If a permit request is under consideration that would require an environmental analysis to review, even with the current cost recovery paradigm, the review may take years and the cost to the outfitter will run in the tens of thousands of dollars, even for a relatively modest request and there is no guarantee that after paying for that analysis, the permittee will be awarded the days. When cost recovery is applied, which it's applied inconsistently, it is often applied haphazardly and places an undue burden on local businesses.

So finally I would say that I understand that everybody in this room—witnesses, agencies, staffers, audience and our Committee alike—is here to connect more people with America's incredible outdoor treasures. I truly appreciate our collective effort to address those challenges and the spirit of this hearing today. We're all in this together. Thank you for your time.

[The prepared statement of Mr. Bannon follows:]

**Aaron Bannon
Environmental Stewardship and Sustainability Director
National Outdoor Leadership School
Written Testimony**

Full Committee Hearing to Receive Testimony on Pending Legislation:

- S. 1665, the Simplifying Outdoor Access for Recreation Act**
- S. 1723, the Ski Area Fee Retention Act**
- S. 1967, the Recreation Not Red Tape Act**

**Committee on Energy and Natural Resources
U.S. Senate**

October 31, 2019

NOLS, the National Outdoor Leadership School, would like to thank the Senate Energy and Natural Resources Committee for holding a legislative hearing to address the Simplifying Outdoor Access for Recreation Act, the Ski Area Fee Retention Act, and the Recreation Not Red Tape Act. All three of these bills seek to improve the interface between agencies and operators, and between agencies and facilitated public experiences. By addressing persistent challenges in the permit renewal process that hamstringing outdoor experience facilitators, this body has a unique opportunity to make a powerful statement about the significance of the outdoor recreation industry to Americans everywhere.

While NOLS supports all three bills, the Secure Outdoor Access for Recreation (SOAR) Act and Recreation Not Red Tape are the most relevant to operations. And of those bills, NOLS will focus on the SOAR Act in its written testimony.

NOLS is a non-profit, outdoor educational institution, utilizing the wilderness classroom typically through month-long, expedition-style courses to educate approximately 29,000 students last year. NOLS boasts over 280,000 graduates that include high school and college students, Naval Academy Cadets, Corporate CEOs, returning veterans, and NASA astronauts. NOLS was founded in 1965 in Lander, Wyoming, and has since grown to be one of the largest commercial outfitters in the country, offering courses in fifteen states, ten countries, and six continents.

As such, NOLS operates under the full spectrum of permits, across the country and around the world. Permitting for access to public lands is complex. In too many cases a cumbersome permit administration process, and the lack of resources available to implement it, has hobbled federal land management agencies' ability to keep up with America's growing recreation economy. Personnel are caught in a vicious cycle of struggling to meet demands with reduced resources, shifting the resource constraints onto permitted operators by overcharging fees and demanding cost recovery for processes that exceed the economies of scale of most non-profits and small

businesses. As a result the overburden of regulatory processes disincentivizes the activities the agencies would otherwise want to encourage by making outdoor programs more expensive to run. Outdoor recreation permittees and public land management agencies alike seek solutions to the onerous processes that are a distraction from our shared, primary goal: facilitating opportunities to connect more people with America’s incredible outdoor treasures.

The SOAR Act meets this goal. It relieves agencies’ administrative burden by streamlining and simplifying permit review and renewal processes, allowing the reduced recreation-tasked work force to better manage their portfolio. It equips outfitters with provisions that give them more freedom to expand their offerings and grow their programs. It directs funds raised by agencies through their Special Recreation Permit programs directly to the sites where they were collected. Administrated appropriately, the SOAR act will increase permitted activities on public landscapes and simplify the administration of those activities. Sites will see growing revenues from this increase in facilitated activities, and streamlined processes will enable sites to put those revenues to their best possible use.

NOLS will address some of the most significant provisions in detail in the testimony that follows.

Section 3. Special Recreation Permit and Fee

Among other actions, Section 3 clarifies the appropriate fee to be charged to operators is three percent of gross revenues. It clarifies those activities and items that are appropriate to be included in the fee, and it expands the use of those fees to not only maintain those activities which were being permitted, but to also include management of special recreation permitting programs.

It is currently policy of the Forest Service, the Bureau of Land Management (BLM), and other federal agencies to assess a fee of three percent of gross revenues to commercial special recreation permit holders. Permittees accept three percent of revenues for guided trips on BLM and Forest Service Lands as a reasonable fee to pay.

When an operator’s activity extends beyond a particular jurisdiction for the BLM or the Forest Service, the agencies use the following discount fee table to estimate what portion of the three-percent fee should be allocated to them:

<u>Time spent on agency</u>	<u>Amount of discount of final fee</u>
0 to 5% of total program	80%
5 to 60% of program	40%
Above 60%	No discount

In practice, however, the discount table is poorly designed for calculating payments on multi-element courses. As an example, NOLS runs programs such as semester and year-long courses that travel across district boundaries within one agency and/or across several agency boundaries within a single course. Even if a section spends only 20 percent of its time on a site,

NOLS is expected to spend 60 percent of its three-percent fee on that site. Application of the standard formula in this case results in significant overpayment for use. Applying this formula to each section of a NOLS semester, and NOLS would end up paying closer to 15 percent of our gross revenues to the federal government, rather than the stated three percent. Many outfitters are similarly burdened, and are paying amenity fees on top of the permit fee.

The Forest Service's Outfitter-Guide Administration Guidebook states that the agency has an obligation to ensure that permit holders are not over-charged for access to national forests. "When use off National Forest System Lands occurs on lands administered by another federal agency and the holder is authorized by that agency, coordinate with the other federal agency to ensure that overcharges of fees do not occur." Establishing in law a clear 3% of gross revenue for time spent on federal land would be a welcome simplification of the current fee formula shortcomings. It would empower permit administrators, many of whom are as frustrated by the current fee regime as outfitters, to levy appropriate fees. And, it would assuage many outfitters who see the overpayment as a clear overreach by agencies.

Section 4. Permitting Process Improvements

Federal lands agencies, most notably the U.S. Forest Service, tend to err on the side of over-analysis when issuing new permits. No stranger to lawsuits over insufficient National Environmental Policy Act (NEPA) review, the Forest Service has learned that the best defense is a well-defended decision and thorough compliance. Unfortunately, this process-heavy approach, especially in a constrained budget environment, has been a significant governor on response time to permit requests.

To its credit, the Forest Service has acknowledged these barriers and, through its recent proposed rulemaking effort, is attempting to reform its internal culture. In its proposed rule, the agency creates two new Categorical Exclusions for consideration that are directly applicable to special recreation permittees. One allows a permit administrator to renew an existing permit without a requirement to submit the renewal to a public scoping process. Another allows the forest service to permit a new use that is consistent with the current management plan. These are clear steps in the right direction that are in line with the spirit of this provision. SOAR is important to these efforts by providing the agency with statutory authority for this action.

Section 4(b)(A): Programmatic Environmental Review

In the ongoing effort to streamline permit review processes, programmatic environmental assessments have a clear advantage over assessments done permit-by-permit. When part of the question is whether capacity is sufficient or not, it is difficult to answer for a single permittee without taking into account other activities, both private and commercial. To assess the appropriate need and to analyze the carrying capacity of a site, all activities must be weighed against one another, including guided and private trips, and commercial and non-commercial. A programmatic environmental assessment is the right tool for this job. With the environmental

analysis of all activities complete, a permit administrator is free to renew or expand an existing permit, or to authorize new use.

Section 5. Permit Flexibility

In Section 5, Permit Flexibility, the SOAR Act directs federal agencies to establish a protocol that enables a permittee “to engage in a recreational activity that is substantially similar to the activity authorized under the special recreation permit.” This section seeks to relax a constrained approach to new activities that normally would take years of environmental review to approve, though the significance of the activity is minimal both to the resource and to other visitors.

Section 5 also established Temporary Special Recreation Permits for both the BLM and the Forest Service. These permits fill a critical gap for these agencies in transitioning a new permit into a priority use permit. The temporary permit currently issued by the Forest Service, capped at 200 days, is of insufficient size to establish a viable operation. A more flexible temporary permit, as envisioned in this section, relieves this arbitrary constraint. The temporary permit authorization in SOAR is an additional or expanded temporary permit beyond what is currently available.

Section 8. Forest Service Permit Use Reviews

Section 8 seeks to resolve a complication under existing permitting policy at the U.S. Forest Service. Currently, the Forest Service is to review a priority use holder’s activity every five years, and make adjustments to the permit capacity based on that use. From the Forest Service Handbook, 2709.11, chapter 40, 41.53m(3):

3. When renewing priority use permits, the allocation of use may be maintained, increased, or decreased, provided that the allocation is consistent with section 41.53m, paragraph 1.
 - a. When a priority use permit is about to terminate and the holder has applied for renewal of the permit, review actual use during the last 5 years of the permit, and adjust the allocation of use to match the highest amount of actual use in 1 calendar year during that period.
 - b. For holders with 1,000 service days or less or the equivalent in quotas, add an additional 25 percent of that amount and for holders with more than 1,000 service days or the equivalent in quotas add an additional 15 percent of that amount in consideration of market fluctuations, availability of state hunting licenses, and natural phenomena that may have adversely affected the holder’s ability to utilize the authorized use fully, provided that the combination of the highest amount of actual use in 1 calendar year and the additional 25 or 15 percent of use not exceed the amount of use allocated when the permit was issued.

A permittee should reach 87 percent of their allocation once in five years to maintain their permit at current levels upon renewal. Note that there is no formula for increasing the allocation on a permit. Rather, a permit holder can either expect their permit to be renewed at its existing level, or to lose allocation. As the policy has been implemented, forests across the country find themselves with insufficient resources to conduct a resource capacity analysis. Without that information, they are rarely able to issue additional use.

Section 8 would soften the severity of this policy by allowing the agency to waive use reviews when warranted by unique circumstances, or by a unique permit. In addition, it seeks to normalize the 25 percent increase that small operators receive across operations of all sizes. And finally, it seeks to create a path for increasing the allocation on a permit when capacity is available. In the current permitting regime, it is very challenging for an operator to grow their business.

Section 9. Liability.

Section 9 addresses a significant challenge for organizations such and NOLS who seek to use liability waivers but are constrained by conflicting rules from one jurisdiction to the next. Allowing the use of liability waivers, while not validating them outright, would be a welcome improvement.

Depending upon the jurisdiction and the land manager, the ability of an entity to use its own waiver of liability form can vary. The Bureau of Land Management typically allows permittees to use waivers. The Forest Service has two forms that it approves for use, one a waiver of liability and the other an assumption of risk (AOR) form. Regional offices may choose whether permittees may use a liability waiver or an AOR. The National Park Service sometimes allows only the use of their own Verification of Assumption of Risk (VAR) form, even though NPS rule 48, which governs the use of VAR forms, states that organizations can use their own customized form.

In the Wind River Range outside of NOLS global headquarters, students will spend 30 days on wilderness expeditions, crossing back and forth across the continental divide. On the east side of the continental divide is the Shoshone National Forest, in Region 2. On the west side is the Bridger-Teton National Forest, in Region 4. Region 2 allows waivers of liability; region 4 does not. Such inconsistencies create real problems for outfitters who attempt to encapsulate both standards in a single form for the same course.

Liability waivers are used routinely throughout the United States for recreational activities, from volunteer outings and Boy Scout trips to guided mountaineering. Their intent is to protect the organization from frivolous claims of negligence (but not gross negligence), to establish realistic expectations regarding the inherent risks of the activity about to be undertaken, to establish the choice of venue, to indemnify other parties (like the federal government), and to protect them from lawsuits resulting from the outfitter's activity. The validity of liability waivers varies from state to state. In most states they are explicitly allowed; in other states their validity is limited.

This section does not ask the federal government to validate all liability waivers used by special recreation permit holders. It merely directs agencies to allow states to determine the law for businesses in their state.

Section 11. Extension of Special Recreation Permits.

Section 11 enables land management agencies to extend a special recreation permit for up to five years beyond its expiration date, to allow for the completion of the renewal process while maintaining the operators' activities. Often, given the permit load of administrators, renewing multiple permits is not feasible in order to complete them all in a timely fashion. Administrators lack clear direction in permitting policy for contingency planning, and operators face an uncertain future for running a reservation-based program. When undertaking the process to renew priority use permittees, administrators routinely exceed the expiration date on those permits. An additional buffer will alleviate the time constraint, and negate concerns that operators running trips past their expiration date are out of compliance. An extension would be beneficial and would provide real relief.

Conclusion

When a forest proposes no additional permitted activities for a 10-15 year lifespan, as we saw in the Custer-Gallatin National Forest, we know that the planners are prioritizing manageability over the recreation values that their public landscape has to offer. When a National Park opts to de-emphasize guide expertise and establish instead of an arbitrary two-trip, two-guide rule (where a trip must have a minimum of two guides who have done the trip on two previous occasions), shutting down outdoor educational programming in the process as we saw in Grand Canyon National Park, we know that the planners are prioritizing consistency in administration over creating a diversity of rich experiences. When the Bureau of Land Management attempts to charge an operator more than twice the federal fee for off-agency use by applying a poorly-designed formula, we know that the administrators are prioritizing their resource scarcity over the affordability of experiences their permittees provide.

An ever-expanding regulatory regime has made permit issuance, renewal, and expansion for organized outdoor recreation activities unduly burdensome for permit administrators and permit holders alike. In their efforts to connect more people with the outdoors, especially our youth, land management agencies should not obstruct their own efforts through complex and often unworkable processes. Passing the SOAR Act will help NOLS and thousands of other outfitters and outdoor programs who are working to expose a new generation to our public lands. Thank you for considering this bill.

The CHAIRMAN. Thank you. Thank you to each of you.

I want to start my questions with you, Mr. French, and you, Ms. Haskett. At Forest Service, at BLM, you have not only heard the issues that have been presented by the others, but you have heard the stories that we have shared directly with you, whether it is the nearly ten-year effort to help facilitate more heli-skiing activity down near Haines—we have a Special Recreation Management Area (SRMA) there.

We have come to you, Mr. French, with frustrations over the length of time to get permits. For some years, much of what we heard back from Forest Service was we just don't have available folks to process these permits because what has happened with the somewhat tortured history of fire borrowing that we allowed to continue over the course of way too many years, that it robbed accounts and you were not adequately and ably managed to staff.

The good news for us is we have addressed that in this budget cycle. In fact, with this appropriations bill that we will move out here this morning, we are setting to rectify that. But that doesn't answer all of the issues and the frustrations with what can we do better when it comes to these permits on these public lands and how can we facilitate it. And thus, the need for the legislation that we are talking about here today when we are trying to cut through some of the regulatory red tape or the permitting issues.

Both BLM and Forest Service are mandated to manage for multiple-use. You have to figure out how you balance recreation with the other uses of these public lands. So to both of you. How do you do that? How do you, basically, provide for that prioritization or balance one against the other? And then, I might have to add it to another question, but I want to hear from you, specifically, as to what you think you can do within your agency to respond to the frustrations, the very real and legitimate frustrations, and not just say, we just need more money. There is more to it than just the dollars. So a wide-ranging question to the two of you.

Mr. FRENCH. Well, thank you, Senator. I really appreciate the question.

I think the testimony that you heard today is very accurate. That has been the space we've been in. And as you mentioned, you know, we've heard from a number of folks about the lack of customer service and our inability to deliver on some of these things.

The fire funding fix is essential. It has basically stopped the bleeding of money away from those activities. And so, that's really helpful. And that's going to create a more stable environment going forward.

On the first question about how do you balance? You know, right now for our focus it is about dealing with that core issue that is driving that fire funding issue. And that is, the condition of our forests. That's our focus. And then the other is around customer service. How do we improve our customer service?

And so, actions that we're doing right now to address this, this year building off pilots we've done the last two years. We have created funding for additional strike teams just to focus on special use permit operations. We, at any given time, have a backlog of expired permits that are just unacceptable. Last year, we cut that backlog in half, down to about 5,000 and that was through these strike

teams. We're continuing to do that using a risk-based approach where we're looking where the biggest problems are and bringing resources to bear there.

We've also, just this year, in our budget direction issued new guidance developing customer service requirements about the timeframes for us to respond on many different types of permit issues.

The CHAIRMAN. Chris, are you doing that with input from the user groups or are you just, are you working these, kind of, best practices on your own? Because I think it is important that you are acting, kind of, with consultation with those who are on the receiving end of this. How much input do you take from them or do you just solicit?

Mr. FRENCH. We will.

And so, in this year's budget direction what we said is this year we will establish those standards which we've never had before about those minimum response times. And that was issued about three weeks ago. And so, that'll be our work in the next months, working with groups to inform how we should do that.

The final thing that I'd add, Senator, is we're looking at all the processes, the regulations that are around this that are driving some of the ways that were showing up that are not capacity-related. And so, we're looking at our, as you're aware, our NEPA regulations, but we're also looking at the policies on permitting in general.

One of the things that we're working on right now is there's over 8,000 activities in our permitting processes that we believe through our nominal effects analysis may not even require a permit. We're working to put that into regulation.

So it's a multi-tiered approach of adding capacity where it's needed, reforming our policies and putting in performance metrics.

The CHAIRMAN. Well, if I can suggest one of the things that we have learned is that when, say, for instance—I am going to use an example—when the Dodd-Frank regulations came out and I would hear all of my small banks and small credit unions coming to me and saying, Ah, we are getting killed by these regulations. I said, spell it out to me. Tell me which ones are really onerous and where you think that there can be a level of fix.

So my hope is, is the agency is listening to, again, the outfitters, the guides, the consumers in terms of these are areas that are really onerous and burdensome and that are keeping us from getting a little, a little permit so that I can take eight people out ice fishing. I hope that there is that kind of connect going back and forth.

Ms. Haskett, I want to get to you but I am over my time, so I am going to ask you to respond to my question in the next round and I am going to turn to Senator Manchin.

Senator MANCHIN. Thank you, Madam Chairman.

First of all, basically I want to commend Senator Heinrich's bill. It opens up something bigger for me because I come from West Virginia where we have the New River Gorge Park System. We have some of the most fantastic rivers, as far as rafting, with the New and the Gauley. We don't have this problem, because the state controls it. The state controls access. We want you to come.

If it is supposed to be for recreation, why in the heck is the Federal Government throttling everything back? Why are we fighting

the Federal Government which sets access, thousand days, this, that and everything else? My goodness, and we are doing another park and preserve and we are writing into the law to make sure that the state manages the river permits. You know, why fix something that is not broken?

But I'm learning more and more about the federal process and how much the Federal Government—well, I know, I have a problem with that.

[Laughter.]

The CHAIRMAN. I just told him that the West has public lands.

[Laughter.]

Senator MANCHIN. The park has, the park could have control over our river access, same thing. But we never did give it to them and that is the difference.

I don't know how we can—the only thing I would ask is if any of you all want to comment, maybe Mr. Bannon or any of you, on this. On Senator Heinrich's bill, it makes all the sense in the world, we have had, they are telling me that we have had these permits out there for a long time. They have been dormant, have not been used, no one is getting access or setting there, prohibiting people from having the tourism that we should have and the economic vitality from it.

Is this only for businesses? Or if I was a private citizen, and if there were 1,000 days allowed and they haven't been used, and we are going to rebid that, could some of those go back to me? Where I could walk up and use that river too or does it have to go through an outfitter?

Well, if you don't mind, can I ask Senator Heinrich?

Senator HEINRICH. As a former outfitter guide, there isn't really, in most places, there is not a limitation on the general public, but anyone conducting group exercises.

Senator MANCHIN. Sure.

Senator HEINRICH. Whether it is a university or a business, that is where you get into this outfitter guide bucket.

Senator MANCHIN. Let's have—

Senator HEINRICH. And that is where many of these moratoriums really are limiting economic development, despite the fact that there is not a resource problem. So if there is an overuse problem, that is one thing. But in many of these cases, in the vast majority, I would say, there was not a resource problem.

Senator MANCHIN. Yes, to me it seems like if we had language in legislation that would allow best use practices to enhance recreation and the economy for the purpose and we wrote the findings of what we are trying to accomplish then they couldn't be throttling this back. They have to continue to make sure that those permits are used. And if they are not used, then they go back in. I mean, if I go out of business and I still have a permit, the way I understand it, where the law is right now, it stays dormant.

Yes, Mr. Bannon.

Mr. BANNON. Senator, if I may?

Indeed, in Montana we have a situation where one outfitter, it was Outward Bound in Red Lodge, shuttered about 15 years ago. They had something like 500 days on the Custer Gallatin National

Forest. Those days were never recovered or returned to anybody. They're just gone.

And as the Custer Gallatin is considering, in its forest planning process, permitting, they have got a clause in that draft plan that says there's basically a moratorium for the life of the plan on any additional permits. So we know that the capacity is reduced, but we also see no additional use being awarded to anyone.

Senator MANCHIN. Well, the only thing I can do is I can say thank you, Senator Heinrich, and any way we can work with you on this to make some common sense for all of you in the Western lands. If anyone thinks that they have been throttled back, and they can't get on the river, come to West Virginia. We will not prohibit you at all.

[Laughter.]

Bring your own raft. Come get with a guide. Get an inner tube. Whatever you want. We are good with that, okay?

Thank you. I yield back my time.

The CHAIRMAN. Senator Gardner.

Senator GARDNER. Thank you, Madam Chair.

The CHAIRMAN. We are all going to bring an inner tube—

[Laughter.]

Senator GARDNER. An inner tube—

The CHAIRMAN. —to West Virginia.

Senator HEINRICH. An exciting development on the Energy and Natural Resources Committee here.

[Laughter.]

Senator GARDNER. Team building activities.

The CHAIRMAN. Field hearing.

Senator HEINRICH. There are going to be photographs, I am sure.

[Laughter.]

Madam Chairman, I think these are all really good—oh, sorry.

The CHAIRMAN. [off mic] I meant Gardner—

Senator HEINRICH. My apologies.

Senator GARDNER. That's okay.

Senator HEINRICH. Senator Gardner.

Senator GARDNER. I will be brief. Thanks, Madam Chair.

Mr. McGuire, thank you very much for your testimony today.

The ski industry obviously had a very good year last year in Colorado. We are home to just under two dozen ski resorts in the state. Vail's got resorts all over, as we talked about, coming off a record winter in the Colorado River Basin, a record amount of snowfall in the Colorado River Basin and other areas as well, record number of visitors to our ski areas, record number of length of the ski season. So it really was an incredible year.

Can you, kind of, walk through what you see though, from the business side of this?

Mr. MCGUIRE. No, I think that's right in, I think that's part of the momentum that I talked about in the testimony, that I think the industry is feeling. So coming off a 2018–2019 winter that was good everywhere, right? It was not, you know, good in one place and dry another place. Snow was up about 31 percent, and it was really equally distributed.

So it was the fourth best year in the industry in terms of visitation, back up to 59 million skier visits. So everyone was really ex-

cited about that, and I think that momentum is rolling over into this year. We just had our snowiest October in a long time in Colorado. Good, cold temperatures everywhere, so less snowmaking going on. Some accounting in Colorado, over four feet of snow in the month of October. So everyone's really excited.

But I think the other thing that has the industry bullish and driving some momentum is the advanced commitment that guests are making via all these new season pass products. It's a win for the consumer, and it's a win for the industry when people advance early or advance commit.

Senator GARDNER. And so with that success comes the opportunity then to invest in aging infrastructure to make upgrades to equipment, facilities throughout the properties and installations to be able to develop more accommodations for the growing number of visitors. What does that mean in terms of constraints that the industry has faced in recent years for ski areas on federal lands in trying to advance these capital improvement projects that you are able to make because of the successes that you have had last year and hope for this year as well.

Mr. MCGUIRE. No, that's right, the momentum, and folks want to capture and harness that momentum. And I think, first and foremost, none of this is intended or should be taken as commentary on the great work of the Forest Service. They're a tremendous partner. What we're trying to do is narrowly address some of the constraints that our partners are facing. We can't be a healthy industry without a healthy partner with the men and women of the U.S. Forest Service.

But just a couple of examples. There's a Western ski area, they currently don't have a permit administrator in their forest. That means that there are delays for new lifts, a new lodge. They want to bury some power lines up to the ski area. They literally can't get started on that.

When you have this, these lower funding regimes, we're seeing lower staffing levels, we're seeing staff turnover and we're seeing details, but details run out and people leave. And that really impacts the ability. We've seen a delay in project implementation for a new lift, new snowmaking system and trails and summer uses at a Western ski area. The pause that I referenced in testimony, it was a nine-month pause where the forest was just not in a position where they could accept applications for projects.

We have competing ski areas owned by different entities in a single forest, sort of, having to elbow each other out, trying to get the one project slot that that forest feels like it has capacity to do.

And then, I think one thing I don't want to miss are the avalanche centers that the Forest Service runs. There's 13 of them around the country. In our opinion, they're underfunded by about half and that gets filled in by friends and private donations, but that's a critical service that gets provided.

Senator GARDNER. Thank you. I think it is important to point out too that with the White River National Forest being one of the—I think it is the number one visited forest in the country. Over the last 20 years now we have seen significant declines in Forest Service personnel that are able to work on this. So at the same time you have significant increase in people visiting the most heavily

visited forest in the country, personnel within that forest have declined, making it more difficult. And as you talked about in your opening statement, 2011 legislation that passed, signed into law, allowing for year-round recreation. That, too, has put greater pressure on the Forest Service.

Could you talk about how this legislation will allow us to address the year round recreation needs and permitting in the Forest Service?

Mr. MCGUIRE. No, that's right. So in 2011 you could call it an unfunded mandate, right? We started applying to the Forest Service for more summer activities and reducing the stress.

In the White River, we actually think we're down about 40 percent on overall rec funding. It's been a little more acute in the White River. That forest and that region has done everything possible to keep up with the ski industry, and I think they've done a really decent job.

And when Mr. French was talking about the strike teams, you know, they've tried to do that in Colorado and they did that absolutely in consultation with the industry and I think we're starting to see some of the fruits of that.

Senator GARDNER. Great. Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator.

Now, Senator Heinrich.

Senator HEINRICH. Thank you, Madam Chairman.

I wanted to start just by saying I think these are all really important bills and very compatible, but addressing the basic resource issue, I think, is also really important and just getting that out there. Setting fire borrowing aside, which the Chair and a number of people on this Committee have done a remarkable amount of work on in recent years and we're starting to see that this year for the first time in the appropriations process. Recreation is still only five percent of the Forest Service budget. And that is despite the fact that it is the single largest economic driver across the Forest Service today. So it generates more income than the other programs that we typically really spend an enormous time focusing on in this Committee. And by limiting that and not making it more of a priority, what we are really doing is we are limiting economic development and especially in rural communities.

So we have to, I think, revisit our priorities and put more emphasis on recreation and then also just recognize that we need to fund our public lands agencies better for infrastructure, for the folks who should be in the field to be able to actively manage. We have to do a better job because we have seen, in real dollars, reductions in that focus over time, and that is a huge fundamental problem.

Mr. Bannon, we heard from Mr. Davis about challenges in terms of moratoriums. You know, I had an experience back in the '90s where I was trying to get a permit that the organization that I worked for at the time, Cottonwood Gulch Expeditions, had had for decades. I am not sure how many decades. It was one we used every single year. I called up to check on my permit, and the recreation person said, "Sorry, we are not going to be able to do your permit this year. I am busy on a land exchange. Call me next

year.” You just can’t run a business like that. And whether you are organized as a non-profit or as a for-profit business, either way, if you are spending more than you can bring in and your business gets shut down for a season, you are out of business. Have you had those kinds of experiences too?

Mr. BANNON. Senator, those were the good old days.

[Laughter.]

The temporary permit, if you were on a year-to-year temporary permit back then, that temporary permit has gone away. And under the new permitting policy of the Forest Service, which was done with the best of intent, a temporary permit that you can get on year-to-year is limited to 200 days. That’s not even enough to run a single NOLS course on.

Senator HEINRICH. Right, yes.

Mr. BANNON. And the process for acquiring any kind of new permit and trying to transfer that to a priority use permit is murky at best, I would say.

And to the point that the fees or that the recreation resource has been so reduced, I think you see that a lot. I think we’ve seen that in the Gila National Forest.

Senator HEINRICH. Absolutely.

Mr. BANNON. And the Gila National Forest right now is going through a proposed management plan. There’s changes in that plan to group size to length of stay limits, and we’re trying to get some securities wrapped into our own permit as we’ve been renewing it. We’ve been operating without an existing permit for over two years in the Gila National Forest on an agreement, and they’re certainly working with us to get it there.

Senator HEINRICH. Yes.

Mr. BANNON. But it’s a pretty tenuous situation to be in.

Senator HEINRICH. Speaking of murky, if I asked you to explain how cost recovery works for recreation permits, could you explain it to me, either you or Mr. Davis?

Mr. BANNON. Not easily, go for it.

Mr. DAVIS. I’d be happy to.

I tried to process a new permit back at the Mazamas maybe eight years ago. The permit application went in. It was clear to the Forest Service at that time that the environmental review to process the permit would be somewhat significant. They asked for, I believe, about a \$14,000 down payment to do before cost recovery work or any planning could start happening.

This is six, seven years ago, to my knowledge—

Senator HEINRICH. \$14,000 to get in the door, basically.

Mr. DAVIS. Just to get in the door. To my knowledge, that money has not been spent and has not been returned to the Mazamas.

So, not only—

Senator HEINRICH. Let me ask you this—

Mr. DAVIS. —not only the permit stalled, but like, yeah, so, yeah. I mean, cost recovery is about covering the costs of going through the process of the permit and the paying for the agency staff to do all the various review processes and all that.

Senator HEINRICH. Yes, which can be a giant barrier to entry, so—

Mr. DAVIS. Yeah.

Senator HEINRICH. —we need to make some changes.
Thank you all.

The CHAIRMAN. Senator Daines.

Senator DAINES. Thank you, Chair Murkowski, Ranking Member Manchin.

I love talking about Montana's economy and particularly about our outdoor recreation economy. It is absolutely a pillar economy in Montana. In fact, it is our outdoor economy that is estimated to bring in \$7.1 billion in consumer spending. It is about \$286 million in revenues to our state and local government. Seventy-one thousand direct jobs, that's nearly ten percent of all the jobs in Montana. In fact, in one poll, 87 percent of Montanans said they are outdoor enthusiasts. Of course, my question then, who are those other 13 percent there in Montana?

Outdoor recreation though, it is not just about dollars. It is a fundamental driver of our economy, but it is very much our way of life. My wife and I spend a lot of time outside, despite my staff trying to make sure I am skilled in other things besides being in the wilderness. We got out in August in the Beartooth Wilderness and did our normal three or four 20- to 30-mile loops, some of it off trail, and that is what we define as a really great time in Montana.

This bipartisan SOAR Act, and I want to thank Senator Heinrich for his leadership there, streamlines the permitting process, making it easier for families. They want to fish one of our great rivers. They want to backpack in the Beartooth or The Bob. This will help to that end.

The bill is heavily supported by our outfitters, our guides, the outdoor rec groups, including the Montana Outfitters and Guide Association, the Montana Alpine Guides and so many more. I will continue to fight to get this bill passed, signed into law to help protect the outdoor recreation heritage which we have in Montana.

Ms. HASKETT, as you know, the bipartisan SOAR Act helps streamline currently a burdensome permitting process. Can you explain how making key reforms to this process will help increase recreational opportunities?

Ms. HASKETT. Thank you for the question.

The BLM currently issues about 1,000 permits, and we oversee about 4,600 permits at any one time. Typically, most recreation activities on the public lands do not currently require a permit, but we support this bill to help improve those permit activities. And Secretary Bernhardt has issued several secretarial orders to help in this regard. For example, we are working on an online system so that people, public users, can apply to get their permit, for their special recreation permits, online to help that process.

Senator DAINES. One of the reasons that streamlining this process is so very important is in places like Montana we have a checkerboard pattern of land ownership. In fact, there is a Missoula company called onX that about every outdoor enthusiast, especially hunters, has that app on their phone because it lets us know exactly where we are at in terms of what, who has land ownership in terms of regarding multiple public agencies. You could be on BLM land, you might be on Forest Service land, you might be on

a state piece, you might be on a Fish and Wildlife Service Refuge—all in the matter of doing a relatively short walk.

And I can tell you, the elk have no idea what federal agency manages the land their feeding on. By the way, our farmers and ranchers know sometimes where the elk are feeding in the alfalfa fields. But forcing outfitters to get permits from three agencies, two departments for a day hunt, it just doesn't make sense.

Ms. HASKETT, DOI itself has numerous agencies that all have different permitting processes. You talked about it a bit already. Doesn't it make sense that having a single permit would save the department time and money and result in more people getting more permits and spending more time outside?

Ms. HASKETT. Thank you for the question.

Absolutely. We support the provisions of the bill to delegate the authority so that we can have that multi-jurisdictional ability to issue those permits. And I, on BLM lands, you know, hunting we probably wouldn't require a permit. And I completely understand the challenge of O&C lands. I used to work in Western Oregon where the checkerboard ownership was prevalent. And so, I completely understand the frustration that that management, that checkerboard ownership, can create some unique management awkwardness.

[Laughter.]

Senator DAINES. Yes, I can tell you outdoor enthusiasts, they came to spend time outside, not play checkers.

Ms. HASKETT. That's right.

Senator DAINES. Sometimes you wonder.

Last, I recently heard frustrations from a number of groups in Montana about the complex and sometimes excessive amount of forms needed for a filming permit on public land. Our Montana small businesses can't keep up with the growing burden of paperwork needed for something that has little to no effect on the environment.

Mr. FRENCH, my last question. You will have to answer quickly because I am running out of time. What can we do to simplify film permits and make them more uniform across your agencies?

Mr. FRENCH. I think there's a number of things that we can do. Our staff is working on looking at our entire permitting process, this is included with it, because basically, we feel the process right now is too cumbersome. So, you know, we'll get back to you on the specifics of that, Senator, but that is a focus of ours in our overall reform.

Senator DAINES. Yes, it would be helpful. It is yet another part of helping drive economic activity in Montana, and we like to show off our beautiful landscapes that makes for great backdrops for films. We appreciate your help there.

Mr. FRENCH. Very much agree.

Senator DAINES. Yes.

Mr. FRENCH. Thanks.

Senator DAINES. Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator Daines, I appreciate you bringing that up. I know that we visited and were frustrated over this issue with the film crews and photographers, and part of the frustration was that there were basically different rules or regula-

tions from one public land agency to another. So it was different on Forest Service than it was on Parks. Again, if all you are trying to do is take pictures of our extraordinary public spaces, to have to jump through the level of hoops that we did. I know that for smaller film crews we were able to work through some of that which, that was good. But still, it is something that we need to continue working on.

Let's go to Senator King, I believe? Was it King or, actually, I think it is Cortez Masto, but you needed to go first. Are we all good?

Senator KING. [off mic] No, I am good.

Senator CORTEZ MASTO. [off mic] You sure?

Senator KING. [off mic] Yes.

The CHAIRMAN. Thank you.

Senator CORTEZ MASTO. Thank you. I appreciate that.

Let's talk about beautiful Nevada outdoor recreation.

First of all, by the way, Happy Nevada Day. This is a holiday for us in Nevada. We celebrate our statehood, very proud of our state, but also of our outdoor recreation. This is something that is really important to me, and I have been talking about it. In Nevada alone it creates 87,000 direct jobs, generates \$12.6 billion in consumer spending.

Mr. Davis, I so appreciate just the pragmatic, real life experience that you have because this is what I hear every day in Nevada. One of the things that I am curious about, can you talk a little bit about the people that you bring out to explore the great outdoors? Some of the experiences you have had from them experiencing it, maybe for the first time? Do you have any stories? Because, to me, this is not just about those of us who grew up with it or get to experience it, but those who are brought out for the very first time because that is what this is about. This is ensuring that we preserve our pristine areas. We give access to the great outdoors for so many different areas and opportunities for individuals who may never get the chance and all of a sudden, boom, a light goes on because somebody had the opportunity to bring them out there, they had that opportunity.

I am curious, does anybody have a story with respect to something that they have experienced?

Mr. DAVIS. I think all of us have those stories, especially all of us here today.

The thing that I keep talking about is that, you know, going outdoors has all these other benefits besides just the economic benefits.

Senator CORTEZ MASTO. Right.

Mr. DAVIS. We know that it improves mental and physical health. We know that it, sort of, especially among kids, sparks an interest in lifelong learning. It's these early moments that turn on the light bulb and tell us that we need to be stewards of the land. That they're, you know, that it's not just there, but we have to take care of it.

Senator CORTEZ MASTO. And it is healing.

Mr. DAVIS. Yeah.

Senator CORTEZ MASTO. I think there is a part, that it is—

Mr. DAVIS. Yeah.

Senator CORTEZ MASTO. —there is some sort of healing that goes with it as well, and that is one of the things I learned when I was home and talking with some of our veterans who are dealing with some PTSD and some issues.

Mr. DAVIS. Right.

Senator CORTEZ MASTO. They are now experiencing the outdoors, and part of that is helping them with their healing process as well.

Mr. DAVIS. Right. And thank you for your bill, Accelerating Veterans Recovery, by the way, and Senators King and Daines for co-sponsoring that.

Yeah, I mean, there were some studies pretty recently that, I think, we took 72 veterans out on a research study in the outdoors and there was a 27 percent reduction in the PTSD symptoms because of, through that study, which exceeds the success rate for prescription drugs.

Senator CORTEZ MASTO. Yes. And so—

Mr. DAVIS. So—

Senator CORTEZ MASTO. Thank you.

I only have so much time, and the reason I want us to explore all this is because I think it is important that we make access available to everyone and we streamline the permitting process. I mean, that is the reason why we are here for these bills. I think there is, conceptually, a reason why I support that streamlining process and we all do.

Here is my concern, I think, from hearing from our federal agencies. It is great that you are in the process of trying to do the streamlining now, but how long has this process been taking place? Seven years?

My concern is every time there is a new administration, there may be changes and whether there is that cooperation and streamlining unless we codify it somehow in law. And that is why I support this. What we are trying to do with this legislation is to make sure that long-term there is this coordination. But I appreciate the agencies for moving forward on this.

Let me ask, while I have an opportunity here, Mr. French, because I think Mr. McGuire brought this up, the concern with the avalanche services. I think, Mr. McGuire, you said there are 13 of them throughout the Forest Service but they are underfunded by half.

Mr. French, I am curious, what are your thoughts on that and how Senate bill 1723, the Ski Area Fee Retention Act, will help address that issue?

Mr. FRENCH. Thank you, Senator, for the question.

We agree. I mean, if you look at the overall capacity of the agency to deliver non-fire work, it's dropped by almost 40 percent in the last 15 years. You're seeing acute symptoms of that in cases like this. This bill will directly help provide capacity into managing those ski area permits and that provides additional capacity that we might use toward those areas to help in other areas such as the avalanche centers. So it's a direct help.

Senator CORTEZ MASTO. And when you talk about the work that you are doing in avalanche safety, do you also talk about and will this help you with education as well? Is that a key piece of what you do when you are addressing the avalanche services?

Mr. FRENCH. Well, the key focus of our avalanche services is about prevention and then safety in preventing avalanches from occurring. So education is a key part of that, yes.

Senator CORTEZ MASTO. And this bill will help funding that?

Mr. FRENCH. Yes.

Senator CORTEZ MASTO. Okay, thank you.

I notice my time is up.

The CHAIRMAN. Thank you, Senator.

Senator KING.

Senator KING. First, Madam Chair, I want to observe that we mispronounced the word recreation. It really is re-creation, and that is the essence of what we are talking about here is the re-creation of people's hearts and souls when they enter the outdoors. I just think it is important that word is, you know, it is rec-reation. That is not what it is. It is re-creation.

Anyway, first, Mr. Bannon, you mentioned 300,000 people have done NOLS trips. My son was one of them, some 30 years ago. It was an extraordinary experience. Madam Chair, it was on Prince William Sound in Alaska, and it was a really signal experience in this young man's life. So I want to thank you for what NOLS does for 300,000+ people around the country.

Mr. BANNON. Thank you, Senator.

Senator KING. More substantively, there is a theme here that bothers me. We had a hearing a couple weeks ago. Senator Cassidy has a bill to increase staffing at FERC to process certain permits. Here we are talking about bills to increase staffing and be able to respond more promptly and efficiently to permits. The bottom line is the Federal Government can't work if there is nobody to answer the phone. And we are going through a period where bureaucrat is a dirty word and where we have hiring freezes and freezes of salary, no raises, and yet here we are talking about delays in permitting because somebody, I think you said, was doing something else, had a land transfer, and couldn't do the permits.

I just think we need to realize this is part—I suspect you could have this same hearing in practically any committee at the Department of Agriculture, Inland Fish or Fish and Wildlife, anywhere in the Federal Government, the IRS, that processes complaints and permitting applications from our citizens.

I just think it is important to point out, Madam Chair, that you can't have it both ways. You can't bully reg bureaucrats and then complain that permits aren't being granted in a timely fashion. I just think that is an important point, and I am seeing a pattern develop here.

Finally, a specific question. Mr. McGuire, I am curious about this bill and Senator Gardner isn't here. In Section, I think it is (5)(A)(iii), it talks about what the money can be used for and most of the discussion has been for administrative cost, reducing permitting time, staffing up the agencies. No problem there.

But then it talks about other things it can be used for and it says interpretation activities, visitor information, visitor services and signage to enhance the ski area visitor experience. Could you buy a new chairlift with this money?

Mr. MCGUIRE. No.

Senator KING. Could you build a road through your ski area or to your ski area?

Mr. MCGUIRE. A ski company could submit an application to the Forest Service—

Senator KING. But Senator Gardner—

Mr. MCGUIRE. —but no, the Forest Service would not—

Senator KING. —was talking about and you were talking about increasing your infrastructure of your ski area. What does that mean? I am just, I am a little concerned that we are talking about federal money being given to a profit-making organization. There is no matching requirement or anything. What could it be used for? What does that mean, visitor services?

Mr. MCGUIRE. So I think first and foremost I do want to note, none of these dollars will be used to pay for or buy infrastructure for a private company. It's purely through the—

Senator KING. But that is what you just—but earlier you've used the word infrastructure about five times today, so did Senator Gardner.

Mr. MCGUIRE. I mean, when I say infrastructure, I mean the permitting and processes, the NEPA process, that a company must go through, a permittee must go through in order to be able to make that investment.

Senator KING. So this money would go to pay the cost of the ski area in preparing their application, is that what you are saying?

Mr. MCGUIRE. No, currently ski areas pay for all the environmental work that goes through, through cost recovery. I don't anticipate this going.

When the Forest Service contracts that work out to a third party, they must necessarily accept the work of that third party back into the Federal Government. That takes the Forest Services' own biologist, their own—

Senator KING. Well, I just want to go on record as being concerned about this term, the visitor services. I don't know what that means because I have gathered through this discussion today that we are talking about things that enhance the visitor experience. In fact, that is what it says. And then it also says, oddly enough, it forbids using this money for fire suppression or for land acquisition to fill out an area in the area. I just find this whole provision a little disturbing.

Madam Chair, I just want to, when we get to markup, I would like some more information because there is—it says interpretation activity, visitor information, visitor services and signage. That is a pretty, visitor service is a pretty broad term. I want to know what that means because I don't think we should be funding a new chairlift or if we are going to fund that kind of thing, there at least should be some kind of matching requirement and other limitations.

Mr. McGuire, do you want to respond?

Mr. MCGUIRE. Certainly not the intent of this legislation to subsidize any actual infrastructure. When we say visitor services, we mean things such as signage that lets visitors know they're on their national forest.

Senator KING. That is fine.

Mr. MCGUIRE. When we say visitor services, we mean having law enforcement available, Forest Service Law Enforcement available to visit. This means having the ability for rangers to be out on the forest, on the ski area.

Senator KING. If that is what we are talking, I don't think we have any problem.

Mr. MCGUIRE. Yeah.

Senator KING. I'm just worried about the vagueness of the language. And I am worried, I don't quite understand why the money couldn't be used for forest fire suppression on that unit. It seems to me that would be something we would want to do, wouldn't it?

Mr. MCGUIRE. I think the concern would be that the fire suppression needs are so great that it could quickly take everything.

Senator KING. I see. Okay.

Thank you, Madam Chair.

The CHAIRMAN. Thank you, Senator King. I appreciate you raising that. I know that was a question that Senator Manchin had, so what we might want to do is just look very—

Senator KING. Let the record show I had that question before Manchin planned it.

The CHAIRMAN. There you go.

[Laughter.]

We are going to give you total credit here.

But I do think that this is an important part of what we are doing as we are learning more about these issues, looking at the legislation that has been proposed. I think we all know that even contained within these three bills there are going to be some things, some ideas that are going to be prompted from this, more that we might want to add.

And as Senator Manchin mentioned in his opening comments, what we are seeking to do is take all these good ideas, not unlike what we did with our energy storage initiative where we had five separate bills that we, kind of, worked together to really put together a package. I think, the goal here is to really build a robust recreation, re-creation, package coming out of the Committee. So I appreciate the directed focus on some of this language. I think we want to make sure that, again, it all works.

I wanted to give you, Ms. Haskett, an opportunity to respond to the same question that I had asked Mr. French about how you balance the recreation uses on BLM lands, how you determine that and then I will have some other questions for the rest of you.

Go ahead, Ms. Haskett.

Ms. HASKETT. Thank you for the question.

The BLM balances those resources typically through a land use plan. And so, and also Secretary Bernhardt has issued many secretarial orders around making recreational access and streamlining permits and NEPA through several secretarial orders. And so, we are following those and implementing those and, like I said, balancing those through our land use planning process.

The CHAIRMAN. I think we recognize that the processes are a little bit different between agencies and that there is a difference in terms of ease of operation, what is determined to be user friendly, consumer friendly. So again, these are things that we want to explore a little bit further.

Mr. French, I want to bring up an issue that you and I have shared when we have been out actually in the Tongass last year with the Secretary. I raised it with the Secretary at the time because it is something that I continue to hear as I am home in the state and specifically, in the Tongass, although, the Chugach as well.

This comes up when you have volunteers, people who really love their outdoors. This is our forest. This is where we play and where we recreate. They have seen degradation of, whether it is public trails or whether it is the Forest Service cabins, and all they want to do is help. They want to be the volunteers that are going to make sure that the little cabin is kept better after they leave for their nice weekend than when they go there. And the level of frustration that I have heard from individuals that have said, all we wanted to try to do was help. In order to be certified as a volunteer to be able to go out, we have to demonstrate that we have, you know, we are certified in how to run a chainsaw, that we have full-on Red Cross training. These are men and women that know more about the Tongass National Forest than most any of us would on any given day, and they just feel like they have been disenfranchised and discouraged from trying to be good partners. This is something that I know the Secretary cares a lot about because this not only is good partnering, but it gives us that ownership in our own forest.

And so, if you can speak to what you are doing within Forest Service to look to these areas that are prohibiting or restricting volunteers from coming together to be helpful and what we can do here in Congress to help facilitate volunteer efforts.

I participated in a Park Service, just, volunteer day out at Rock, it wasn't Rock Creek Park. It was Great Falls area in August or September with—August, with my interns. It was a great day for us. But it was one day, and we were very strictly supervised. But we were supervised by fabulous, fabulous folks from the parks. Our public lands need all of us chipping in, but it seems like our own government is the one that says, hmmm, for liability reasons, it is just not safe that you go there.

Help me out with this.

Mr. FRENCH. Okay, thank you for the feedback. And I, we never want to show up in that way. We have a responsibility to protect folks, and I think that may be a space for some dialogue where we could talk about that liability side of things. On the other hand of this, we had 4.4 million hours of volunteer assistance last year. It's huge. It's critically important to us. And if there are ways that we're showing up that are disenfranchising folks, the way that we're managing that right now is primarily through education of our employees, of going in and talking about problem-solving and finding solutions to fix that because that's not the case in all places.

When we see systemic issues, these are the places where we start to have conversations about are there regional policies, local policies or national policies that need to be either aligned because that's part of our problem. We're sometimes showing up differently in different places or we need to create some alignment across the agency. I'm always open to hearing more of that feedback, espe-

cially if we know of places where that's occurring and we'll address it.

The CHAIRMAN. Well, and I know that some of the community members had, kind of, come together as an advisory, an ad hoc advisory. I think that there needs to be more of that and really working together with our Forest Service partners. I think we see some examples where it is working better than others.

But I have some very, very specific stories about what we have seen with Forest Service cabins that are perfectly good, perfectly usable but they are pretty remote. Well, Alaska in the Tongass is pretty remote. There are no roads to anything anyway, so people have to fly in and the pushback that we are getting is well, there is not a lot of use in that particular cabin because it is remote. Okay, that is fair. We have to make decisions in terms of how we are prioritizing the cost. But if there are those who can then help Forest Service in some basic maintenance, instead of Forest Service saying, no, the answer here is we are going to take the cabin down because it is expensive to go check on every year and not that many people are using it. But if there are those who can help, why are we taking down these great assets? That is something that I would like to explore with you and your team a little bit more. I know it just can't be related to Alaska. We have some great facilities.

Let's go back to you, Senator Heinrich.

Senator HEINRICH. Thank you and I think we are getting at a lot of really good issues that deserve our attention.

Ms. Haskett, I don't want to pick a bone with you, but I want to return to the exchange you had with Senator Daines because I think there was a little bit of a misunderstanding. It is very true that you said that the BLM doesn't require permits for hunting. But I guarantee you, having spent some time in and around this business, that to guide a hunt, you do require permits. And that is where, for a day hunt, which he was describing, it still requires that special use permit.

One of the things we talked about quite a bit here and that I have worked a little bit with the Chair on is the filming issue. Congress, somewhere around a decade ago, a little more than that at the tail end of the Bush administration, tasked Department of the Interior and the Forest Service, all three agencies at DOI, as well as the Forest Service with coming up with unified filming structure. And in 2013 there was a draft, or not a draft but a proposed rule. My understanding is that was accepted by the three DOI agencies, meaning BLM, Park Service, Fish and Wildlife but the Forest Service did not accept it and today, we still have a mismatch between DOI and the Forest Service on those.

Mr. French, do you know what the thinking there was and why we still have two different standards for filming?

Mr. FRENCH. I don't.

Senator HEINRICH. Okay.

Mr. FRENCH. But I'll follow up with you, Senator.

Senator HEINRICH. That would be wonderful.

Mr. FRENCH. You bet.

Senator HEINRICH. We want to look at that and see if one makes more sense than the other, if there is a way to unify them across

agencies, just like cross agency permits make a lot of sense when you have BLM and Forest Service butting up against each other.

I know in New Mexico, oftentimes, when some of these shows film, they are trying to operate in areas that have multiple public land agencies. And so, having one unified agency and maybe even a unified, once again, permit structure where you designate a lead agency and they can do it once rather than jumping through both agencies might make a great deal of sense.

Mr. FRENCH. Sure, that makes sense.

[Information on filming policies follow.]

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
Mr. French's Supplemental Response to Senator Heinrich

Senator Heinrich: Does the Forest Service have plans to amend its commercial filming and photography permit regulations to better comply with P.L. 106-206 or better align with those of the Department of the Interior? If so, what is the status of progress on such amendments?

Mr. French: Current Forest Service regulations are consistent with Public Law 106-206. Also, the Forest Service continues to work with DOI to more closely align the Forest Service's regulations to with DOI's regulations. For example, the Forest Service and DOI Agencies are coordinating on the number of days the filming activity or similar project takes place on Federal lands, the size of the film crew, and the amount and type of equipment present on Federal lands. This will be used to determine the appropriate land use fee schedule so that customers will have the same fee for commercial filming and still photography on all federal lands. In January 2021, the agency will review opportunities for new rules when the Spring 2021 Regulatory Agenda is requested by OMB.

Senator HEINRICH. I know you also mentioned, Mr. French, the categorical exclusions that the Forest Service is working on with respect to recreational activities. When do you expect final action on some of those?

Mr. FRENCH. We would, we're expecting to release our final rule sometime late spring, early summer.

Senator HEINRICH. Great.

Mr. FRENCH. In fact, we were working on that before we came here, and it will directly address many of the pieces that you heard in Mr. McGuire and others' testimony this morning.

Senator HEINRICH. Great. I will look forward to seeing that.

Thank you all very much.

The CHAIRMAN. Senator King.

Well, the other part of our job is now commencing. We have a series of three votes that began about ten minutes ago, so we will have to wrap up here.

But I want to thank each of you for your contribution to the discussion here today. I think this is one of those areas when we look to those things that the Energy Committee can help advance, that builds a level of support, builds a level of consensus. We have Republican bills and Democrat bills that we have considered here today. We have matters that people care about because they care about our public lands. They care about the ability to get outside and recreate or re-create.

I like that, Senator King. I am going to remember it.

But it really is such an important part, not only of our economy but what we are blessed to have as Americans. I think we recognize that we have visitors that come from around the world to see our national treasures, to walk through our parks and to float our rivers, or to take an inner tube in Senator Manchin's state.

We have extraordinary lands, and how we make them available is important. But I am also very, very cognizant that the experience is something that we want to ensure is a good one, and sometimes that requires a level of regulation that some of us would rather not have to put up with, but it is part of what we do.

We also have to recognize that our public lands are not just entirely recreation lands, that they are multiple-use lands. Again, how we balance that is an important part of the discussion as well. So as we prioritize, that is one aspect of it, but again, making sure that there is access and access in a way that treats the lands respectfully and allows for that good visitor experience.

It was interesting when I was in Arches National Park with Senator Lee, you know, extraordinary, extraordinary spaces. It was my first visit there, and it just, kind of, takes your breath away. We were there in the shoulder season and there wasn't a lot of traffic on the road, but just listening to the local folks there and the Park Service Superintendent talk about the increased visitation and how they accommodate that, how they ensure that they have a good visitor experience and a safe visitor experience when you have, basically, one way in and one way out and everybody wanting to see many of these same treasures all at once.

How we do this is a challenge and a good one. I think we have some good legislation in front of us. We have a lot of good ideas to work with.

I am certainly going to be soliciting more as we work to build a broader package, but when I think about those component pieces of energy measures that we can move through this Committee, it is good to talk about our natural resources in the sense of our oil, our gas, our coal, our renewables, our minerals, but also to recognize that the recreation component on our lands is an extraordinarily important part of our economy and an extraordinarily important part of our national identity.

We have some work to do, and we will look forward to doing it with you all.

Thank you so much, and we stand adjourned.

[Whereupon, at 11:44 a.m. the hearing was adjourned.]

APPENDIX MATERIAL SUBMITTED

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Full Committee Hearing to Receive Testimony on Pending Legislation*
Questions for the Record Submitted to Mr. Chris French

Questions from Chairman Lisa Murkowski

Question 1: What is the average time it takes to process a permit for an outfitter or guide business?

Response: The Forest Service administers over 8,000 outfitter and guide permits every year. The average processing time for most of these permit applications is less than 50 hours of staff time. Temporary use permits, normally issued for 1 to 180 days, often take less than 50 hours to process. Priority use permits, which can be issued for up to 10 years, are a longer-term commitment of resources and therefore can take more than 50 hours due to the complexity of the proposals and associated environmental analyses.

The Forest Service does not charge a fee for processing the permit application if it takes less than 50 hours. Currently, agency data tracking systems do not record the exact number of processing hours for permit applications that are processed free of charge. Because of the volume of permits being processed, multiple and varied duties of permit processing staff, and the nature of associate environmental analyses, the number of hours required to process a permit are often spread across a 6 to 9-month period.

Question 2: What is the average cost that it takes to process an outfitter or guide permit? Does the applicant pay back those costs?

Response: If a permit takes less than 50 hours of Forest Service staff time to process, the applicant does not pay back these staff costs. The majority of outfitter and guide permits take less than 50 hours to process. If a permit takes more than 50 hours to process, the applicant is charged cost recovery fees for the total staff time it takes to process the permit, including the initial 50 hours.

Cost recovery fees are an assessment of fees to recover agency processing costs for special use applications and monitoring costs for special use authorizations. These fees are separate from any annual fees charged for the permit itself. The cost recovery fee is developed in accordance with 36 CFR 251.58 whereby the authorized officer determines the issues to be addressed and develops preliminary work and financial plans for estimating recoverable costs.

Question 3: In S. 1665 and S. 1967, how would being unable to recover costs for the first 50 hours of administering a permit effect the overall performance of the recreation permit program?

Response: Currently we exempt recreation special use applications and authorizations that take 50 hours or less to process or monitor from cost recovery fees. However, we recover full costs for recreation special use applications and authorizations that require over 50 hours to process or monitor. For example, if a recreation special use application or authorization takes 60 hours to process or monitor, we charge for the full 60 hours, rather than for the number of hours above the 50-hour threshold. The proposed legislation would expand the exemption from cost recovery fees by limiting them to the number of hours above the 50-hour threshold. For example, if a recreation special use application takes 60 hours to process, we would be able to charge cost recovery fees for only 10 hours of work. This change would transfer more of the financial burden for processing and monitoring recreation special applications and authorizations to the Agency and could impact customer service by increasing processing times.

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Full Committee Hearing to Receive Testimony on Pending Legislation*
Questions for the Record Submitted to Mr. Chris French

Question 4: In S. 1723, how can the Forest Service use the fees that are retained at a National Forest System unit? Can they be used to purchase physical capital, like a ski lift, for example?

Response: The Forest Service would be able to use the fee revenues primarily to cover the administrative costs of managing the ski area program, including costs associated with processing applications for ski area improvement projects, administering ski area permits, and providing training to improve processing of ski area proposals and applications and ski area permit administration. Additionally, the fee revenues could be used by the Forest Service to improve visitor services, signage, interpretive services, visitor information, avalanche information and educational activities conducted by the Forest Service, and the costs of leasing administrative sites under section 8623 of the Agriculture Improvement Act of 2018 for ski area purposes. Any amounts remaining after all ski-related expenditures have been made in accordance with the bill would be available to cover the costs of administering non-ski area recreation special use permits and leasing administrative sites under section 8623 of the Agriculture Improvement Act of 2018 for non-ski area purposes.

The fees would not be available for use by the ski areas, to purchase physical capital like a ski lift, or for any other purposes.

Questions from Ranking Member Joe Manchin III

Question 5: I understand that Senator Heinrich's bill, the SOAR Act, has a provision whereby someone who holds a permit can return unused days on their permit back to the Agency. Then, the Agency would be able to make those unused days available to other businesses to use. Mr. French, can you give us a better idea about how this program might work? Specifically, who might be able to use these extra days and in what kind of situation? In places where the agency allocates a set number of permits for businesses and a set number of permits for members of the general public, would you be supportive of allowing some of the unused days to be reallocated to the general public, instead of businesses?

Response: The authorized officer may establish and manage a pool for making service days available for allocation to authorized outfitters and guides. Service days included in a pool are allocated only to authorized outfitters and guides, not to the general recreating public. The Forest Service generally does not regulate noncommercial recreational use of National Forest System lands.

Questions from Senator Ron Wyden

Question 6: Mr. French, as you are aware, public lands support a wide-range of uses, from timber harvests and livestock grazing to conservation. Congressman Bishop and I spent significant time drafting the Recreation Not Red Tape Act to ensure the National Recreation Area system proposed in our legislation would NOT prevent multiple uses.

How does the National Recreation Area section of the bill uphold the multiple-use mandate on federal lands?

U.S. Senate Committee on Energy and Natural Resources
 October 31, 2019 Hearing: *Full Committee Hearing to Receive Testimony on Pending Legislation*
 Questions for the Record Submitted to Mr. Chris French

Response: Establishment of a National Recreation Area (NRA) under the bill prioritizes outdoor recreation as the primary use of the area. While this bill does not prohibit other uses in NRAs, in revising relevant land management plans as required in the bill, line officers would have the direction to elevate recreation uses over other uses at their discretion.

Question 7: I'd like to ask you a question about the Recreation Residence program. The Cabin Fee Act passed and was signed into law in 2014. While the new fee system was successfully changed as required in about one year, our understanding is that a number of outstanding items remain nearly five years later. This includes the Forest Service webpage, and the Forest Service manual, neither of which have been updated to reflect the changes made by the Cabin Fee Act. This creates confusion both among prospective cabin buyers, and forest service personnel. The law also required a new regulation dealing with the Access & Occupancy Fee Adjustment.

Explain where each of these items in in the process, and how soon will they be completed?

Response: The Forest Service (FS) has developed a new regulation for Access & Occupancy Fee Adjustment. The required regulation is going through an internal review process, which includes the Office of General Counsel. The Forest Service is revising FS Handbook 2709.11, Chapter 30 Fee Determination to reflect the Cabin Fee Act of 2014. The revision is scheduled for 2020. Once the handbook has been updated, we will update the webpage accordingly.

Questions from Senator Bernard Sanders

Question 8: During the hearing, you discussed the Forest Service's rulemaking effort to reduce the amount of environmental review work that your employees have to undertake to comply with the National Environmental Policy Act (NEPA). The rulemaking you referred to not only seeks to promulgate a series of new categorical exclusions, but it also seeks to decrease the amount of public scoping that the agency undertakes. Your agency's founder, Gifford Pinchot, laid out eleven maxims to guide the behavior of Forest Service employees. Several of them are specific to reaching out to the public about Forest Service project work, notably maxims #3 and 4:

“3) It is more trouble to consult the public than to ignore them, but that is what you are hired for.”

“4) Find out in advance what the public will stand for. If it is right and they won't stand for it, postpone action and educate them.”

The Forest Service's proposed rulemaking to reduce public notice for certain Forest Service projects is not consistent with these maxims. Do you believe Gifford Pinchot's maxims should no longer be a standard to which the Forest Service should adhere?

If the majority of the comments that you receive during the public comment period on your proposed rule request that the Forest Service keep its current public notice requirements in place, will you still move

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: Full Committee Hearing to Receive Testimony on Pending Legislation
Questions for the Record Submitted to Mr. Chris French

forward with modifying them? If you will not move forward with your current proposed revisions to the Forest Service's treatment of NEPA, please provide a plan, including a timeline, to retract the proposed NEPA revisions and guarantee the Forest Service will comply with Director Pinchot's maxims by requiring thorough public engagement and input throughout all stages of the NEPA review process.

Response: The preamble to the Forest Service's proposed rule stated that the Agency "will continue to hold true to its commitment to deliver decision makers scientifically based, high-quality analysis that honors its environmental stewardship responsibilities while maintaining robust public participation." The proposed rule outlined an approach that would provide decision makers with the discretion to conduct public engagement that is commensurate with the nature of the decision to be made. The Agency is carefully considering all the comments it received on the proposed rule, including those focused on public engagement, and these comments are informing the development and content of the final rule.

Question from Senator Steve Daines

Question 9: Conservation Corps and Youth programs are integral parts of public land management. Agencies are able to utilize the resources from these groups to create new trails, address deferred maintenance, fight invasive species, reduce wildfire risks, and much more. In return, students are able to get outside, gain valuable work experience, and develop a love for conservation and the outdoors. However, for the last few years I have heard that permits and agreements are being finalized at the last moment, putting in jeopardy this important relationship. How do we bring more certainty to the permitting and agreement process so students can continue to get outdoors to help conserve, enhance, and recreate on our public lands?

Response: The Forest Service Grants and Agreements and Program staffs are developing improvements to agreements with youth and conservation corps. This includes clarifying the appropriate authorities for these types of agreements; coordinating dialogues with cooperators to explore how we can improve integration among cooperators to achieve better outcomes across all programs that support the engagement of students; refining agreement processes and guidance such as 25% match requirements that will remove barriers for potential cooperators to work with the Forest Service; and, improving communications and expanding access to information about partnership opportunities beyond the Forest Service firewall. We would be happy to work with your office on ideas to bring more certainty to this process.

Questions from Senator Martin Heinrich

Question 10: Do the Forest Service regulations for commercial filming and photography permits established prior to the enactment of P.L. 106-206 fully satisfy all requirements of P.L. 106-206?

Response: Current Forest Service regulations are consistent with Public Law 106-206. Also, we ensure that our regulations are appropriately implemented in wilderness, and we are coordinating with the land management agencies in the U.S. Department of the Interior (DOI) to develop an interagency land use fee schedule for commercial filming and still photography on federal lands.

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Full Committee Hearing to Receive Testimony on Pending Legislation*
Questions for the Record Submitted to Mr. Chris French

Question 11: Does the Forest Service have plans to amend its commercial filming and photography permit regulations to better comply with P.L. 106-206 or better align with those of the Department of the Interior? If so, what is the status of progress on such amendments?

Response: The Forest Service continues to work with DOI to align the Forest Service's regulations more closely with DOI's regulations.

Question 12: What is the current status of work on a jointly published Department of the Interior-Department of Agriculture fee schedule for commercial filming and photography permits on federal lands of jurisdiction?

Response: The Forest Service is working with the Bureau of Land Management (BLM), U.S. Park Service (NPS), and U.S. Fish & Wildlife Service on an interagency land use fee schedule for commercial filming and still photography on federal lands. The joint fee schedule would enhance interagency consistency and improve customer service.

Question from Senator John Hoeven

Question 13: The Maah Daah Hey Trail system features nearly every type of terrain found in western North Dakota, including grassy flats and ridges, clay badlands buttes, river bottoms, and rolling prairie. Because of this topography, the shale soil of the area is prone to erosion and can cause the need for frequent repair of trails. Will you continue to work with local groups in a collaborative manner to help support efforts to improve and maintain the Maah Daah Hey Trail system?

Response: Yes, the Dakota Prairie National Grasslands will continue to work with volunteers and partners to maintain and improve the Maah Daah Hey Trail. Without volunteers, the number of miles maintained each year could not be sustained. The Dakota Prairie works closely with the Maah Daah Hey Trail Association and the Save the Maah Daah Hey group for help needed to keep this trail maintained and open to the public. The Grasslands have an active Challenge Cost Share Agreement in place with the Association to formalize this relationship. The Dakota Prairie Grasslands submits grants annually through the Recreational Trails Program, North Dakota Parks and Recreation Department to help support work across the trail. Other partners include the Montana Conservation Corps, International Mountain Biking Association, and Theodore Roosevelt National Park.

This past summer, 116 miles of the 144-mile Maah Daah Hey Trail were maintained, including 86 miles of mowing (a key maintenance activity on the trail) accomplished by volunteer and partner groups. Volunteers and Partner groups completed another 15 miles of mowing, brushing, and tread work. This past year's work by volunteer and partner groups is one example of what these groups accomplish in keeping this trail open and maintained for the public.

Questions for the Record
Senate Committee on Energy and Natural Resources
Pending Outdoor Recreation Legislation
October 31, 2019

Questions from Chairman Lisa Murkowski

Question 1: What is the average time it takes to process a permit for an outfitter or guide business?

Response: Time to process an application widely varies according to the complexity and uniqueness of the proposed activity. If the activity is common in a specific area, and similar permits have been issued in the past, a permit could typically be processed within a few weeks. If the activity is complex, unique, and has the possibility of affecting other resources, public users or permittees, the processing time could take longer.

Question 2: What is the average cost that it takes to process an outfitter or guide permit? Does the applicant pay back those costs?

Response: The BLM may recover direct and indirect costs related to a Special Recreation Permit (SRP) when it is determined that a proposal will take more than 50 hours of BLM staff time to process. . This includes the costs for multi-disciplinary resource specialists who analyze the effects of the proposal for NEPA compliance, the permit administrator's time, and the time the BLM spends monitoring the activities in the field. The BLM processes over 1,000 SRP applications per year, and fewer than 50 typically take more than 50 hours of processing time.

Question 3: In S. 1665 and S. 1967, how would being unable to recover costs for the first 50 hours of administering a permit affect the overall performance of the recreation permit program?

Response: Losing the ability to recover costs for the first 50 hours of processing a permit would require BLM District and Field Offices to cover these costs with appropriated funds. This could reduce the available resources for such offices and could reduce their capacity to respond to additional permit requests.

Questions for the Record
Senate Committee on Energy and Natural Resources
Pending Outdoor Recreation Legislation
October 31, 2019

Questions from Ranking Member Joe Manchin III

Question: I understand that Senator Heinrich's bill, the SOAR Act, has a provision whereby someone who holds a permit can return unused days on their permit back to the Agency. Then, the Agency would be able to make those unused days available to other businesses to use. Ms. Haskett, can you give us a better idea about how this program might work? Specifically, who might be able to use these extra days and in what kind of situation? In places where the agency allocates a set number of permits for businesses and a set number of permits for members of the general public, would you be supportive of allowing some of the unused days to be reallocated to the general public, instead of businesses?

Response: The bill references "unused service days" which can be returned for other permittees' use. The BLM does not use service days, however; therefore, this language would have no effect on the BLM. Nevertheless, the BLM is committed to finding new ways to increase flexibility for permit applicants.

Questions for the Record
Senate Committee on Energy and Natural Resources
Pending Outdoor Recreation Legislation
October 31, 2019

Question from Senator Steve Daines

Question: While still new, Recreation.gov appears to be helping more Montanans recreate by creating a one-stop shop for permits, tickets, tours and more. However, not all federal recreation opportunities are participating online and therefore visitors cannot see the full picture and may miss out on opportunities to visit certain parks, campsites and trails in Montana. How can the administration further incentivize more federal locations to participate on Recreation.gov?

Response: Recreation.gov has been adding new enhancements and functionalities that enable more of our varied recreation sites to participate. There are currently about 3,500 recreation areas and more than 100,000 individual reservable locations within the Recreation.gov inventory. There are also numerous locations in the process of bringing their recreation opportunities onto the platform. Our Federal recreation site managers across agencies continue to work with Recreation.gov to innovate and pilot new processes that enable more of these sites to use the platform.

Questions for the Record
Senate Committee on Energy and Natural Resources
Pending Outdoor Recreation Legislation
October 31, 2019

Questions from Senator John Hoeven

Question: Title II of the Recreation Not Red Tape Act directs agencies to work with branches of the military to improve veterans' and servicemembers' opportunities to engage in outdoor recreation. What practices does BLM currently have in place to promote recreation opportunities for servicemembers, veterans, and their families? How does the Recreation Not Red Tape Act align with your current efforts?

Response: The Department recognizes the great value of outdoor recreation to our military families, and the provisions in the *Recreation Not Red Tape Act* provide tools that align well with our current efforts. At the BLM, where one in five of our employees is a veteran, we partner with organizations that promote disabled veterans' recreation on public lands as part of their recovery. These include Project Healing Waters, Disabled Sports USA, FishingCommunity.org, and many others. It should also be noted that disabled veterans are eligible for free lifetime "America the Beautiful - National Parks and Federal Recreational Lands Passes."

The Department also greatly appreciates that veterans often choose to continue their service to the country by volunteering on public lands. The BLM, for example, has hosted volunteers from the Department of Defense Operation Warfighter Program and the non-profit Wounded Warrior Project.

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
Questions for the Record Submitted to Mr. Brendan McGuire of Vail Resorts and the National Ski Areas Association

Questions from Ranking Member Joe Manchin III

Question 1: Mr. McGuire, I understand that the Ski Area Fee Retention Act would allow the Forest Service to keep the receipts that it generates from hosting ski resorts on its lands, but then directs the Forest Service to use any fees it collects from a resort for assisting that resort. I would like to get a better sense of how the money collected would be disbursed and for what uses. Can you explain and list what activities you would support these set-aside fees being able to be spent on? Should a portion of the fees be used to support other forms of recreation?

Answer 1: The Ski Area Fee Retention Act (SAFRA) would retain a portion of the permit fees that ski areas currently pay to the Treasury and keep those resources in the National Forest or the Region in which they were generated to benefit the overall permit administration for all ski areas in that locale. One of the primary uses of the retained funds would be increasing funding and staffing for ski area permit administration. The 122 ski areas that operate on NFS lands are complex operations, so the dedication of sufficient staffing and resources on the agency's part is critical to making the ski area-USFS partnership a successful one. Retained funds would be applied to ensure that ski areas have permit administrators, which unfortunately is not always the case. The fees would also be applied to ensure that there is sufficient agency personnel and resources to review ski area proposals for infrastructure projects. Ski areas need to make capital investments to boost operational efficiency, enhance safety, and transition from seasonal to year-round recreation experiences. For instance, if a ski area needs to replace an aging lift or upgrade old snow guns to energy efficient snow guns, those projects must be reviewed and approved by the Forest Service. Fee retention would ensure that adequate agency personnel and resources are dedicated to that review process. Other uses that the retained fees would be applied to include interpretation and visitor information, such as official NFS signage indicating the National Forest in which one is skiing. Another use of funds would include supporting the USFS Avalanche Information and Education Program. The agency has 13 USFS Avalanche Centers across the west that perform forecasting and education to increase safety for the recreating public. USFS Avalanche Centers are substantially under-funded and would benefit from the fees retained under the bill.

SAFRA also supports other forms of recreation managed by the Forest Service. Once ski area permit administration needs are met, SAFRA allows retained fees to be expended on non-ski area recreation permit administration on any National Forest. The bill would also help fund USFS implementation of its new Administrative Sites Leasing Authority, which is designed to help communities address workforce housing and transportation needs. Also, as mentioned above, support of USFS Avalanche Centers would benefit a range of backcountry users – cross-country skiers, snowmobilers, backcountry guiding operations, and others – along with ski areas.

Question 2: I think it makes sense under the Ski Area Fee Retention Act to allow some of the fees that would be collected at one resort to be used to help another ski resort that might not generate as much in revenue. Under that framework, the ski industry would be able to ensure people around the country have access to affordable and quality skiing experiences.

Answer 2: SAFRA includes provisions to help ensure that the benefits of retaining ski area permit fees are broadly shared across local forests and nationwide. First, by keeping a percentage of ski fees local rather than

U.S. Senate Committee on Energy and Natural Resources
 October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
 Questions for the Record Submitted to Mr. Brendan McGuire of Vail Resorts and the National Ski Areas Association

passing those fees back to the Treasury, all ski areas in a local forest or Region – big ones and small ones– benefit from the additional Forest Service resources and staff dedicated to ski area permit administration. Because larger, high-volume ski areas generate most of the ski fees, such resorts are providing the bulk of funds toward this benefit to be enjoyed by all ski areas.

Second, SAFRA has two transfer mechanisms to allow the sharing of funds across National Forests that host ski areas.

- To the extent a forest generating more than \$15M in annual ski area permit fees can't reasonably spend the retained fees, the fees may be shared or transferred to other national forests with at least one ski area. The originating forest is guaranteed a minimum of 35 percent of those retained fees.
- To the extent a forest with \$15M or less in annual ski area permit fees can't reasonably spend the retained fees, the fees may be shared or transferred to other national forests with at least one ski area. The originating forest is guaranteed a minimum of 50 percent of those retained fees.

Through these transfer mechanisms, the agency can assess needs in other ski forests and apply the funds according to circumstances and demand, which change from year to year. Allowing the agency to use such criteria rather than providing fixed amounts provides the Forest Service with the flexibility necessary to direct resources where the need is greatest. In evaluating the need for transferring funds, the agency may consider the number of proposals for ski area improvements on forests; any backlog in ski area permit administration or processing of ski area proposals; and the need for services, training, staffing, or contracting in other forests that would improve permit administration.

Question 3: (A) If the Forest Service retains these receipts set aside under the Ski Area Fee Retention Act instead of depositing them in the U.S. Treasury, would that affect the amount of funding local governments generally receive through revenue-sharing? (B) What portion of the fees paid for the use of the land would ultimately be sent to and remain in the US Treasury?

Answer 3A: It is our understanding that retaining a portion of ski fees as proposed under SAFRA would not affect local government funding through revenue-sharing. Senator Gardner's staff requested Technical Assistance from the US Forest Service on this very topic upon introduction of the bill in 2018. Here is the agency's response to that question:

[Begin USFS answer]

Currently, the Forest Service makes payments to States based on county elections under one of two laws: the Secure Rural Schools and Community Self-Determination Act of 2000 (SRS Act) or the 1908 Act, which authorizes 25-percent payments. The last payment authorized under the SRS Act is for FY 2018 to be made as soon as practicable in FY 2019. If payments under the SRS Act are not reauthorized for FY 2019 and subsequent fiscal years, FS will resume making 25-percent payments to States under the 1908 Act.

U.S. Senate Committee on Energy and Natural Resources
 October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
 Questions for the Record Submitted to Mr. Brendan McGuire of Vail Resorts and the National Ski Areas Association

Under the SRS Act, counties elected to receive one of two kinds of payments: a share of the State's 25-percent payment or a share of the State formula payment (not a receipts-based payment). More specifically, because the State's 25-percent payment is dependent on the amount of receipts, the county share of that payment will fluctuate with the amount of receipts generated annually; whereas, the State formula payment and a county's share of that payment is calculated based on the formula in the SRS Act and is not affected by fluctuations in annual receipts. FS calculates the county shares based on the county elections and pays the State the sum of the county shares under the authority of the SRS Act. Even though a county's share of the State's 25-percent payment is calculated under the 1908 Act, a county receives its distribution from the State under the SRS Act. That is, payments are made only under the SRS Act, not both the SRS Act and the 1908 Act.

The bill would not affect the amount of the payments made under the SRS Act because:

- for purposes of calculating a county's share of the State's 25-percent payment under the SRS Act, the rental charges deposited into the Ski Area Retention Account would be considered to be amounts received from the NFS for purposes of calculating that payment as provided in new subsection (k)(6)(B)(i); and
- for purposes of calculating a county's share of the State's formula payment under the SRS Act, the formula payment is not based on or affected by annual receipts.

Additionally, the bill would not affect the amount of the 25-percent payments to States made under 1908 Act because:

- for purposes of calculating a county's share of the State's 25-percent payment under the 1908 Act, the rental charges deposited into the Ski Area Retention Account would be considered to be amounts received from the NFS for purposes of calculating that payment as provided in new subsection (k)(6)(B)(ii) and (iii).

PILT payments cited in new subsection (k)(6)(iv) are administered by BLM, so we would defer to BLM as to whether the bill affects those payments."

[End USFS answer]

Answer 3B: Under SAFRA, 50 percent of fees from any forest with fees in excess of \$15M annually would be retained, and 50 percent would go to the Treasury. For all other forests, 65 percent of the fees would be retained, such that 35% would continue to go to the Treasury.

In 2019, ski areas sent \$55M in ski area permit fees to the Treasury. According to USFS Deputy Chief French in his October 2019 testimony before the Senate Energy and Natural Resources Committee, he expects the agency to retain between \$24 and \$26M annually under this proposal.

Senate Energy and Natural Resources Committee
U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: Pending Outdoor Recreation Legislation
Questions for the Record Submitted to Mr. Lee Davis

Lee Davis, Executive Director
Outdoor Recreation Economy Initiative
Oregon State University – Portland Center
Portland, Oregon, 97204

Dear Chair Murkowski, Ranking Member Manchin and Members of the Committee:

Below are my responses to the submitted questions for the record regarding the October 31st, 2019 hearing on pending Outdoor Recreation Legislation. As stated in my previous written testimony, while I currently lead the Outdoor Recreation Economy Initiative for Oregon State University, the statements and views expressed here are my own, and should not be construed as representing any official position of Oregon State University.

Question from Ranking Member Joe Manchin III

Question: Mr. Davis, in your testimony you talked about the impact outdoor recreation can have on the towns and communities right next door to the Federal land used for outdoor recreation opportunities. What do you think are the necessary components that are needed for a gateway community to be able to attract businesses and experience a booming economy?

Answer: The traditional model for building healthy economies often started with identifying local natural resources and investing in heavy infrastructure to attract large and mid-sized corporations to extract and process those resources. Once attracted, these companies were able to accelerate value creation from local natural resources, and also helped to develop a variety of supporting businesses. Additionally, these companies each created numerous high-wage jobs, and eventually created local wealth and assets for the community as their employees retired.

The combination of strong local business activities, high-wage employees, and wealthy retirees provided support for K-12 education, community service organizations, churches, and also created a strong local tax-base which paid for municipal services, transportation, and security. Once this foundation of core economic activity and municipal services was in place, small businesses, entrepreneurship, restaurants, and cultural institutions were able to thrive.

Today, many things have changed, especially for our rural economies that were built around resource extraction industries. I believe that we all still want to see rural communities thrive, and we are willing to invest strategically to make this happen, but the investment model needs to change to be more responsive to the opportunities at hand.

Specifically, we need to refocus our investments on individuals and small businesses rather than large corporations. One of my closest friends runs a \$40M business that has no local offices and yet employs hundreds of professionals all across the country. The need to attract high-wage employees, retirees, and citizens with personal wealth, to support our economies certainly remains, but what has changed is the mobility of these individuals, and the ways in which we need to invest to attract and retain them.

First, because of the rapid growth of remote-work options for many professional jobs, many of the people we hope to attract to our communities have the choice to live anywhere they want while working anywhere in the world remotely. Remote workers first and foremost require access to broadband internet, and secondarily they need access to a reliable regional airport so that they can travel to work meetings, and to visit family.

Next, the baby-boomer generation is retiring quickly and with an enormous amount of personal wealth and assets, and they too can live wherever they choose. Similar to remote-workers, retirees want to move to beautiful locations that have easy access to a regional airport and high-speed internet, but they also need healthcare and reliable emergency services.

To attract both remote workers and retirees, we need to invest fundamentally in building towns people want to live in, which often means towns with easy access to outdoor recreation, and to robust community and cultural activities. It seems as if the investment strategy has reversed itself, meaning that instead of investing in power plants and roads to attract large companies, we may need to start with access to transportation, broadband internet, and in creating access to capital to grow small businesses.

In the Pacific Northwest, Bend, Oregon is often held up as an example of success in attracting both remote workers and retirees. Bend was recently one of the fastest growing cities in the country and has roughly 100 businesses in the outdoor recreation economy alone. What these small businesses need most is access to business capital. In similar contrast to the old model, where towns would create significant long-term financial incentives to attract large corporations, going forward we may need to focus on providing more and easier access to capital so that small businesses can mature and grow.

A final thought on these components is around outdoor recreation infrastructure. Numerous studies have been completed showing that towns, economies, and community health are improved by investing in parks and in outdoor recreation infrastructure. Gateway communities, or those that are adjacent to public lands can create both robust tourism economies and also incredible recreational opportunities for local residents if they are able to invest in their recreational infrastructure. It is often the case though that permitting issues, land designations, and litigation slow or inhibit the redesign and development of our recreational infrastructure and therefore cripple the ability of these communities to recognize the full economic benefits of being adjacent to public lands.

Questions from Senator John Hoeven

Question 1: In your testimony, you state that you believe that the biggest issue and threat facing our public lands and waters in America today is that our youth are not consistently experiencing and building a relationship of care with the outdoors. What are some ideas for how we can increase outdoor recreation on public lands by individuals and families who might not otherwise choose to vacation outdoors? What role does infrastructure play in the viability of these outdoor destinations?

Answer:

Most of the people that I know who grew up having outdoor recreation experiences as an integral part of their childhood, family life, and early memories can attribute those experiences to either an enthusiastic relative, a family tradition of spending time outside, or to an organized group that encouraged and promoted outdoor recreation as an important way of engaging in the group's mission. These traditional bridge organizations, such as scouting, Churches, affinity groups, community groups, clubs, government parks and wildlife agency programs, etc.). My opinion, which I think is largely shared by the agencies, nonprofits, and outdoor industry is that it is these formally organized groups have the highest potential to create inclusive outdoor experiences for everyone.

In Oregon, we have also instituted a state funded program called Outdoor School for All, which last year enabled more than 90% of 5th and 6th graders in Oregon to spend a week outside engaging in experiential learning and getting to know the lands and waters of our state and country. We're obviously proud of this program and its ability to work at scale across the state (and which, for transparency, is organized by my employer and Oregon's land grant institution: Oregon State University.). The success of this program also relies on these same organized groups mentioned above, because these groups have the infrastructure, access, programs, and expertise to take kids outside safely and effectively. If we are to look for ideas on how to engage more people in the outdoors, we need to find ways of supporting and leveraging these groups on a national scale.

Next, while the development of recreational infrastructure is certainly a critical step in creating outdoor recreation destinations, it is worth noting that the long-term livability benefits of having accessible outdoor recreation greatly outweighs the economic benefits from recreational tourism. Therefore, I would first encourage us to pause and consider the value of recreational infrastructure to building healthy municipal economies overall, and then separately consider what kinds of infrastructure and destination development are needed to attract an appropriate and manageable level of tourism.

If all of the infrastructure development investments are focused on tourism we risk creating places that people generally want to visit but don't want to stay or live in. This, in my view, is an unsustainable strategy and one that can create highly seasonal boom-bust tourist towns that are difficult to maintain and service over time. I believe we need to first focus on building towns people want to live in (which definitely includes recreational access and infrastructure improvements for the residents.) Once that is known we should then consider what level of tourism is appropriate and beneficial to that specific place's culture, environment, and habitat.

Question 2: You also outline some recommendations to enhance outdoor recreation, including modern infrastructure and world class destination development. In North Dakota, we are working on an exciting new project, the establishment of a Theodore Roosevelt Presidential Library, which will be built in the Theodore Roosevelt National Park. Once built, the library will be a place to not only share the legacy of our 26th president, but also to promote outdoor access to current and future generations as part of our national heritage. What benefits does a project such as this bring to rural gateway communities?

Answer:

It is exciting to see the state of North Dakota embarking on this project and taking a leadership role in both preserving President Theodore Roosevelt's legacy, and in promoting important aspects of American culture through the project's focus on leadership, conservation, and citizenship. I believe that many long-term benefits are possible when investments like this are made in alignment with the values and aspirations of the local community and in partnership with regional leadership.

The current plan is to locate the Library in Theodore Roosevelt National Park and adjacent to the gateway community of Medora, ND. Medora looks like an ideal location for the project, as the town is already promoted as a tourist destination and as a primary access point to the National Park. The town's website (<https://medora.com/>) also prominently lists cultural events, and recreational opportunities for tourists and local residents, such as single-track mountain biking, and horse-back riding. Presumably, this all means that the local community sees value in and wants to grow tourism, and therefore is ready to realize many of the corollary benefits that arise from having a thriving tourism economy.

At the surface, the Theodore Roosevelt Library represents a strategic investment in creating a center of cultural promotion and education that aligns with and celebrates the heritage, natural resources and landscapes of the area. The direct benefits of the project to the local community are well articulated in the architectural brief for the Library, and include educational programs, cultural events, and other community services. The indirect and corollary benefits of a well aligned investment like this are much broader, and include increased tourism, new entry-level and management jobs, overall economic growth, local pride, enhanced municipal services and overall livability.

Planning for and taking full advantage of all of these potential benefits is a complex exercise, and I would encourage the state and the local community to work with the National Park Service, and in particular with their Community Assistance Program staff to engage community leadership from the region and to ensure that the community is ready to take advantage of all of these benefits once the Library opens.

Additionally, towns like Medora can leverage destination marketing for the Library in similar ways to how towns like Bend, Oregon and Vail, Colorado have leveraged their local ski resort's marketing efforts. The result is not only increased visitation, but a repositioning of the identity or brand of these towns as being great places to experience outdoor recreation, to live, to work, and to build your community.

What happens next is that retirees, small business leaders, and professionals who work remotely, start to move to these towns and work there, which increases the local and county tax base which then supports increased municipal services. If this project is successful Medora, ND could become another nationally recognized model of success for rural economies, showing other counties and states how we can build thriving rural communities across America adjacent to public lands with access to outdoor recreation.

Thank you again for the opportunity to answer these questions and to support legislation to enhance outdoor recreation. If there is anything I can do to help going forward or any follow up questions, please don't hesitate to contact me.

Sincerely,

DocuSigned by:

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Lee Davis, Executive Director
Lee.Davis@oregonstate.edu
Outdoor Recreation Economy Initiative
Oregon State University – Portland Center
Portland, Oregon, 97204

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U.S. Senate Committee on Energy and Natural Resources
 October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
 Questions for the Record Submitted to Mr. Aaron Bannon

Questions from Ranking Member Joe Manchin III

Question 1: I understand that Senator Heinrich’s bill, the SOAR Act, has a provision whereby someone who holds a permit can return unused days on their permit back to the Agency. Then, the Agency would be able to make those unused days available to other businesses to use. Mr. Bannon, I would like to ask you a question about a specific scenario. To access a place where permits are required and limited in number, sometimes the Agency allocates a set number of permits for businesses and a set number of permits for members of the general public. Would you be supportive of allowing some of the unused days to be reallocated to the general public, instead of businesses?

I. Reallocating Unused Days

As the members of the Senate Energy and Natural Resources Committee grasp well, the use assigned to commercial outfitters benefits the majority of the public which cannot safely access the backcountry without professional assistance. While that use is often referred to as commercial use, the clients served are members of the public. Outfitters predominant markets include: families, youth groups, and non-profits. Permitted outfitters help these markets access their public lands safely.

In some operating areas, where all use is allocated to self-guided users or the outfitted public, unused capacity may be turned in to a pool and accessed by either the outfitted public or the self-guided enthusiast. The authority to provide this type of use management would continue under SOAR since unused capacity would be available to “any potential permittee.” This circumstance would apply in the few situations where self-guided use is allocated and permitted.

That authority for this management regime is in SEC. 5 Permit Flexibility (b):

(b) VOLUNTARY RETURN OF SURPLUS SERVICE 20 DAYS.—The Secretary concerned shall establish a program to allow a permittee issued a special recreation permit for a public land unit to voluntarily and temporarily return to the Secretary concerned 1 or more surplus service days, to be made available to any other existing or potential permittee.

It is important to note that SOAR maintains agencies’ authority to permit self-guided use in areas:

“(1) SPECIAL RECREATION PERMIT.—The Secretary may issue a special recreation permit for specialized individual or group uses of Federal recreational lands and waters, including—

“(C) for the use of “(i) a special area; or 24 “(ii) an area in which use is allocated;

Use may be contributed to a pool where the potential permittee is a self-guided party in areas where permits are required for all users. As well, unused self-guided capacity may be contributed to a pool and made available for the outfitted public. The agencies should have the authority to determine if additional parties are sustainable and appropriate. In some areas the limited availability of camping, for example, restricts the number of parties which can be accommodated each year.

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
Questions for the Record Submitted to Mr. Aaron Bannon

Management plans define the capacities and permitting regimes for the outfitted public and the self-guided users. In most wilderness areas the portion of use allocated to the outfitted public is less than 15% of overall capacity. On federally-managed rivers where both the outfitted public and self-guided use is allocated, self-guided use is only regulated on about two dozen of the hundreds of rivers available for outdoor recreation, while the outfitted public is limited on virtually all of them. On regulated rivers under federal management, the allocated capacity for the outfitted public is 50% or less of overall capacity.

Question 2: I know each of you have a wealth of experience in outdoor recreation and in working with the agencies, and bring a unique perspective to today's conversation. Are there any additional changes or ideas not covered in these three bills that would enhance the experience of visitors recreating on public lands?

I. Planning and Permits

Public land management is guided primarily through land management plans, resource management plans, and management plans specific to a particular designation, such as a Wilderness, a National Monument, or a Wild and Scenic River. The process for establishing a management plan is significant, requiring years of work on the part of the planning personnel, and multiple engagement opportunities for the interested public. For a family-sized outfitting operation, or even for a large operation that is juggling multiple permits over a many jurisdictions, understanding the repercussions a management plan will have on their operation can be a daunting task. Wading through a 1,000-plus page document to identify direct operational impacts is confusing, to say the least, for small operators.

And so, when a change in management is considered that will have a real and direct impact on the existing outfitting landscape, such a reduction in allowable group sizes or a new length-of-stay limit, operators often do not learn of the change until it is too late. Commercial outfitters are often under-represented in the planning process. Many interests are directly represented by government cooperators selected by the agency – outfitters do not typically have such representation. And, there is no internal review mechanism within the agency to identify whether commercial outfitting will be impacted by such changes. Existing permits are not reviewed prior to the management change under consideration, and there is no internal process whereby planners are conferring with permit administrators to understand the impacts. There is absolutely no process for proactively informing outfitters of a management change that will impact their operation at a time where they may be able to respond effectively.

Similarly, when changes to permit language occur, outfitters learn of them upon permit renewal. Perhaps a liability waiver, which had been permitted, no longer will be. Perhaps an exception allowing additional days for activities that enhance public lands and management missions has been eliminated. Unfortunately, when these changes occur, there is little to no discernable public engagement at all. Agencies do themselves a disservice when they don't engage their stakeholders, who understand the repercussions the best, in substantive process changes.

U.S. Senate Committee on Energy and Natural Resources
October 31, 2019 Hearing: *Pending Outdoor Recreation Legislation*
Questions for the Record Submitted to Mr. Aaron Bannon

II. Maintaining historic use when a new designation is created

With the codification of the Bureau of Land Management's National Landscape Conservation System in 2009, there was a shift in management priorities for designated lands away from recreation. NLCS lands are maintained, "In order to conserve, protect, and restore the nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations." (National Landscape Conservation Act.) Unfortunately, recreation is not identified as one of the values NLCS lands are identified for. Now, when a new designation is under consideration, operators must scramble to ensure that their use is specifically included in the designation language. If not, there is considerable uncertainty regarding the long-term viability of their operation. One of the greatest impacts has been party size reductions, which are unavoidable subjective, as was experienced in Grand Staircase Escalante and in Canyonlands National Park.

116TH CONGRESS
1ST SESSION

S. 1665

To modify the procedures for issuing special recreation permits for certain public land units, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 23 (legislative day, MAY 22), 2019

Mr. HEINRICH (for himself, Mrs. CAPITO, Mr. KING, Mr. ROUNDS, Mr. BENNET, Mr. GARDNER, Mr. WYDEN, Ms. MCSALLY, Mr. TESTER, Mr. RISCH, Ms. SINEMA, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To modify the procedures for issuing special recreation permits for certain public land units, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Simplifying Outdoor
5 Access for Recreation Act” or the “SOAR Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) ASSOCIATED AGENCY.—The term “associ-
9 ated agency” means the Federal land management

1 agency, other than the lead agency, that manages a
2 public land unit that is the subject of a single joint
3 special recreation permit under section 7(a).

4 (2) FEDERAL LAND MANAGEMENT AGENCY.—
5 The term “Federal land management agency” has
6 the meaning given the term in section 802 of the
7 Federal Lands Recreation Enhancement Act (16
8 U.S.C. 6801).

9 (3) LEAD AGENCY.—With respect to a single
10 joint special recreation permit application submitted
11 under section 7(a), the term “lead agency” means
12 the Federal land management agency designated to
13 administer the single joint special recreation permit
14 under section 7(a)(2).

15 (4) LONG-TERM SPECIAL RECREATION PER-
16 MIT.—The term “long-term special recreation per-
17 mit” means—

18 (A) for a public land unit managed by the
19 Forest Service, a priority use permit; and

20 (B) for a public land unit managed by the
21 Bureau of Land Management, a multiyear spe-
22 cial recreation permit.

23 (5) MULTIJURISDICTIONAL TRIP.—The term
24 “multijurisdictional trip” means a trip that—

1 (A) uses two or more public land units;
2 and

3 (B) is under the jurisdiction of two or
4 more Federal land management agencies.

5 (6) PUBLIC LAND UNIT.—The term “public
6 land unit” means—

7 (A) a unit of the National Forest System;

8 (B) a unit of the National Park System;

9 (C) a unit of the National Wildlife Refuge
10 System;

11 (D) a district of the Bureau of Land Man-
12 agement; and

13 (E) a project of the Bureau of Reclama-
14 tion.

15 (7) SECRETARY CONCERNED.—The term “Sec-
16 retary concerned” means—

17 (A) the Secretary of Agriculture, with re-
18 spect to a public land unit described in para-
19 graph (6)(A); and

20 (B) the Secretary of the Interior, with re-
21 spect to a public land unit described in sub-
22 paragraph (B), (C), (D), or (E) of paragraph
23 (6).

24 (8) SPECIAL RECREATION PERMIT.—The term
25 “special recreation permit” has the meaning given

1 the term in section 802 of the Federal Lands Recre-
2 ation Enhancement Act (16 U.S.C. 6801).

3 **SEC. 3. SPECIAL RECREATION PERMIT AND FEE.**

4 (a) DEFINITIONS.—Section 802 of the Federal Lands
5 Recreation Enhancement Act (16 U.S.C. 6801) is amend-
6 ed—

7 (1) in paragraph (1), by striking “section 3(f)”
8 and inserting “803(f)”;

9 (2) in paragraph (2), by striking “section 3(g)”
10 and inserting “section 803(g)”;

11 (3) in paragraph (6), by striking “section 5”
12 and inserting “section 805”;

13 (4) in paragraph (9), by striking “section 5”
14 and inserting “section 805”;

15 (5) in paragraph (12), by striking “section 7”
16 and inserting “section 807”;

17 (6) in paragraph (13), by striking “section
18 3(h)” and inserting “section 803(h)”;

19 (7) by redesignating paragraphs (1), (3), (4),
20 (5), (6), (7), (8), (9), (10), (11), and (13) as para-
21 graphs (15), (1), (3), (4), (5), (6), (7), (8), (11),
22 (10), and (14), respectively, and moving the para-
23 graphs so as to appear in numerical order;

24 (8) by inserting after paragraph (8) (as so re-
25 designated) the following:

1 “(9) RECREATION SERVICE PROVIDER.—The
2 term ‘recreation service provider’ means an indi-
3 vidual or entity that—

4 “(A) provides outfitting, guiding, or other
5 recreation services; or

6 “(B) conducts recreational or competitive
7 events, including incidental sales.”; and

8 (9) by inserting after paragraph (12) the fol-
9 lowing:

10 “(13) SPECIAL RECREATION PERMIT.—The
11 term ‘special recreation permit’ means—

12 “(A) with respect to the Forest Service, an
13 outfitting and guiding special use permit;

14 “(B) with respect to the National Park
15 Service, a commercial use authorization for out-
16 fitting and guiding issued under—

17 “(i) this Act; or

18 “(ii) section 101925 of title 54,
19 United States Code;

20 “(C) with respect to the United States
21 Fish and Wildlife Service, a special use permit
22 for recreational, sport fishing, or hunting outfit-
23 ting and guiding;

1 “(D) with respect to the Bureau of Land
2 Management, a special recreation permit for
3 commercial outfitting and guiding; and

4 “(E) with respect to the Bureau of Rec-
5 lamation, a use authorization for guiding, out-
6 fitting, or other recreational services.”.

7 (b) SPECIAL RECREATION PERMIT AND FEE.—Sec-
8 tion 803 of the Federal Lands Recreation Enhancement
9 Act (16 U.S.C. 6802) is amended—

10 (1) in subsection (b)(5), by striking “section
11 4(d)” and inserting “section 804(d)”; and

12 (2) by striking subsection (h) and inserting the
13 following:

14 “(h) SPECIAL RECREATION PERMIT AND FEE.—

15 “(1) SPECIAL RECREATION PERMIT.—The Sec-
16 retary may issue a special recreation permit for spe-
17 cialized individual or group uses of Federal rec-
18 reational lands and waters, including—

19 “(A) for outfitting, guiding, or other recre-
20 ation services;

21 “(B) for recreation or competitive events,
22 which may include incidental sales;

23 “(C) for the use of—

24 “(i) a special area; or

25 “(ii) an area in which use is allocated;

1 “(D) for motorized recreational vehicle use;
2 and

3 “(E) for a group activity or event.

4 “(2) SPECIAL RECREATION PERMIT FEE.—

5 “(A) IN GENERAL.—The Secretary may
6 charge a special recreation permit fee in con-
7 nection with the issuance of a special recreation
8 permit under paragraph (1).

9 “(B) FEES FOR CERTAIN LANDS.—

10 “(i) IN GENERAL.—Subject to clauses
11 (ii) and (iii), a special recreation permit fee
12 under subparagraph (A) for use of Federal
13 recreational lands and waters managed by
14 the Forest Service, the Bureau of Land
15 Management, the Bureau of Reclamation,
16 or the United States Fish and Wildlife
17 Service shall not exceed the difference be-
18 tween—

19 “(I) the sum of—

20 “(aa) 3 percent of the an-
21 nual gross revenue of the recre-
22 ation service provider for all ac-
23 tivities authorized by the special
24 recreation permit; and

1 “(bb) any applicable revenue
2 addition; and

3 “(II) any applicable revenue ex-
4 clusion.

5 “(ii) EXCLUSION OF CERTAIN REVE-
6 NUES AND PAYMENTS.—In calculating the
7 amount of a fee for a special recreation
8 permit under clause (i), the Secretary con-
9 cerned shall exclude—

10 “(I) revenue from goods, services,
11 souvenirs, merchandise, gear, food,
12 and activities provided or sold by a
13 special recreation permit holder in a
14 location other than the Federal rec-
15 reational lands and waters covered by
16 the permit, including transportation
17 costs, lodging, and any other service
18 before or after a trip; and

19 “(II) revenue from any rec-
20 reational services provided by a spe-
21 cial recreation permit holder for ac-
22 tivities on Federal recreational lands
23 and waters for which a separate per-
24 mit is issued.

1 “(iii) ALTERNATIVE PER-PERSON
2 FEE.—

3 “(I) IN GENERAL.—For Federal
4 recreational lands and waters man-
5 aged by the Forest Service, the Bu-
6ureau of Land Management, the Bu-
7reau of Reclamation, or the United
8 States Fish and Wildlife Service, the
9 Secretary may charge a per-person fee
10 in connection with the issuance of a
11 special recreation permit under para-
12 graph (1).

13 “(II) AMOUNT OF FEE.—The
14 total amount charged by the Secretary
15 in connection with the issuance of a
16 special recreation permit under para-
17 graph (1) using a per-person fee
18 under subclause (I) shall be com-
19 parable to the amount the Secretary
20 may charge for a special recreation
21 permit fee under subparagraph (A)
22 and clauses (i) and (ii).

23 “(iv) EFFECT.—Nothing in this sub-
24 paragraph affects any fee for a commercial
25 use authorization for use of Federal rec-

1 reational lands and waters managed by the
2 National Park Service.

3 “(C) DISCLOSURE OF FEES.—A special
4 recreation permit holder may inform customers
5 of any fee charged by the Secretary under this
6 section.

7 “(3) REPORTS.—

8 “(A) IN GENERAL.—The Secretary shall
9 make available to holders of special recreation
10 permits under paragraph (1) and the public an
11 annual report describing the use of fees col-
12 lected by the Secretary under paragraph (2).

13 “(B) REQUIREMENTS.—The report under
14 subparagraph (A) shall include a description of
15 how the fees are used in each public land unit
16 (as defined in section 2 of the SOAR Act) ad-
17 ministered by the Secretary, including an iden-
18 tification of the amounts used for specific ac-
19 tivities within the public land unit.”.

20 (c) USE OF SPECIAL RECREATION PERMIT REV-
21 ENUE.—Section 808 of the Federal Lands Recreation En-
22 hancement Act (16 U.S.C. 6807) is amended—

23 (1) in subsection (a)(3)(F), by striking “section
24 6(a)” and inserting “section 806(a)”;

1 (2) in subsection (d), by striking “section 5”
2 each place it appears and inserting “section 805”;

3 (3) by redesignating subsections (b) through (d)
4 as subsections (c) through (e), respectively; and

5 (4) by inserting after subsection (a) the fol-
6 lowing:

7 “(b) USE OF SPECIAL RECREATION PERMIT FEE
8 REVENUE.—Revenue from a special recreation permit fee
9 may be used for—

10 “(1) the purposes described in subsection (a);
11 and

12 “(2) expenses—

13 “(A) associated with processing applica-
14 tions for special recreation permits; and

15 “(B) incurred in the improvement of the
16 operation of the special recreation permit sys-
17 tem.”.

18 (d) PERMANENT AUTHORIZATION.—Section 810 of
19 the Federal Lands Recreation Enhancement Act (16
20 U.S.C. 6809) is amended—

21 (1) by striking “The authority” and inserting
22 the following:

23 “(a) IN GENERAL.—Except as provided in subsection
24 (b), the authority”; and

25 (2) by adding at the end the following:

1 “(b) APPLICABILITY.—Subsection (a) shall not apply
2 to—

3 “(1) section 802;

4 “(2) subsection (d)(2) or (h) of section 803; or

5 “(3) subsection (a) or (b) of section 808.”.

6 **SEC. 4. PERMITTING PROCESS IMPROVEMENTS.**

7 (a) IN GENERAL.—To simplify the process of the
8 issuance and renewal of special recreation permits and re-
9 duce the cost of administering special recreation permits,
10 the Secretary concerned shall—

11 (1) not later than 180 days after the date of
12 enactment of this Act—

13 (A) evaluate the special recreation permit-
14 ting process; and

15 (B) identify opportunities—

16 (i) to eliminate duplicative processes;

17 (ii) to reduce costs; and

18 (iii) to decrease processing times; and

19 (2) not later than 180 days after the date on
20 which the Secretary concerned completes the evalua-
21 tion and identification processes under paragraph
22 (1), revise, as necessary, relevant agency regulations
23 and policy statements to implement the improve-
24 ments identified under paragraph (1)(B).

25 (b) ENVIRONMENTAL REVIEWS.—

1 (1) IN GENERAL.—In issuing or renewing a
2 special recreation permit, the Secretary concerned
3 may, in compliance with the National Environmental
4 Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

5 (A) use a programmatic environmental re-
6 view; and

7 (B) adopt or incorporate material from a
8 previous environmental impact statement or en-
9 vironmental assessment.

10 (2) RULEMAKING.—Not later than 1 year after
11 the date of enactment of this Act, the Secretary con-
12 cerned shall promulgate such regulations as are nec-
13 essary to carry out this subsection.

14 (e) CATEGORICAL EXCLUSIONS.—

15 (1) IN GENERAL.—Not later than 1 year after
16 the date of enactment of this Act, the Secretary con-
17 cerned shall—

18 (A) evaluate whether one or more addi-
19 tional categorical exclusions developed in com-
20 pliance with the National Environmental Policy
21 Act of 1969 (42 U.S.C. 4321 et seq.) would re-
22 duce processing times or costs for the issuance
23 or renewal of special recreation permits without
24 significantly affecting the human environment;
25 and

1 (B) if the Secretary concerned determines
2 under subparagraph (A) that one or more addi-
3 tional categorical exclusions would reduce pro-
4 cessing times or costs for the issuance or re-
5 newal of special recreation permits without sig-
6 nificantly affecting the human environment—

7 (i) establish those categorical exclu-
8 sions in compliance with the National En-
9 vironmental Policy Act of 1969 (42 U.S.C.
10 4321 et seq.); and

11 (ii) revise relevant agency regulations
12 and policy statements to implement those
13 categorical exclusions.

14 (2) ADMINISTRATION.—

15 (A) IN GENERAL.—In administering a cat-
16 egorical exclusion established under paragraph
17 (1)(B), the Secretary concerned shall comply
18 with the National Environmental Policy Act of
19 1969 (42 U.S.C. 4321 et seq.) (including regu-
20 lations promulgated pursuant to that Act).

21 (B) EXTRAORDINARY CIRCUMSTANCES.—
22 In determining whether to use a categorical ex-
23 clusion established under paragraph (1)(B), the
24 Secretary concerned shall apply the extraor-
25 dinary circumstances procedures described in—

1 (i) section 1508.4 of title 40, Code of
2 Federal Regulations (or a successor regula-
3 tion); and

4 (ii) as applicable—

5 (I) section 220.6 of title 36, Code
6 of Federal Regulations (or a successor
7 regulation); and

8 (II) section 46.215 of title 43,
9 Code of Federal Regulations (or a
10 successor regulation);

11 (d) NEEDS ASSESSMENTS.—Except as required
12 under subsection (c) or (d) of section 4 of the Wilderness
13 Act (16 U.S.C. 1133), the Secretary concerned shall not
14 conduct a needs assessment as a condition of issuing a
15 special recreation permit for a public land unit under this
16 Act.

17 (e) ONLINE APPLICATIONS.—The Secretary con-
18 cerned shall make applications for special recreation per-
19 mits available to be completed and submitted online unless
20 the Secretary concerned determines that making applica-
21 tions for special recreation permits available to be com-
22 pleted and submitted online would not improve the effi-
23 ciency or accessibility of the permitting process.

1 **SEC. 5. PERMIT FLEXIBILITY.**

2 (a) SIMILAR ACTIVITIES.—The Secretary concerned
3 shall establish a permit administration protocol that au-
4 thorizes, to the maximum extent practicable, a permittee
5 issued a special recreation permit for a public land unit
6 under section 803(h) of the Federal Lands Recreation En-
7 hancement Act (16 U.S.C. 6802(h)) to engage in a rec-
8 reational activity that is substantially similar to the spe-
9 cific activity authorized under the special recreation per-
10 mit, if the substantially similar recreational activity—

11 (1) is comparable in type, nature, scope, and
12 ecological setting to the specific activity authorized
13 under the special recreation permit;

14 (2) does not result in a greater impact on nat-
15 ural and cultural resources than the authorized ac-
16 tivity; and

17 (3) does not adversely affect any other per-
18 mittee issued a special recreation permit for a public
19 land unit under that subsection.

20 (b) VOLUNTARY RETURN OF SURPLUS SERVICE
21 DAYS.—The Secretary concerned shall establish a pro-
22 gram to allow a permittee issued a special recreation per-
23 mit for a public land unit to voluntarily and temporarily
24 return to the Secretary concerned one or more surplus
25 service days, to be made available to any other existing
26 or potential permittee.

1 (c) FOREST SERVICE AND BUREAU OF LAND MAN-
2 AGEMENT TEMPORARY SPECIAL RECREATION PER-
3 MITS.—

4 (1) IN GENERAL.—Not later than 180 days
5 after the date of enactment of this Act, the Sec-
6 retary concerned shall establish and implement a
7 program to authorize the issuance of temporary spe-
8 cial recreation permits for new or additional rec-
9 reational uses of Federal recreational land and water
10 managed by the Forest Service and the Bureau of
11 Land Management.

12 (2) TERM OF TEMPORARY PERMITS.—A tem-
13 porary special recreation permit issued under para-
14 graph (1) shall be issued for a period of not more
15 than 2 years.

16 (3) CONVERSION TO LONG-TERM PERMIT.—If
17 the Secretary concerned determines that a permittee
18 under paragraph (1) has completed 2 years of satis-
19 factory operation under the permit proposed to be
20 converted, the Secretary may provide for the conver-
21 sion of a temporary special recreation permit issued
22 under paragraph (1) to a long-term special recre-
23 ation permit.

24 (4) EFFECT.—Nothing in this subsection alters
25 or affects the authority of the Secretary to issue a

1 special recreation permit under subsection (h)(1) of
2 section 803 of the Federal Lands Recreation En-
3 hancement Act (16 U.S.C. 6802).

4 **SEC. 6. PERMIT ADMINISTRATION.**

5 (a) PERMIT AVAILABILITY.—

6 (1) NOTIFICATION OF PERMIT AVAILABILITY.—

7 (A) IN GENERAL.—Except as provided in
8 subparagraphs (B) and (C), if the Secretary
9 concerned has determined that the Department
10 of Agriculture or the Department of the Inte-
11 rior, as applicable, is able to issue new special
12 recreation permits to recreation service pro-
13 viders seeking to use a public land unit, the
14 Secretary concerned shall publish that informa-
15 tion on the website of the agency that admin-
16 isters the relevant public land unit.

17 (B) EXCEPTION FOR CERTAIN PERMITS.—

18 With respect to a public land unit managed by
19 the Forest Service or the Bureau of Land Man-
20 agement, subparagraph (A) shall apply only to
21 a long-term special recreation permit for the
22 public land unit.

23 (C) EXCEPTION FOR RENEWALS AND

24 REISSUANCES.—Subparagraph (A) shall not
25 apply to—

1 (i) a renewal or reissuance of an exist-
2 ing special recreation permit; or

3 (ii) a new special recreation permit
4 issued to the purchaser of a recreation
5 service provider that is the holder of an ex-
6 isting special recreation permit.

7 (D) EFFECT.—Nothing in this paragraph
8 creates a prerequisite to the issuance of a spe-
9 cial recreation permit or otherwise limits the
10 authority of the Secretary concerned—

11 (i) to issue a new special recreation
12 permit; or

13 (ii) to add a new or additional use to
14 an existing special recreation permit.

15 (2) UPDATES.—The Secretary concerned shall
16 ensure that information published on the website
17 under this subsection is consistently updated to pro-
18 vide current and correct information to the public.

19 (3) ELECTRONIC MAIL NOTIFICATION.—The
20 Secretary concerned shall—

21 (A) establish a system by which potential
22 special recreation permit applicants may sub-
23 scribe to receive notification of the availability
24 of special recreation permits by electronic mail;
25 and

1 (B) direct employees of the Department of
2 Agriculture or the Department of the Interior,
3 as applicable, to use that system to notify the
4 public of the availability of special recreation
5 permits.

6 (b) PERMIT APPLICATION ACKNOWLEDGMENT.—Not
7 later than 60 days after the date on which the Secretary
8 concerned receives an application for a special recreation
9 permit for a public land unit, the Secretary concerned
10 shall—

11 (1) provide to the applicant notice acknowl-
12 edging receipt of the application; and

13 (2)(A) issue a final decision with respect to the
14 application; or

15 (B) provide to the applicant notice of a pro-
16 jected date for a final decision on the application.

17 **SEC. 7. PERMITS FOR MULTIJURISDICTIONAL TRIPS.**

18 (a) SINGLE JOINT SPECIAL RECREATION PER-
19 MITS.—

20 (1) IN GENERAL.—In the case of a multijuris-
21 dictional trip, the Federal land management agen-
22 cies with jurisdiction over the multijurisdictional trip
23 may offer to the applicant a single joint special
24 recreation permit that authorizes the use of each

1 public land unit under the jurisdiction of those Fed-
2 eral land management agencies.

3 (2) LEAD AGENCY.—In offering a single joint
4 special recreation permit under paragraph (1), the
5 applicable Federal land management agencies shall
6 designate a lead agency for administering the single
7 joint special recreation permit based on the following
8 considerations:

9 (A) The length of the multijurisdictional
10 trip and the relative portions of the multijuris-
11 dictional trip on each public land unit.

12 (B) The congressional or administrative
13 designations that apply to the areas to be used
14 during the multijurisdictional trip and the de-
15 gree to which those designations impose limita-
16 tions on recreational use.

17 (C) The relative ability of the Federal land
18 management agencies with jurisdiction over the
19 multijurisdictional trip to respond to the single
20 joint special recreation permit application in a
21 timely manner.

22 (D) Other relevant administrative consider-
23 ations.

24 (3) APPLICATION.—An applicant desiring to be
25 offered a single joint special recreation permit under

1 paragraph (1) shall submit to the lead agency an ap-
2 plication, as required by the lead agency.

3 (4) OPTION TO APPLY FOR SEPARATE PER-
4 MITS.—An applicant for a special recreation permit
5 for a multijurisdictional trip may apply to each ap-
6 plicable Federal land management agency for a sep-
7 arate permit for the portion of the multijuris-
8 dictional trip on the public land unit managed by
9 each applicable Federal land management agency.

10 (b) REQUIREMENTS.—In issuing a single joint special
11 recreation permit under subsection (a), the lead agency
12 shall—

13 (1) coordinate with each associated agency, con-
14 sistent with the authority of the Secretary concerned
15 under section 330 of the Department of the Interior
16 and Related Agencies Appropriations Act, 2001 (43
17 U.S.C. 1703), to develop and issue 1 joint permit
18 that covers the entirety of the multijurisdictional
19 trip;

20 (2) in processing the joint special recreation
21 permit application, incorporate the findings, inter-
22 ests, and needs of the associated agency;

23 (3) in issuing the joint special recreation per-
24 mit, clearly identify the agencies that have the au-
25 thority to enforce the terms, stipulations, conditions

1 and agreements of the joint special recreation per-
2 mit, as determined under subsection (d); and

3 (4) complete the permitting process within a
4 reasonable timeframe.

5 (c) COST RECOVERY.—The coordination with the as-
6 sociated agency under subsection (b) shall not be subject
7 to cost recovery.

8 (d) ENFORCEMENT AUTHORITY.—

9 (1) DELEGATION OF AUTHORITY TO LEAD
10 AGENCY.—In administering a single joint special
11 recreation permit under subsection (a), the associ-
12 ated agency shall delegate to the lead agency the au-
13 thority—

14 (A) to enforce the terms, stipulations, con-
15 ditions, and agreements of the joint special
16 recreation permit, as may be required by the
17 regulations of the Secretary of the associated
18 agency; and

19 (B) to suspend, terminate, or revoke the
20 joint special recreation permit for—

21 (i) noncompliance with Federal, State,
22 or local laws and regulations;

23 (ii) noncompliance with the terms of
24 the joint special recreation permit; or

1 (iii) failure of the holder of the joint
2 special recreation permit to exercise the
3 privileges granted by the joint special
4 recreation permit.

5 (2) RETENTION OF AUTHORITY BY THE ASSOCI-
6 ATED AGENCY.—The associated agency shall retain
7 the authority to enforce the terms, stipulations, con-
8 ditions, and agreements in the joint special recre-
9 ation permit that apply specifically to the use occur-
10 ring on the public land unit managed by the associ-
11 ated agency.

12 (e) WITHDRAWAL.—

13 (1) IN GENERAL.—The lead agency or an asso-
14 ciated agency may withdraw from a joint special
15 recreation permit at any time.

16 (2) ISSUANCE OF SEPARATE PERMITS.—

17 (A) IN GENERAL.—In the case of a with-
18 drawal by one or more agencies under para-
19 graph (1), if the holder of the joint special
20 recreation permit is in compliance with the re-
21 quirements of the joint special recreation per-
22 mit, the lead agency and each associated agency
23 shall issue to the holder of the joint special
24 recreation permit a new, separate special recre-

1 ation permit for any use occurring on the public
2 land unit managed by the agency.

3 (B) REQUIREMENTS.—A special recreation
4 permit issued under subparagraph (A) shall
5 contain the same or substantially similar terms,
6 conditions, and operating stipulations as the
7 joint special recreation permit from which an
8 agency has withdrawn under paragraph (1).

9 (C) NO NEW APPLICATION.—The holder of
10 a joint special recreation permit from which an
11 agency has withdrawn under paragraph (1)
12 shall not be required to submit a new applica-
13 tion for a separate special recreation permit
14 under subparagraph (A).

15 **SEC. 8. FOREST SERVICE PERMIT USE REVIEWS.**

16 (a) IN GENERAL.—If the Secretary of Agriculture
17 (referred to in this section as the “Secretary”) conducts
18 a special recreation permit use review in renewing a spe-
19 cial recreation permit or adjusting allocations of use in
20 a special recreation permit, the Secretary shall—

21 (1) take into consideration the performance of
22 the special recreation permit holder during the re-
23 viewed period; and

24 (2) if the special recreation permit holder re-
25 ceives a satisfactory performance review, allocate to

1 the special recreation permit holder the highest level
2 of actual annual use during the period under review
3 plus 25 percent of that use, not to exceed the level
4 allocated to the special recreation permit holder on
5 the date on which the special recreation permit was
6 issued.

7 (b) ADDITIONAL CAPACITY.—

8 (1) IN GENERAL.—If additional use capacity is
9 available, the Secretary may, at any time, assign the
10 remaining use to one or more qualified recreation
11 service providers.

12 (2) ASSIGNMENT NOT SUBJECT TO CAP ON
13 USE.—Notwithstanding subsection (a), in assigning
14 additional use capacity under paragraph (1), the
15 Secretary may assign additional use capacity to an
16 existing special recreation permit holder even if that
17 assignment would exceed the amount of use allo-
18 cated to the special recreation permit holder on the
19 date on which the special recreation permit was
20 issued.

21 (c) WAIVER.—The Secretary may waive a special
22 recreation permit use review for any period during which
23 use of the assigned capacity has been prevented by a cir-
24 cumstance beyond the control of the special recreation per-
25 mit holder, such as—

- 1 (1) unfavorable weather;
- 2 (2) fire;
- 3 (3) natural disaster;
- 4 (4) wildlife displacement;
- 5 (5) business interruption;
- 6 (6) insufficient availability of hunting and fish-
- 7 ing licenses; or
- 8 (7) significant seasonal variability or off-peak
- 9 periods within the allocated period of use.

10 (d) APPROVAL OF NON-USE.—

11 (1) IN GENERAL.—In any circumstance for
12 which the holder of a special recreation permit would
13 qualify for a waiver under subsection (c), on request
14 of the holder of the special recreation permit, the
15 Secretary may approve non-use by the holder of the
16 special recreation permit without reducing the num-
17 ber of service days assigned to the special recreation
18 permit.

19 (2) REALLOCATION OF USE.—The Secretary
20 may assign any period of non-use approved under
21 paragraph (1) to another qualified recreation service
22 provider.

23 **SEC. 9. LIABILITY.**

24 (a) IN GENERAL.—To the extent authorized by appli-
25 cable State law, the Secretary concerned shall authorize

1 a permittee issued a special recreation permit for a public
2 land unit under section 803(h) of the Federal Lands
3 Recreation Enhancement Act (16 U.S.C. 6802(h)) to re-
4 quire a client of the permittee to sign a form that—

5 (1) releases the permittee and any agents, em-
6 ployees, and other persons affiliated with the per-
7 mittee from liability for ordinary negligence that
8 arises out of or in connection with the authorized ac-
9 tivities of the permittee;

10 (2) requires the client to indemnify and hold
11 harmless the permittee and any agents, employees,
12 and other persons affiliated with the permittee for
13 any injury or damages the permittee may sustain as
14 a result of any claim other than gross negligence
15 that is caused by or arises out of or in connection
16 with the involvement of the client in the authorized
17 activities of the permittee;

18 (3) releases the United States and any agents,
19 employees, and contractors of the United States
20 from liability for ordinary negligence that arises out
21 of or in connection with the authorized activities of
22 the permittee; and

23 (4) requires the client to indemnify and hold
24 harmless the United States and any agents, employ-
25 ees, and contractors of the United States for any in-

1 jury or damages the United States or any agents,
2 employees, and contractors of the United States may
3 sustain as a result of any claim other than gross
4 negligence that is caused by or arises out of or in
5 connection with the involvement of the client in the
6 authorized activities of the permittee.

7 (b) REQUIREMENTS.—A form under subsection (a)—

8 (1) shall not preclude claims of gross negligence
9 against the permittee;

10 (2) shall not eliminate the obligation of the per-
11 mittee to indemnify the United States unless the
12 permittee is a recreation service provider that meets
13 the requirements of paragraphs (1) and (2) of sub-
14 section (c);

15 (3) shall not affect the ability of the United
16 States to recover as an additional insured under any
17 insurance policy obtained by the permittee in con-
18 nection with the authorized activities of the per-
19 mittee;

20 (4) shall identify the State under the laws of
21 which—

22 (A) the form, including any waiver or re-
23 lease, shall be enforced; and

1 (B) any claim or cause of action, whether
2 in tort or in contract, relating to or arising out
3 of the form shall be governed; and

4 (5) may be subject to review and approval by
5 the Secretary concerned to ensure that the require-
6 ments of this subsection and subsection (a) are met.

7 (e) INDEMNIFICATION BY GOVERNMENT ENTITIES.—
8 The Secretary concerned may not require a recreation
9 service provider to indemnify the United States as a condi-
10 tion for issuing a special recreation permit for a public
11 land unit under this Act if—

12 (1) the recreation service provider is prohibited
13 by State or local law from providing indemnification
14 to the United States; and

15 (2) the recreation service provider—

16 (A) carries the minimum amount of liabil-
17 ity insurance coverage required by the issuing
18 agency for the activities conducted under the
19 special recreation permit; or

20 (B) is self-insured for the same amount.

21 **SEC. 10. COST RECOVERY REFORM.**

22 (a) REVISION OF REGULATIONS.—

23 (1) IN GENERAL.—Not later than 1 year after
24 the date of enactment of this Act, the Secretary of
25 Agriculture shall revise section 251.58 of title 36,

1 Code of Federal Regulations, and the Secretary of
2 the Interior shall revise subsections (e) and (f) of
3 section 2932.31 of title 43, Code of Federal Regula-
4 tions, to be consistent with this section.

5 (2) LIMITATION.—In carrying out paragraph
6 (1), the Secretary of Agriculture and the Secretary
7 of the Interior shall not include anything in the re-
8 vised regulations that would limit the authority of
9 the Secretary concerned to issue or renew special
10 recreation permits.

11 (b) DE MINIMIS EXEMPTION FROM COST RECOV-
12 ERY.—

13 (1) IN GENERAL.—Any regulation promulgated
14 by the Secretary of the Interior or the Secretary of
15 Agriculture to establish fees to recover the costs of
16 processing an application for a special recreation
17 permit or monitoring an authorization under a spe-
18 cial recreation permit shall include an exemption
19 providing that fees may not be recovered for not less
20 than the first 50 hours of work necessary in any 1
21 year to process the application or monitor the au-
22 thorization.

23 (2) MULTIPLE APPLICATIONS.—In situations
24 involving multiple applications for special recreation
25 permits for similar services in the same public land

1 unit or area that, in the aggregate, require more
2 hours to process than are exempt under the regula-
3 tions promulgated under paragraph (1), the Sec-
4 retary of the Interior or the Secretary of Agri-
5 culture, as applicable, shall, regardless of whether
6 the applications are solicited or unsolicited and
7 whether there is competitive interest—

8 (A) determine the share of the aggregate
9 quantity of hours to be allocated to each appli-
10 cation on an equal or prorated basis, as appro-
11 priate; and

12 (B) for each application, apply a separate
13 exemption as specified in the regulations pro-
14 mulgated under paragraph (1) to the share of
15 the aggregate hours allocated to the application.

16 (c) **COST REDUCTION.**—To the maximum extent
17 practicable, the agency processing an application for a spe-
18 cial recreation permit shall use existing studies and anal-
19 ysis to reduce the quantity of work and costs necessary
20 to process the application.

21 **SEC. 11. EXTENSION OF SPECIAL RECREATION PERMITS.**

22 (a) **IN GENERAL.**—Subject to subsection (b), if the
23 holder of a long-term special recreation permit makes a
24 timely and sufficient request for renewal of the long-term
25 special recreation permit, the expiration of the permit

1 shall be tolled in accordance with the undesignated matter
2 following section 558(c)(2) of title 5, United States Code,
3 until such time as the request for renewal has been finally
4 determined by the Secretary concerned.

5 (b) LIMITATION.—Any tolling under subsection (a)
6 shall be for a period of not more than 5 years.

7 (c) RESPONSIBILITY OF THE SECRETARY CON-
8 CERNED.—Before allowing the expiration of a permit to
9 be tolled under subsection (a), the Secretary concerned,
10 to the maximum extent practicable, shall complete the re-
11 newal process.

○

116TH CONGRESS
1ST SESSION

S. 1723

To amend the Omnibus Parks and Public Lands Management Act of 1996 to provide for the establishment of a Ski Area Fee Retention Account.

IN THE SENATE OF THE UNITED STATES

JUNE 5, 2019

Mr. GARDNER (for himself, Mr. BENNET, Mr. BARRASSO, Ms. HASSAN, Mr. CRAPO, and Mr. WYDEN) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To amend the Omnibus Parks and Public Lands Management Act of 1996 to provide for the establishment of a Ski Area Fee Retention Account.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Ski Area Fee Reten-
5 tion Act”.

6 **SEC. 2. ESTABLISHMENT OF SKI AREA FEE RETENTION AC-**
7 **COUNT.**

8 (a) IN GENERAL.—Section 701 of division I of the
9 Omnibus Parks and Public Lands Management Act of

1 1996 (16 U.S.C. 497c) is amended by adding at the end
2 the following:

3 “(k) SKI AREA FEE RETENTION ACCOUNT.—

4 “(1) DEFINITIONS.—In this subsection:

5 “(A) ACCOUNT.—The term ‘Account’
6 means the Ski Area Fee Retention Account es-
7 tablished under paragraph (2).

8 “(B) COVERED UNIT.—The term ‘covered
9 unit’ means a national forest that collects a
10 rental charge under this section.

11 “(C) REGION.—The term ‘Region’ means a
12 Forest Service region.

13 “(D) RENTAL CHARGE.—The term ‘rental
14 charge’ means a permit rental charge that is
15 charged under subsection (a).

16 “(E) SECRETARY.—The term ‘Secretary’
17 means the Secretary of Agriculture.

18 “(2) ESTABLISHMENT.—The Secretary of the
19 Treasury shall establish in the Treasury a special
20 account, to be known as the ‘Ski Area Fee Retention
21 Account’, into which there shall be deposited—

22 “(A) in the case of a covered unit at which
23 not less than \$15,000,000 is collected by the
24 covered unit from rental charges in a fiscal
25 year, an amount equal to 50 percent of the

1 rental charges collected at the covered unit in
2 the fiscal year; or

3 “(B) in the case of any other covered unit,
4 an amount equal to 65 percent of the rental
5 charges collected at the covered unit in a fiscal
6 year.

7 “(3) AVAILABILITY.—Subject to paragraphs
8 (4), (5), and (6), any amounts deposited in the Ac-
9 count under paragraph (2) shall remain available for
10 expenditure, without further appropriation, until ex-
11 pended.

12 “(4) LOCAL DISTRIBUTION OF AMOUNTS IN
13 THE ACCOUNT.—

14 “(A) IN GENERAL.—Except as provided in
15 subparagraph (B), 100 percent of the amounts
16 deposited in the Account from a specific covered
17 unit shall remain available for expenditure at
18 the covered unit at which the rental charges
19 were collected.

20 “(B) REDUCTION.—

21 “(i) IN GENERAL.—Subject to clause
22 (ii), the Secretary may reduce the percent-
23 age of amounts available to a covered unit
24 under subparagraph (A) if the Secretary
25 determines that the rental charges col-

1 lected at the covered unit exceed the rea-
2 sonable needs of the covered unit for that
3 fiscal year for authorized expenditures de-
4 scribed in paragraph (5)(A).

5 “(ii) LIMITATION.—The Secretary
6 may not reduce the percentage of amounts
7 available under clause (i)—

8 “(I) in the case of a covered unit
9 described in paragraph (2)(A), to less
10 than 35 percent of the amount of
11 rental charges deposited in the Ac-
12 count from the covered unit in a fiscal
13 year; or

14 “(II) in the case of any other
15 covered unit, to less than 50 percent
16 of the amount of rental charges de-
17 posited in the Account from the cov-
18 ered unit in a fiscal year.

19 “(C) TRANSFER TO OTHER COVERED
20 UNITS AND USE FOR NON-SKI AREA PERMITS.—

21 “(i) DISTRIBUTION.—If the Secretary
22 determines that the percentage of amounts
23 otherwise available to a covered unit under
24 subparagraph (A) should be reduced under
25 subparagraph (B), the Secretary may

1 transfer to other covered units, for alloca-
2 tion in accordance with clause (ii), the per-
3 centage of the amounts withheld from the
4 covered unit under subparagraph (B), to
5 be expended by the other covered units in
6 accordance with paragraph (5).

7 “(ii) CRITERIA.—In determining the
8 allocation of amounts to be transferred
9 under clause (i) among other covered
10 units, the Secretary shall consider—

11 “(I) the number of proposals for
12 ski area improvements in the other
13 covered units;

14 “(II) any backlog in ski area per-
15 mit administration or the processing
16 of ski area proposals in the other cov-
17 ered units; and

18 “(III) any need for services,
19 training, staffing, or the streamlining
20 of programs in the other covered units
21 or the Region in which the covered
22 units are located that would improve
23 the administration of the Forest Serv-
24 ice Ski Area Program.

25 “(5) AUTHORIZED EXPENDITURES.—

1 “(A) IN GENERAL.—Amounts distributed
2 from the Account to a covered unit under this
3 subsection may be used for—

4 “(i) ski area special use permit ad-
5 ministration and processing of proposals
6 for ski area improvement projects in the
7 covered unit, including staffing and con-
8 tracting for such administration or pro-
9 cessing or related services in the covered
10 unit or the applicable Region;

11 “(ii) training programs on processing
12 ski area applications, administering ski
13 area permits, or ski area process stream-
14 lining in the covered unit or the Region in
15 which the covered unit is located;

16 “(iii) interpretation activities, visitor
17 information, visitor services, and signage in
18 the covered unit to enhance—

19 “(I) the ski area visitor experi-
20 ence on National Forest System land;
21 and

22 “(II) avalanche information and
23 education activities carried out by the
24 Forest Service; and

1 “(iv) the costs of leasing administra-
2 tive sites under section 8623 of the Agri-
3 culture Improvement Act of 2018 (16
4 U.S.C. 580d note; Public Law 115–334)
5 for ski area-related purposes.

6 “(B) OTHER USES.—

7 “(i) AUTHORIZED USES.—Subject to
8 clause (ii), if any remaining amounts are
9 available in the Account after all ski area
10 permit-related expenditures have been
11 made under subparagraph (A), including
12 amounts transferred to other covered units
13 under paragraph (4)(C), the Secretary may
14 use any remaining amounts for—

15 “(I) the costs of administering
16 non-ski area Forest Service recreation
17 special use permits; and

18 “(II) the costs of leasing admin-
19 istrative sites under section 8623 of
20 the Agriculture Improvement Act of
21 2018 (16 U.S.C. 580d note; Public
22 Law 115–334) for purposes not re-
23 lated to a ski area.

24 “(ii) REQUIREMENT.—Before making
25 amounts available from the Account for a

1 use authorized under clause (i), the Sec-
2 retary shall make a determination that all
3 ski area-related permit administration,
4 processing, and interpretation needs have
5 been met in all covered units and Regions.

6 “(C) LIMITATION.—Amounts in the Ac-
7 count may not be used for—

8 “(i) the conduct of wildfire suppres-
9 sion or preparedness activities;

10 “(ii) the conduct of biological moni-
11 toring on National Forest System land
12 under the Endangered Species Act of 1973
13 (16 U.S.C. 1531 et seq.) for listed species
14 or candidate species, except as required by
15 law for environmental review of ski area
16 projects; or

17 “(iii) the acquisition of land for inclu-
18 sion in the National Forest System.

19 “(6) SAVINGS PROVISIONS.—

20 “(A) IN GENERAL.—Nothing in this sub-
21 section affects the applicability of section 7 of
22 the Act of April 24, 1950 (commonly known as
23 the ‘Granger-Thye Act’) (16 U.S.C. 580d), to
24 ski areas on National Forest System land.

1 “(B) SUPPLEMENTAL FUNDING.—Rental
2 charges retained and expended under this sub-
3 section shall supplement (and not supplant) ap-
4 propriated funding for the operation and main-
5 tenance of each covered unit.”.

6 (b) EFFECTIVE DATE.—This section (including the
7 amendments made by this section) shall take effect on the
8 date that is 60 days after the date of enactment of this
9 Act.

10 (c) IMPLEMENTATION.—The Secretary of Agriculture
11 shall not be required to issue regulations or policy guid-
12 ance to implement this section (including the amendments
13 made by this section).

○

116TH CONGRESS
1ST SESSION

S. 1967

To promote innovative approaches to outdoor recreation on Federal land and to increase opportunities for collaboration with non-Federal partners, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 25, 2019

Mr. WYDEN (for himself and Ms. ERNST) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

A BILL

To promote innovative approaches to outdoor recreation on Federal land and to increase opportunities for collaboration with non-Federal partners, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Recreation Not Red Tape Act”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

- Sec. 1. Short title; table of contents.
- Sec. 2. Definitions.
- Sec. 3. Sense of Congress regarding outdoor recreation.

TITLE I—MODERNIZING RECREATION PERMITTING

- Sec. 101. Definitions.
- Sec. 102. Special recreation permit and fee.
- Sec. 103. Permitting process improvements.
- Sec. 104. Permit flexibility.
- Sec. 105. Permit administration.
- Sec. 106. Permits for multijurisdictional trips.
- Sec. 107. Forest Service permit use reviews.
- Sec. 108. Liability.
- Sec. 109. Cost recovery reform.
- Sec. 110. Extension of special recreation permits.
- Sec. 111. Availability of Federal and State recreation passes.
- Sec. 112. Online purchases of National Parks and Federal Recreational Lands Pass.

TITLE II—ACCESSING THE OUTDOORS

- Sec. 201. Access for servicemembers and veterans.

TITLE III—MAKING RECREATION A PRIORITY

- Sec. 301. Extension of seasonal recreation opportunities.
- Sec. 302. Recreation performance metrics.
- Sec. 303. Recreation mission.
- Sec. 304. National Recreation Area System.

TITLE IV—MAINTENANCE OF PUBLIC LAND

Subtitle A—Volunteers

- Sec. 401. Private-sector volunteer enhancement program.

Subtitle B—Priority Trail Maintenance

- Sec. 411. Interagency trail management.

1 **SEC. 2. DEFINITIONS.**

2 In this Act:

3 (1) FEDERAL LAND MANAGEMENT AGENCY.—

4 The term “Federal land management agency” has
 5 the meaning given the term in section 802 of the
 6 Federal Lands Recreation Enhancement Act (16
 7 U.S.C. 6801).

8 (2) FEDERAL RECREATIONAL LANDS AND
 9 WATERS.—The term “Federal recreational lands and
 10 waters” has the meaning given the term in section

1 802 of the Federal Lands Recreation Enhancement
2 Act (16 U.S.C. 6801).

3 (3) SECRETARIES.—Except as otherwise pro-
4 vided in this Act, the term “Secretaries” means—

5 (A) the Secretary of the Interior; and

6 (B) the Secretary of Agriculture.

7 **SEC. 3. SENSE OF CONGRESS REGARDING OUTDOOR**
8 **RECREATION.**

9 It is the sense of Congress that—

10 (1) outdoor recreation and the outdoor industry
11 that outdoor recreation supports are vital to the
12 United States;

13 (2) access to outdoor recreation on Federal rec-
14 reational lands and waters is important to the health
15 and wellness of all people of the United States, espe-
16 cially young people;

17 (3) in addition to the overall economic benefit
18 of outdoor recreation, the economic benefits of out-
19 door recreation on Federal recreational lands and
20 waters creates significant economic and employment
21 benefits to rural economies;

22 (4) Congress supports the creation of outdoor
23 recreation sector leadership positions within State
24 governments, as well as coordination with recreation
25 and tourism organizations within the State to guide

1 the growth of this sector, as evidenced by recent ex-
2 amples in the States of Colorado, Utah, and Wash-
3 ington;

4 (5) State and local recreation and tourism of-
5 fices play a pivotal role in—

6 (A) coordinating State outdoor recreation
7 policies, management, and promotion among
8 Federal, State, and local agencies and entities;

9 (B) disseminating information, increasing
10 awareness, and growing demand for outdoor
11 recreation experiences among visitors across the
12 United States and throughout the world;

13 (C) improving funding for, access to, and
14 participation in outdoor recreation; and

15 (D) promoting economic development in
16 the State by coordinating with stakeholders, im-
17 proving recreational opportunities, and recruit-
18 ing outdoor recreation businesses;

19 (6) it is vital—

20 (A) to support the coordination and col-
21 laboration of the Federal and State land and
22 water management agencies in the delivery of
23 visitor services and management of outdoor
24 recreation for the United States; and

1 (B) provide adequate staffing within Fed-
2 eral land management agencies to facilitate sus-
3 tainable and accessible outdoor recreation op-
4 portunities; and

5 (7) volunteers and volunteer partnerships play
6 an important role in maintaining public land.

7 **TITLE I—MODERNIZING**
8 **RECREATION PERMITTING**

9 **SEC. 101. DEFINITIONS.**

10 In this title:

11 (1) ASSOCIATED AGENCY.—The term “associ-
12 ated agency” means the Federal land management
13 agency, other than the lead agency, that manages a
14 public land unit that is the subject of a single joint
15 special recreation permit under section 106.

16 (2) LEAD AGENCY.—With respect to a single
17 joint special recreation permit application submitted
18 under section 106(a), the term “lead agency” means
19 the Federal land management agency designated to
20 administer the single joint special recreation permit
21 under section 106(a)(2).

22 (3) LONG-TERM SPECIAL RECREATION PER-
23 MIT.—The term “long-term special recreation per-
24 mit” means—

1 (A) for a public land unit managed by the
2 Forest Service, a priority use permit; and

3 (B) for a public land unit managed by the
4 Bureau of Land Management, a multiyear spe-
5 cial recreation permit.

6 (4) MULTIJURISDICTIONAL TRIP.—The term
7 “multijurisdictional trip” means a trip that—

8 (A) uses two or more public land units;
9 and

10 (B) is under the jurisdiction of two or
11 more Federal land management agencies.

12 (5) PUBLIC LAND UNIT.—The term “public
13 land unit” means—

14 (A) a unit of the National Forest System;

15 (B) a unit of the National Park System;

16 (C) a unit of the National Wildlife Refuge
17 System;

18 (D) a district of the Bureau of Land Man-
19 agement; and

20 (E) a project of the Bureau of Reclama-
21 tion.

22 (6) RECREATION SERVICE PROVIDER.—The
23 term “recreation service provider” has the meaning
24 given the term in section 802 of the Federal Lands
25 Recreation Enhancement Act (16 U.S.C. 6801).

1 (7) SECRETARY CONCERNED.—The term “Sec-
2 retary concerned” means—

3 (A) the Secretary of Agriculture, with re-
4 spect to a public land unit described in para-
5 graph (5)(A); and

6 (B) the Secretary of the Interior, with re-
7 spect to a public land unit described in sub-
8 paragraph (B), (C), (D), or (E) of paragraph
9 (5).

10 (8) SPECIAL RECREATION PERMIT.—The term
11 “special recreation permit” has the meaning given
12 the term in section 802 of the Federal Lands Recre-
13 ation Enhancement Act (16 U.S.C. 6801).

14 **SEC. 102. SPECIAL RECREATION PERMIT AND FEE.**

15 (a) DEFINITIONS.—Section 802 of the Federal Lands
16 Recreation Enhancement Act (16 U.S.C. 6801) is amend-
17 ed—

18 (1) in paragraph (1), by striking “section 3(f)”
19 and inserting “803(f)”;

20 (2) in paragraph (2), by striking “section 3(g)”
21 and inserting “section 803(g)”;

22 (3) in paragraph (6), by striking “section 5”
23 and inserting “section 805”;

24 (4) in paragraph (9), by striking “section 5”
25 and inserting “section 805”;

1 (5) in paragraph (12), by striking “section 7”
2 and inserting “section 807”;

3 (6) in paragraph (13), by striking “section
4 3(h)” and inserting “section 803(h)”;

5 (7) by redesignating paragraphs (1), (3), (4),
6 (5), (6), (7), (8), (9), (10), (11), and (13) as para-
7 graphs (15), (1), (3), (4), (5), (6), (7), (8), (11),
8 (10), and (14), respectively, and moving the para-
9 graphs so as to appear in numerical order;

10 (8) by inserting after paragraph (8) (as so re-
11 designated) the following:

12 “(9) RECREATION SERVICE PROVIDER.—The
13 term ‘recreation service provider’ means an indi-
14 vidual or entity that—

15 “(A) provides outfitting, guiding, or other
16 recreation services; or

17 “(B) conducts recreational or competitive
18 events, including incidental sales.”; and

19 (9) by inserting after paragraph (12) the fol-
20 lowing:

21 “(13) SPECIAL RECREATION PERMIT.—The
22 term ‘special recreation permit’ means—

23 “(A) with respect to the Forest Service, an
24 outfitting and guiding special use permit;

1 “(B) with respect to the National Park
2 Service, a commercial use authorization for out-
3 fitting and guiding issued under—

4 “(i) this Act; or

5 “(ii) section 101925 of title 54,
6 United States Code;

7 “(C) with respect to the United States
8 Fish and Wildlife Service, a special use permit
9 for recreational, sport fishing, or hunting outfit-
10 ting and guiding;

11 “(D) with respect to the Bureau of Land
12 Management, a special recreation permit for
13 commercial outfitting and guiding; and

14 “(E) with respect to the Bureau of Rec-
15 lamation, a use authorization for guiding, out-
16 fitting, or other recreational services.”.

17 (b) SPECIAL RECREATION PERMIT AND FEE.—Sec-
18 tion 803 of the Federal Lands Recreation Enhancement
19 Act (16 U.S.C. 6802) is amended—

20 (1) in subsection (b)(5), by striking “section
21 4(d)” and inserting “section 804(d)”; and

22 (2) by striking subsection (h) and inserting the
23 following:

24 “(h) SPECIAL RECREATION PERMIT AND FEE.—

1 “(1) SPECIAL RECREATION PERMIT.—The Sec-
2 retary may issue a special recreation permit for spe-
3 cialized individual or group uses of Federal rec-
4 reational lands and waters, including—

5 “(A) outfitting, guiding, or other recre-
6 ation services;

7 “(B) recreation or competitive events,
8 which may include incidental sales;

9 “(C) for the use of—

10 “(i) a special area; or

11 “(ii) an area in which use is allocated;

12 “(D) motorized recreational vehicle use;
13 and

14 “(E) a group activity or event.

15 “(2) SPECIAL RECREATION PERMIT FEE.—

16 “(A) IN GENERAL.—The Secretary may
17 charge a special recreation permit fee in con-
18 nection with the issuance of a special recreation
19 permit under paragraph (1).

20 “(B) FEES FOR CERTAIN LANDS.—

21 “(i) IN GENERAL.—Subject to clauses
22 (ii) and (iii), a special recreation permit fee
23 under subparagraph (A) for use of Federal
24 recreational lands and waters managed by
25 the Forest Service, the Bureau of Land

1 Management, the Bureau of Reclamation,
2 or the United States Fish and Wildlife
3 Service shall not exceed the difference be-
4 tween—

5 “(I) the sum of—

6 “(aa) 3 percent of the an-
7 nual gross revenue of the recre-
8 ation service provider for all ac-
9 tivities authorized by the special
10 recreation permit; and

11 “(bb) any applicable revenue
12 addition; and

13 “(II) any applicable revenue ex-
14 clusion.

15 “(ii) EXCLUSION OF CERTAIN REVE-
16 NUES AND PAYMENTS.—In calculating the
17 amount of a fee for a special recreation
18 permit under clause (i), the Secretary shall
19 exclude—

20 “(I) revenue from goods, services,
21 souvenirs, merchandise, gear, food,
22 and activities provided or sold by a
23 special recreation permit holder in a
24 location other than the Federal rec-
25 reational lands and waters covered by

1 the permit, including transportation
2 costs, lodging, and any other service
3 before or after a trip; and

4 “(II) revenue from any rec-
5 reational services provided by a spe-
6 cial recreation permit holder for ac-
7 tivities on Federal recreational lands
8 and waters for which a separate per-
9 mit is issued.

10 “(iii) ALTERNATIVE PER-PERSON
11 FEE.—

12 “(I) IN GENERAL.—For Federal
13 recreational lands and waters man-
14 aged by the Forest Service, the Bu-
15 reau of Land Management, the Bu-
16 reau of Reclamation, or the United
17 States Fish and Wildlife Service, the
18 Secretary may charge a per-person fee
19 in connection with the issuance of a
20 special recreation permit under para-
21 graph (1).

22 “(II) AMOUNT OF FEE.—The
23 total amount charged by the Secretary
24 in connection with the issuance of a
25 special recreation permit under para-

1 graph (1) using a per-person fee
2 under subclause (I) shall be com-
3 parable to the amount the Secretary
4 may charge for a special recreation
5 permit fee under subparagraph (A)
6 and clauses (i) and (ii).

7 “(iv) EFFECT.—Nothing in this sub-
8 paragraph affects any fee for a commercial
9 use authorization for use of Federal rec-
10 reational lands and waters managed by the
11 National Park Service.

12 “(C) DISCLOSURE OF FEES.—A special
13 recreation permit holder may inform customers
14 of any fee charged by the Secretary under this
15 section.

16 “(3) SUBSTANTIALLY SIMILAR ACTIVITIES.—
17 The Secretary shall establish a permit administra-
18 tion protocol that authorizes, to the maximum extent
19 practicable, a permittee issued a special recreation
20 permit for a public land unit (as defined in section
21 101 of the Recreation Not Red Tape Act) under
22 paragraph (1) to engage in a recreational activity
23 that is substantially similar to the specific activity
24 authorized under the special recreation permit, if the
25 substantially similar recreational activity—

1 “(A) is comparable in type, nature, scope,
2 and ecological setting to the specific activity au-
3 thorized under the special recreation permit;

4 “(B) does not result in a greater impact on
5 natural and cultural resources than the author-
6 ized activity; and

7 “(C) does not adversely affect any other
8 permittee issued a special recreation permit for
9 a public land unit under that paragraph.

10 “(4) REPORT.—

11 “(A) IN GENERAL.—The Secretary shall
12 make available to holders of special recreation
13 permits under paragraph (1) and the public an
14 annual report describing the use of fees col-
15 lected by the Secretary under paragraph (2).

16 “(B) REQUIREMENTS.—The report under
17 subparagraph (A) shall include a description of
18 how the fees are used in each public land unit
19 (as defined in section 101 of the Recreation
20 Not Red Tape Act) administered by the Sec-
21 retary, including an identification of the
22 amounts used for specific activities within the
23 public land unit.”.

1 (c) USE OF SPECIAL RECREATION PERMIT REV-
2 ENUE.—Section 808 of the Federal Lands Recreation En-
3 hancement Act (16 U.S.C. 6807) is amended—

4 (1) in subsection (a)(3)(F), by striking “section
5 6(a)” and inserting “section 806(a)”;

6 (2) in subsection (d), by striking “section 5”
7 each place it appears and inserting “section 805”;

8 (3) by redesignating subsections (b) through (d)
9 as subsections (c) through (e), respectively; and

10 (4) by inserting after subsection (a) the fol-
11 lowing:

12 “(b) USE OF SPECIAL RECREATION PERMIT FEE
13 REVENUE.—Revenue from a special recreation permit fee
14 may be used for—

15 “(1) the purposes described in subsection (a);
16 and

17 “(2) expenses—

18 “(A) associated with processing applica-
19 tions for special recreation permits; and

20 “(B) incurred in the improvement of the
21 operation of the special recreation permit sys-
22 tem.”.

23 (d) PERMANENT AUTHORIZATION.—Section 810 of
24 the Federal Lands Recreation Enhancement Act (16
25 U.S.C. 6809) is amended—

1 (1) by striking “The authority” and inserting
2 the following:

3 “(a) IN GENERAL.—Except as provided in subsection
4 (b), the authority”; and

5 (2) by adding at the end the following:

6 “(b) APPLICABILITY.—Subsection (a) shall not apply
7 to—

8 “(1) section 802;

9 “(2) subsection (d)(2) or (h) of section 803; or

10 “(3) subsection (a) or (b) of section 808.”.

11 **SEC. 103. PERMITTING PROCESS IMPROVEMENTS.**

12 (a) IN GENERAL.—To simplify the process of the
13 issuance and renewal of special recreation permits and re-
14 duce the cost of administering special recreation permits,
15 the Secretary concerned shall—

16 (1) not later than 180 days after the date of
17 enactment of this Act—

18 (A) evaluate the special recreation permit-
19 ting process; and

20 (B) identify opportunities—

21 (i) to eliminate duplicative processes;

22 (ii) to reduce costs; and

23 (iii) to decrease processing times; and

24 (2) not later than 180 days after the date on
25 which the Secretary concerned completes the evalua-

1 tion and identification processes under paragraph
2 (1), revise, as necessary, relevant agency regulations
3 and policy statements to implement the improve-
4 ments identified under paragraph (1)(B).

5 (b) ENVIRONMENTAL REVIEWS.—

6 (1) IN GENERAL.—In issuing or renewing a
7 special recreation permit, the Secretary concerned
8 may, in compliance with the National Environmental
9 Policy Act of 1969 (42 U.S.C. 4321 et seq.)—

10 (A) use a programmatic environmental re-
11 view; and

12 (B) adopt or incorporate material from a
13 previous environmental impact statement or en-
14 vironmental assessment.

15 (2) RULEMAKING.—Not later than 1 year after
16 the date of enactment of this Act, the Secretary con-
17 cerned shall promulgate such regulations as are nec-
18 essary to carry out this subsection.

19 (c) CATEGORICAL EXCLUSIONS.—

20 (1) EVALUATION.—Not later than 1 year after
21 the date of enactment of this Act, the Secretary con-
22 cerned shall evaluate whether one or more additional
23 categorical exclusions developed in compliance with
24 the National Environmental Policy Act of 1969 (42
25 U.S.C. 4321 et seq.) would reduce processing times

1 or costs for the issuance or renewal of special recre-
2 ation permits without significantly affecting the
3 quality of the human environment.

4 (2) ESTABLISHMENT OF CATEGORICAL EXCLU-
5 SIONS.—If the Secretary concerned determines
6 under paragraph (1) that one or more additional
7 categorical exclusions would reduce processing times
8 or costs for the issuance or renewal of special recre-
9 ation permits without significantly affecting the
10 quality of the human environment, the Secretary
11 concerned shall—

12 (A) establish those categorical exclusions
13 in compliance with the National Environmental
14 Policy Act of 1969 (42 U.S.C. 4321 et seq.);
15 and

16 (B) revise relevant regulations and policy
17 statements of applicable Federal agencies to in-
18 corporate those categorical exclusions.

19 (3) ADMINISTRATION.—

20 (A) IN GENERAL.—In administering a cat-
21 egorical exclusion established under paragraph
22 (2), the Secretary concerned shall comply with
23 the National Environmental Policy Act of 1969
24 (42 U.S.C. 4321 et seq.) (including regulations
25 promulgated under that Act).

1 (B) EXTRAORDINARY CIRCUMSTANCES.—

2 In determining whether to use a categorical ex-
3 clusion established under paragraph (2), the
4 Secretary concerned shall apply the extraor-
5 dinary circumstances procedures described in—

6 (i) section 1508.4 of title 40, Code of
7 Federal Regulations (or a successor regula-
8 tion); and

9 (ii) as applicable—

10 (I) section 220.6 of title 36, Code
11 of Federal Regulations (or a successor
12 regulation); and

13 (II) section 46.215 of title 43,
14 Code of Federal Regulations (or a
15 successor regulation).

16 (d) NEEDS ASSESSMENTS.—Except as required
17 under subsection (c) or (d) of section 4 of the Wilderness
18 Act (16 U.S.C. 1133), the Secretary concerned shall not
19 conduct a needs assessment as a condition of issuing a
20 special recreation permit under this Act.

21 (e) ONLINE APPLICATIONS.—The Secretary con-
22 cerned shall make applications for special recreation per-
23 mits available to be completed and submitted online unless
24 the Secretary concerned determines that making the appli-
25 cations available for completion and submission online

1 would not improve the efficiency or accessibility of the per-
2 mitting process.

3 **SEC. 104. PERMIT FLEXIBILITY.**

4 (a) VOLUNTARY RETURN OF SURPLUS SERVICE
5 DAYS.—The Secretary concerned shall establish a pro-
6 gram to allow a permittee issued a special recreation per-
7 mit for a public land unit to voluntarily and temporarily
8 return to the Secretary concerned one or more service
9 days, to be made available to any other existing or poten-
10 tial permittee.

11 (b) FOREST SERVICE AND BUREAU OF LAND MAN-
12 AGEMENT TEMPORARY SPECIAL RECREATION PER-
13 MITS.—

14 (1) IN GENERAL.—Not later than 180 days
15 after the date of enactment of this Act, the Sec-
16 retary concerned shall establish and implement a
17 program to authorize the issuance of temporary spe-
18 cial recreation permits for new or additional rec-
19 reational uses of Federal recreational lands and
20 waters managed by the Forest Service and the Bu-
21 reau of Land Management.

22 (2) TERM OF TEMPORARY PERMITS.—A tem-
23 porary special recreation permit issued under para-
24 graph (1) shall be issued for a period of not more
25 than 2 years.

1 (3) CONVERSION TO LONG-TERM PERMIT.—If
2 the Secretary concerned determines that a permittee
3 under paragraph (1) has completed 2 years of satis-
4 factory operation under the permit proposed to be
5 converted, the Secretary may provide for the conver-
6 sion of a temporary special recreation permit issued
7 under paragraph (1) to a long-term special recre-
8 ation permit.

9 (4) EFFECT.—Nothing in this subsection alters
10 or affects the authority of the Secretary to issue a
11 special recreation permit under subsection (h)(1) of
12 section 803 of the Federal Lands Recreation En-
13 hancement Act (16 U.S.C. 6802).

14 **SEC. 105. PERMIT ADMINISTRATION.**

15 (a) PERMIT AVAILABILITY.—

16 (1) NOTIFICATION OF PERMIT AVAILABILITY.—

17 (A) IN GENERAL.—Except as provided in
18 subparagraphs (B) and (C), if the Secretary
19 concerned has determined that the Department
20 of Agriculture or the Department of the Inte-
21 rior, as applicable, is able to issue new special
22 recreation permits to recreation service pro-
23 viders seeking to use a public land unit, the
24 Secretary concerned shall publish that informa-

1 tion on the website of the agency that admin-
2 isters the relevant public land unit.

3 (B) EXCEPTION FOR CERTAIN PERMITS.—
4 With respect to a public land unit managed by
5 the Forest Service or the Bureau of Land Man-
6 agement, subparagraph (A) shall apply only to
7 a long-term special recreation permit for the
8 public land unit.

9 (C) EXCEPTION FOR RENEWALS AND
10 REISSUANCES.—Subparagraph (A) shall not
11 apply to—

12 (i) a renewal or reissuance of an exist-
13 ing special recreation permit; or

14 (ii) a new special recreation permit
15 issued to the purchaser of a recreation
16 service provider that is the holder of an ex-
17 isting special recreation permit.

18 (D) EFFECT.—Nothing in this paragraph
19 creates a prerequisite to the issuance of a spe-
20 cial recreation permit or otherwise limits the
21 authority of the Secretary concerned—

22 (i) to issue a new special recreation
23 permit; or

24 (ii) to add a new or additional use to
25 an existing special recreation permit.

1 (2) UPDATES.—The Secretary concerned shall
2 ensure that information published on the website
3 under this subsection is consistently updated to pro-
4 vide current and correct information to the public.

5 (3) ELECTRONIC MAIL NOTIFICATION.—The
6 Secretary concerned shall—

7 (A) establish a system by which potential
8 special recreation permit applicants may sub-
9 scribe to receive notification of the availability
10 of special recreation permits by electronic mail;
11 and

12 (B) direct employees of the Department of
13 Agriculture or the Department of the Interior,
14 as applicable, to use that system to notify the
15 public of the availability of special recreation
16 permits.

17 (b) PERMIT APPLICATION ACKNOWLEDGMENT.—Not
18 later than 60 days after the date on which the Secretary
19 concerned receives an application for a special recreation
20 permit for a public land unit, the Secretary concerned
21 shall—

22 (1) provide to the applicant notice acknowl-
23 edging receipt of the application; and

24 (2)(A) issue a final decision with respect to the
25 application; or

1 (B) provide to the applicant notice of a pro-
2 jected date for a final decision on the application.

3 **SEC. 106. PERMITS FOR MULTIJURISDICTIONAL TRIPS.**

4 (a) SINGLE JOINT SPECIAL RECREATION PER-
5 MITS.—

6 (1) IN GENERAL.—In the case of a multijuris-
7 dictional trip, the Federal land management agen-
8 cies with jurisdiction over the multijurisdictional trip
9 may offer to the applicant a single joint special
10 recreation permit that authorizes the use of each
11 public land unit under the jurisdiction of those Fed-
12 eral land management agencies.

13 (2) LEAD AGENCY.—In offering a single joint
14 special recreation permit under paragraph (1), the
15 applicable Federal land management agencies shall
16 designate a lead agency for administering the single
17 joint special recreation permit based on the following
18 considerations:

19 (A) The length of the multijurisdictional
20 trip and the relative portions of the multijuris-
21 dictional trip on each public land unit.

22 (B) The congressional or administrative
23 designations that apply to the areas to be used
24 during the multijurisdictional trip and the de-

1 agree to which those designations impose limita-
2 tions on recreational use.

3 (C) The relative ability of the Federal land
4 management agencies with jurisdiction over any
5 public land unit affected by the multijuris-
6 dictional trip to process the single joint special
7 recreation permit application in a timely man-
8 ner.

9 (D) Other relevant administrative consider-
10 ations.

11 (3) APPLICATION.—An applicant desiring to be
12 offered a single joint special recreation permit under
13 paragraph (1) shall submit to the lead agency an ap-
14 plication, as required by the lead agency.

15 (4) OPTION TO APPLY FOR SEPARATE PER-
16 MITS.—An applicant for a special recreation permit
17 for a multijurisdictional trip may apply to each ap-
18 plicable Federal land management agency for a sep-
19 arate permit for the portion of the multijuris-
20 dictional trip on the public land unit managed by
21 each applicable Federal land management agency.

22 (b) REQUIREMENTS.—In issuing a single joint special
23 recreation permit under subsection (a), the lead agency
24 shall—

1 (1) coordinate with each associated agency, con-
2 sistent with the authority of the Secretary concerned
3 under section 330 of the Department of the Interior
4 and Related Agencies Appropriations Act, 2001 (43
5 U.S.C. 1703), to develop and issue 1 joint permit
6 that covers the entirety of the multijurisdictional
7 trip;

8 (2) in processing the joint special recreation
9 permit application, incorporate the findings, inter-
10 ests, and needs of each associated agency;

11 (3) in issuing the joint special recreation per-
12 mit, clearly identify the agencies that have the au-
13 thority to enforce the terms, stipulations, conditions,
14 and agreements of the joint special recreation per-
15 mit, as determined under subsection (d); and

16 (4) complete the permitting process within a
17 reasonable timeframe.

18 (c) COST RECOVERY.—Coordination with each asso-
19 ciated agency under subsection (b) shall not be subject to
20 cost recovery.

21 (d) ENFORCEMENT AUTHORITY.—

22 (1) DELEGATION OF AUTHORITY TO LEAD
23 AGENCY.—In administering a single joint special
24 recreation permit under subsection (a), each associ-

1 ated agency shall delegate to the lead agency the au-
2 thority—

3 (A) to enforce the terms, stipulations, con-
4 ditions, and agreements of the joint special
5 recreation permit, as may be required by each
6 associated agency; and

7 (B) to suspend, terminate, or revoke the
8 joint special recreation permit for—

9 (i) noncompliance with Federal, State,
10 or local laws (including regulations);

11 (ii) noncompliance with the terms of
12 the joint special recreation permit; or

13 (iii) failure of the holder of the joint
14 special recreation permit to exercise the
15 privileges granted by the joint special
16 recreation permit.

17 (2) RETENTION OF AUTHORITY BY THE ASSOCI-
18 ATED AGENCY.—The associated agency shall retain
19 the authority to enforce the terms, stipulations, con-
20 ditions, and agreements in the joint special reere-
21 ation permit that apply specifically to the use occur-
22 ring on the public land unit managed by the associ-
23 ated agency.

24 (e) WITHDRAWAL.—

1 (1) IN GENERAL.—The lead agency or an asso-
2 ciated agency may withdraw from a joint special
3 recreation permit at any time.

4 (2) ISSUANCE OF SEPARATE PERMITS.—

5 (A) IN GENERAL.—In the case of a with-
6 drawal by one or more agencies under para-
7 graph (1), if the holder of the joint special
8 recreation permit is in compliance with the re-
9 quirements of the joint special recreation per-
10 mit, the lead agency and each associated agency
11 shall issue to the holder of the joint special
12 recreation permit a new, separate special recre-
13 ation permit for any use occurring on the public
14 land unit managed by the agency.

15 (B) REQUIREMENTS.—A special recreation
16 permit issued under subparagraph (A) shall
17 contain the same or substantially similar terms,
18 conditions, and operating stipulations as the
19 joint special recreation permit from which an
20 agency has withdrawn under paragraph (1).

21 (C) NO NEW APPLICATION.—The holder of
22 a joint special recreation permit from which an
23 agency has withdrawn under paragraph (1)
24 shall not be required to submit a new applica-
25 tion for a separate special recreation permit.

1 **SEC. 107. FOREST SERVICE PERMIT USE REVIEWS.**

2 (a) IN GENERAL.—If the Secretary of Agriculture
3 (referred to in this section as the “Secretary”) conducts
4 a special recreation permit use review in renewing a spe-
5 cial recreation permit or adjusting allocations of use in
6 a special recreation permit, the Secretary shall—

7 (1) take into consideration the performance of
8 the special recreation permit holder during the re-
9 viewed period; and

10 (2) if the special recreation permit holder re-
11 ceives a satisfactory performance review, allocate to
12 the special recreation permit holder the highest level
13 of actual annual use during the period under review
14 plus 25 percent of that use, not to exceed the level
15 allocated to the special recreation permit holder on
16 the date on which the special recreation permit was
17 issued.

18 (b) ADDITIONAL CAPACITY.—

19 (1) IN GENERAL.—If additional use capacity is
20 available, the Secretary may, at any time, assign the
21 remaining use to one or more qualified recreation
22 service providers.

23 (2) ASSIGNMENT NOT SUBJECT TO CAP ON
24 USE.—Notwithstanding subsection (a), in assigning
25 additional use capacity under paragraph (1), the
26 Secretary may assign additional use capacity to an

1 existing special recreation permit holder even if that
2 assignment would exceed the amount of use allo-
3 cated to the special recreation permit holder on the
4 date on which the special recreation permit was
5 issued.

6 (c) WAIVER.—The Secretary may waive a special
7 recreation permit use review for any period during which
8 use of the assigned capacity for the special recreation per-
9 mit has been prevented by a circumstance beyond the con-
10 trol of the special recreation permit holder, such as—

- 11 (1) unfavorable weather;
- 12 (2) fire;
- 13 (3) natural disaster;
- 14 (4) wildlife displacement;
- 15 (5) business interruption;
- 16 (6) insufficient availability of hunting and fish-
17 ing licenses; or
- 18 (7) significant seasonal variability or off-peak
19 periods within the allocated period of use.

20 (d) APPROVAL OF NON-USE.—

21 (1) IN GENERAL.—In any circumstance for
22 which the holder of a special recreation permit would
23 qualify for a waiver under subsection (c), on request
24 of the holder of the special recreation permit, the
25 Secretary may approve non-use by the holder of the

1 special recreation permit without reducing the num-
2 ber of service days assigned to the special recreation
3 permit.

4 (2) REALLOCATION OF USE.—The Secretary
5 may assign any period of non-use approved under
6 paragraph (1) to another qualified recreation service
7 provider.

8 **SEC. 108. LIABILITY.**

9 (a) IN GENERAL.—To the extent authorized by appli-
10 cable State law, the Secretary concerned shall authorize
11 a permittee issued a special recreation permit for a public
12 land unit under section 803(h) of the Federal Lands
13 Recreation Enhancement Act (16 U.S.C. 6802(h)) to re-
14 quire a client of the permittee to sign a form that—

15 (1) releases the permittee and any agents, em-
16 ployees, and other persons affiliated with the per-
17 mittee from liability for ordinary negligence that
18 arises out of or in connection with the authorized ac-
19 tivities of the permittee;

20 (2) requires the client to indemnify and hold
21 harmless the permittee and any agents, employees,
22 and other persons affiliated with the permittee for
23 any injury or damages the permittee may sustain as
24 a result of any claim other than gross negligence
25 that is caused by or arises out of or in connection

1 with the involvement of the client in the authorized
2 activities of the permittee;

3 (3) releases the United States and any agents,
4 employees, and contractors of the United States
5 from liability for ordinary negligence that arises out
6 of or in connection with the authorized activities of
7 the permittee; and

8 (4) requires the client to indemnify and hold
9 harmless the United States and any agents, employ-
10 ees, and contractors of the United States for any in-
11 jury or damages the United States or any agents,
12 employees, and contractors of the United States may
13 sustain as a result of any claim other than gross
14 negligence that is caused by or arises out of or in
15 connection with the involvement of the client in the
16 authorized activities of the permittee.

17 (b) REQUIREMENTS.—A form under subsection (a)—

18 (1) shall not preclude claims of gross negligence
19 against the permittee;

20 (2) shall not eliminate the obligation of the per-
21 mittee to indemnify the United States unless the
22 permittee is a recreation service provider that meets
23 the requirements of subsection (c);

24 (3) shall not affect the ability of the United
25 States to recover as an additional insured under any

1 insurance policy obtained by the permittee in con-
2 nection with the authorized activities of the per-
3 mittee;

4 (4) shall identify the State under the laws of
5 which—

6 (A) the form, including any waiver or re-
7 lease, shall be enforced; and

8 (B) any claim or cause of action, whether
9 in tort or in contract, relating to or arising out
10 of the form shall be governed; and

11 (5) may be subject to review and approval by
12 the Secretary concerned to ensure that the require-
13 ments of this section are met.

14 (c) INDEMNIFICATION BY GOVERNMENT ENTITIES.—
15 The Secretary concerned may not require a recreation
16 service provider to indemnify the United States as a condi-
17 tion for issuing a special recreation permit for a public
18 land unit under section 803(h) of the Federal Lands
19 Recreation Enhancement Act (16 U.S.C. 6802(h)) if—

20 (1) the recreation service provider is prohibited
21 by State or local law from providing indemnification
22 to the United States; and

23 (2) the recreation service provider—

24 (A) carries the minimum amount of liabil-
25 ity insurance coverage required by the issuing

1 agency for the activities conducted under the
2 special recreation permit; or

3 (B) is self-insured for the same amount.

4 **SEC. 109. COST RECOVERY REFORM.**

5 (a) REVISION OF REGULATIONS.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of enactment of this Act, the Secretary of
8 Agriculture shall revise section 251.58 of title 36,
9 Code of Federal Regulations, and the Secretary of
10 the Interior shall revise section 2932.31 of title 43,
11 Code of Federal Regulations, to be consistent with
12 this section.

13 (2) LIMITATION.—In carrying out paragraph
14 (1), the Secretaries shall not include anything in the
15 revised regulations that would limit the authority of
16 the Secretaries to issue or renew special recreation
17 permits.

18 (b) DE MINIMIS EXEMPTION FROM COST RECOV-
19 ERY.—

20 (1) IN GENERAL.—Any regulation promulgated
21 by the Secretary of the Interior or the Secretary of
22 Agriculture to establish fees to recover the costs of
23 processing an application for a special recreation
24 permit or monitoring an authorization under a spe-
25 cial recreation permit shall include an exemption

1 providing that fees may not be recovered for not less
2 than the first 50 hours of work necessary in any 1
3 year to process the application or monitor the au-
4 thorization.

5 (2) MULTIPLE APPLICATIONS.—In situations
6 involving multiple applications for special recreation
7 permits for similar services in the same public land
8 unit or area that, in the aggregate, require more
9 hours to process than are exempt under the regula-
10 tions promulgated under paragraph (1), the Sec-
11 retary concerned shall, regardless of whether the ap-
12 plications are solicited or unsolicited and whether
13 there is competitive interest—

14 (A) determine the share of the aggregate
15 quantity of hours to be allocated to each appli-
16 cation on an equal or prorated basis, as appro-
17 priate; and

18 (B) for each application, apply a separate
19 exemption as specified in the regulations pro-
20 mulgated under paragraph (1) to the share of
21 the aggregate hours allocated to the application.

22 (c) COST REDUCTION.—To the maximum extent
23 practicable, the Secretary concerned processing an appli-
24 cation for a special recreation permit shall use existing

1 studies and analysis to reduce the quantity of work and
2 costs necessary to process the application.

3 **SEC. 110. EXTENSION OF SPECIAL RECREATION PERMITS.**

4 (a) IN GENERAL.—Subject to subsection (b), if the
5 holder of a long-term special recreation permit makes a
6 timely and sufficient request for renewal of the long-term
7 special recreation permit, the expiration of the permit
8 shall be tolled in accordance with the undesignated matter
9 following section 558(c)(2) of title 5, United States Code,
10 until such time as the request for renewal has been finally
11 determined by the Secretary concerned.

12 (b) LIMITATION.—Any tolling under subsection (a)
13 shall be for a period of not more than 5 years.

14 (c) RESPONSIBILITY OF THE SECRETARY CON-
15 CERNED.—Before allowing the expiration of a permit to
16 be tolled under subsection (a), the Secretary concerned,
17 to the maximum extent practicable, shall complete the re-
18 newal process.

19 **SEC. 111. AVAILABILITY OF FEDERAL AND STATE RECRE-**
20 **ATION PASSES.**

21 (a) IN GENERAL.—The Federal Lands Recreation
22 Enhancement Act is amended by inserting after section
23 805 (16 U.S.C. 6804) the following:

1 **“SEC. 805A. AVAILABILITY OF FEDERAL AND STATE RECRE-**
2 **ATION PASSES.**

3 **“(a) ESTABLISHMENT OF PROGRAM.—**

4 **“(1) IN GENERAL.—**To improve the availability
5 of Federal and State outdoor recreation passes, the
6 Secretaries are encouraged to consult with States to
7 coordinate the availability of Federal and State
8 recreation passes to allow a purchaser to buy a Fed-
9 eral recreation pass and a State recreation pass in
10 the same transaction.

11 **“(2) INCLUDED PASSES.—**Passes covered by
12 the program established under paragraph (1) in-
13 clude—

14 **“(A) an America the Beautiful—the Na-**
15 **tional Parks and Federal Recreational Lands**
16 **Pass under section 805; and**

17 **“(B) any pass covering any fees charged**
18 **by participating States and localities for en-**
19 **trance and recreational use of parks and public**
20 **land in the participating States.**

21 **“(b) AGREEMENTS WITH STATES.—**

22 **“(1) IN GENERAL.—**The Secretaries, after con-
23 sultation with the States, may enter into agreements
24 with States to coordinate the availability of passes
25 as described in subsection (a).

1 “(2) REVENUE FROM PASS SALES.—The agree-
2 ments between the Secretaries and the States shall
3 ensure that—

4 “(A) funds from the sale of State passes
5 are transferred to the appropriate State agency;

6 “(B) funds from the sale of Federal passes
7 are transferred to the appropriate Federal
8 agency; and

9 “(C) fund transfers are completed by the
10 end of a fiscal year for all pass sales occurring
11 during the fiscal year.

12 “(3) NOTICE.—In entering into an agreement
13 under paragraph (1), the Secretaries shall publish in
14 the Federal Register a notice describing the agree-
15 ment.”.

16 (b) CLERICAL AMENDMENT.—The table of contents
17 for the Federal Lands Recreation Enhancement Act (16
18 U.S.C. 6801 et seq.) is amended by inserting after the
19 item relating to section 805 the following:

 “Sec. 805A. Availability of Federal and State recreation passes.”.

20 **SEC. 112. ONLINE PURCHASES OF AMERICA THE BEAU-**
21 **TIFUL—THE NATIONAL PARKS AND FEDERAL**
22 **RECREATIONAL LANDS PASS.**

23 (a) IN GENERAL.—Section 805(a)(6) of the Federal
24 Lands Recreation Enhancement Act (16 U.S.C.

1 6804(a)(6)) is amended by striking subparagraph (A) and
2 inserting the following:

3 “(A) IN GENERAL.—The Secretaries shall
4 sell the America the Beautiful—the National
5 Parks and Federal Recreational Lands Pass—

6 “(i) at all Federal recreational lands
7 and waters at which an entrance fee or a
8 standard amenity recreation fee is charged
9 where feasible to do so;

10 “(ii) at such other locations as the
11 Secretaries consider appropriate and fea-
12 sible; and

13 “(iii) through the website of each of
14 the Federal land management agencies and
15 the websites of the relevant units and
16 subunits of those agencies, with—

17 “(I) a prominent link on each
18 website; and

19 “(II) information about where
20 and when passes are needed.”.

21 (b) ENTRANCE PASS AND AMENITY FEES.—The Sec-
22 retaries shall make available for payment online, if appro-
23 priate and feasible, for each public land unit where passes
24 and fees are required—

1 (1) all entrance fees under section 803(e) of the
2 Federal Lands Recreation Enhancement Act (16
3 U.S.C. 6802(e));

4 (2) all standard amenity recreation fees under
5 section 803(f) of that Act (16 U.S.C. 6802(f)); and

6 (3) all expanded amenity recreation fees under
7 section 803(g) of that Act (16 U.S.C. 6802(g)).

8 **TITLE II—ACCESSING THE** 9 **OUTDOORS**

10 **SEC. 201. ACCESS FOR SERVICEMEMBERS AND VETERANS.**

11 (a) IN GENERAL.—The Secretaries are encouraged to
12 work with the Secretary of Defense and the Secretary of
13 Veterans Affairs to ensure servicemembers and veterans
14 have access to outdoor recreation and to outdoor-related
15 volunteer and wellness programs as a part of the basic
16 services provided to servicemembers and veterans.

17 (b) INCLUSION OF INFORMATION.—Each branch of
18 the Armed Forces is encouraged to include information
19 regarding outdoor recreation and outdoors-based careers
20 in the materials and counseling services focused on resil-
21 ience and career readiness provided in transition pro-
22 grams, including—

23 (1) the benefits of outdoor recreation for phys-
24 ical and mental health;

1 (2) resources to access guided outdoor trips and
2 other outdoor programs connected to the Depart-
3 ment of Veterans Affairs; and

4 (3) information regarding programs and jobs
5 focused on continuing national service such as the
6 Public Land Corps, AmeriCorps, or a conservation
7 corps program.

8 (c) **OUTDOOR RECREATION PROGRAM ATTEND-**
9 **ANCE.**—Each branch of the Armed Forces is encouraged
10 to permit members of the Armed Forces on active duty
11 status, at the discretion of the commander of the member,
12 to use not more than 7 days of a permissive temporary
13 duty assignment or terminal leave allotted to the member
14 to participate in a program related to environmental stew-
15 ardship or guided outdoor recreation following deploy-
16 ment.

17 (d) **VETERAN HIRING.**—The Secretaries are strongly
18 encouraged to hire veterans in all positions related to the
19 management of Federal recreational lands and waters.

20 **TITLE III—MAKING RECREATION**
21 **A PRIORITY**

22 **SEC. 301. EXTENSION OF SEASONAL RECREATION OPPOR-**
23 **TUNITIES.**

24 (a) **IN GENERAL.**—

1 (1) EXTENSION OF RECREATIONAL SEASON.—

2 The relevant unit managers of Federal recreational
3 lands and waters managed by the Forest Service,
4 the Bureau of Land Management, and the National
5 Park Service may—

6 (A) identify areas of Federal recreational
7 lands and waters in which recreation use is
8 highly seasonal;

9 (B) where appropriate, extend the recre-
10 ation season or increase recreation use in a sus-
11 tainable manner during the offseason; and

12 (C) make information about extended sea-
13 son schedules and related recreational opportu-
14 nities available to the public and local commu-
15 nities.

16 (2) CLARIFICATION.—Nothing in this sub-
17 section precludes the Secretaries from providing for
18 additional recreational opportunities and uses at
19 times other than those referred to in paragraph (1).

20 (b) INCLUSIONS.—An extension under subsection
21 (a)(1) may include—

22 (1) the addition of facilities that would increase
23 recreation use during the offseason; and

24 (2) improvement of access to the area to extend
25 the season.

1 (c) REQUIREMENT.—An extension under subsection
2 (a)(1) shall be compatible with all applicable Federal laws,
3 regulations, and policies, including land use plans.

4 **SEC. 302. RECREATION PERFORMANCE METRICS.**

5 (a) IN GENERAL.—The Chief of the Forest Service
6 and the Director of the Bureau of Land Management shall
7 evaluate land managers under their jurisdiction based on
8 the achievement of applicable agency recreational and
9 tourism metrics as described in applicable land manage-
10 ment plans.

11 (b) METRICS.—

12 (1) IN GENERAL.—The metrics used to evaluate
13 recreation and tourism outcomes shall ensure—

14 (A) the advancement of recreation and
15 tourism goals; and

16 (B) the ability of the land manager to en-
17 hance the outdoor experience of the visitor.

18 (2) INCLUSIONS.—The metrics referred to para-
19 graph (1) shall include—

20 (A) the extent of positive economic im-
21 pacts;

22 (B) visitation by families;

23 (C) the number of visiting school and
24 youth groups;

1 (D) the number of available recreational
2 opportunities;

3 (E) the quality of visitor experience;

4 (F) the number of recreational and envi-
5 ronmental educational programs offered;

6 (G) visitor satisfaction; and

7 (H) the maintenance and expansion of ex-
8 isting recreation infrastructure.

9 **SEC. 303. RECREATION MISSION.**

10 (a) DEFINITION OF FEDERAL AGENCY.—In this sec-
11 tion, the term “Federal agency” means each of—

12 (1) the Corps of Engineers;

13 (2) the Bureau of Reclamation;

14 (3) the Federal Energy Regulatory Commission;

15 and

16 (4) the Department of Transportation.

17 (b) MISSION.—With respect to the mission of the
18 Federal agency, each Federal agency shall consider how
19 land and water management decisions can enhance recre-
20 ation opportunities and the recreation economy.

21 **SEC. 304. NATIONAL RECREATION AREA SYSTEM.**

22 (a) DECLARATION OF POLICY.—It is the policy of the
23 United States that certain Federal land possesses remark-
24 able recreational values and should be managed for—

1 (1) sustainable outdoor recreational uses by the
2 people of the United States;

3 (2) the recreational, social, and health benefits
4 people receive from the Federal land through out-
5 door recreation; and

6 (3) the specific and meaningful experiences
7 made possible by unique and varied landscapes.

8 (b) DEFINITIONS.—In this section:

9 (1) NATURAL FEATURE.—The term “natural
10 feature” means an ecological, geological, hydrologi-
11 cal, or scenic attribute of a specific area.

12 (2) REMARKABLE RECREATIONAL AT-
13 TRIBUTE.—The term “remarkable recreational at-
14 tribute” means, with respect to an area—

15 (A) a natural feature that supports high-
16 quality outdoor recreation opportunities and ex-
17 periences;

18 (B) a unique cultural or historic feature or
19 attribute that supports high-quality recreation
20 opportunities and experiences;

21 (C) the offering of outstanding existing or
22 prospective recreation opportunities and uses;

23 (D) having an important role in, and con-
24 tributing significantly, to the outdoor recreation
25 economy; and

- 1 (E) having high fish and wildlife values.
- 2 (3) SECRETARY.—The term “Secretary”
- 3 means—
- 4 (A) the Secretary of the Interior, acting
- 5 through the Director of the Bureau of Land
- 6 Management with respect to land administered
- 7 by the Bureau of Land Management; and
- 8 (B) the Secretary of Agriculture, acting
- 9 through the Chief of the Forest Service, with
- 10 respect to National Forest System land.
- 11 (4) SYSTEM.—The term “System” means the
- 12 National Recreation Area System established by
- 13 subsection (c).
- 14 (5) SYSTEM UNIT.—The term “System unit”
- 15 means a System unit designated pursuant to sub-
- 16 section (c).
- 17 (c) COMPOSITION.—There is established a National
- 18 Recreation Area System, to be comprised of—
- 19 (1) existing National Recreation Areas under
- 20 the jurisdiction of the Bureau of Land Management
- 21 or the Forest Service described in subsection (g);
- 22 and
- 23 (2) new System units designated by Congress
- 24 on or after the date of enactment of this Act.
- 25 (d) ADMINISTRATION.—

1 (1) IN GENERAL.—Subject to valid existing
2 rights, the Secretary shall manage each System unit
3 in a manner that—

4 (A) prioritizes the sustainable enjoyment
5 and enhancement of the remarkable rec-
6 reational attributes, natural features, and uses
7 of the System unit consistent with subsection
8 (a); and

9 (B) protects the System unit for a variety
10 of recreational uses (including outfitting and
11 guiding, motorized recreation, hunting and fish-
12 ing, horseback riding, and biking) in locations
13 where those uses are appropriate and are con-
14 ducted in accordance with the applicable land
15 management plan and all applicable Federal
16 and State laws (including regulations).

17 (2) GRAZING.—Livestock grazing within System
18 units, where established before the date of the enact-
19 ment of this Act, shall be permitted if the grazing
20 complies with all applicable laws (including regula-
21 tions).

22 (3) STATE, TRIBAL, AND LOCAL INVOLVE-
23 MENT.—The Secretary shall consult with States, po-
24 litical subdivisions of States, affected Indian Tribes,

1 adjacent landowners, and the public in the adminis-
2 tration of System units.

3 (4) FISH AND WILDLIFE.—Nothing in this sec-
4 tion affects the jurisdiction or responsibilities of a
5 State with respect to fish and wildlife in a System
6 unit in the State.

7 (5) WATER RIGHTS.—Nothing in this section
8 affects any valid or vested water right in existence
9 on the date of enactment of this Act.

10 (6) SKI AREA LAND.—This section shall not
11 apply to ski area land, including ski area special use
12 permit boundaries, master development plan bound-
13 aries, and any acres allocated for resort development
14 in a forest plan.

15 (e) COMPONENTS OF NATIONAL RECREATION AREA
16 SYSTEM.—

17 (1) MAP; LEGAL DESCRIPTION.—

18 (A) IN GENERAL.—For System units des-
19 ignated by an Act of Congress after the date of
20 enactment of this Act, as soon as practicable
21 after the date of designation of a System unit,
22 the Secretary shall prepare a map and legal de-
23 scription of the System unit.

24 (B) FORCE OF LAW.—The map and legal
25 description filed under subparagraph (A) shall

1 have the same force and effect as if included in
2 this section, except that the Secretary may cor-
3 rect typographical errors in the map and legal
4 description.

5 (C) PUBLIC AVAILABILITY.—The map and
6 legal description filed under subparagraph (A)
7 shall be on file and available for public inspec-
8 tion in the offices of the Bureau of Land Man-
9 agement and the Forest Service, as appropriate.

10 (2) COMPREHENSIVE MANAGEMENT PLAN.—

11 (A) IN GENERAL.—For System units des-
12 ignated by an Act of Congress after the date of
13 enactment of this Act the Secretary with juris-
14 diction over the System unit shall prepare a
15 comprehensive management plan for the unit
16 that fulfills the requirements of subsection
17 (d)(1) and subparagraph (C).

18 (B) TIMING.—

19 (i) IN GENERAL.—The comprehensive
20 management plan described in subpara-
21 graph (A) shall be completed as part of the
22 regular land use management planning
23 process of the applicable agency on which
24 the System unit is located.

1 (ii) DELAY IN PLAN REVISION.—If the
2 planning cycle of the applicable agency
3 does not coincide with the designation of
4 the System unit, the initial plan for the
5 unit shall be completed not later than 3
6 years after the date of designation of the
7 System unit.

8 (C) REQUIREMENTS.—A comprehensive
9 management plan prepared under subparagraph
10 (A) shall—

11 (i) identify the existing, and to the ex-
12 tent practicable, prospective remarkable
13 recreational attributes of the System unit;

14 (ii) ensure the System unit is man-
15 aged to protect and enhance the purposes
16 for which the System unit was established;

17 (iii) ensure the System unit is man-
18 aged to protect and enhance the resources
19 that make the area suitable for designation
20 under subsection (c)(2) in accordance with
21 subsection (a);

22 (iv) describe the circumstances and lo-
23 cations in which the activities described in
24 paragraphs (1)(B) and (2) of subsection
25 (d) are permitted on the System unit;

1 (v) be coordinated with resource man-
2 agement planning for affected adjacent
3 Federal land, if applicable;

4 (vi) be prepared—

5 (I) in accordance with—

6 (aa) as applicable, the Fed-
7 eral Land Policy and Manage-
8 ment Act of 1976 (43 U.S.C.
9 1701 et seq.) or section 6 of the
10 Forest and Rangeland Renewable
11 Resources Planning Act of 1974
12 (16 U.S.C. 1604); and

13 (bb) any other applicable
14 laws (including regulations); and

15 (II) in consultation with States,
16 political subdivisions of States, af-
17 fected Indian Tribes, adjacent land-
18 owners, and the public; and

19 (vii) designate a sustainable road and
20 trail network, consistent with subsection
21 (a) and the purposes for which the System
22 unit was established, in accordance with all
23 applicable laws (including regulations).

24 (D) REVIEW.—A comprehensive manage-
25 ment plan described in subparagraph (A) shall

1 be regularly reviewed and updated as part of
2 the regular land management planning process
3 of the applicable agency.

4 (E) MANAGEMENT BY SECRETARY.—

5 (i) IN GENERAL.—The Secretary shall
6 manage a National Recreation Area de-
7 scribed in subsection (g) in accordance
8 with the management plan for the Na-
9 tional Recreation Area in effect on the
10 date of enactment of this Act, until the
11 date on which the plan is revised or super-
12 seded by a new comprehensive manage-
13 ment plan issued in accordance with this
14 paragraph.

15 (ii) PLAN REVISION.—If one or more
16 components of an existing management
17 plan referred to in clause (i) conflict with
18 this section, not later than 2 years after
19 the date of enactment of this Act, the Sec-
20 retary shall revise the plan to make the
21 plan consistent with this section.

22 (F) NOTICE.—The Secretary shall publish
23 in the Federal Register notice of the completion
24 and availability of a plan prepared under this
25 paragraph.

1 (f) POTENTIAL ADDITIONS TO NATIONAL RECRE-
2 ATION AREA SYSTEM.—

3 (1) ELIGIBLE AREA.—An area eligible for inclu-
4 sion in the System is an area that possesses one or
5 more remarkable recreational attributes.

6 (2) POTENTIAL ADDITIONS.—In carrying out
7 the land management planning process, the Sec-
8 retary shall—

9 (A) identify eligible areas that possess one
10 or more remarkable recreational attributes;

11 (B) develop and maintain a list of eligible
12 areas as potential additions to the System;

13 (C) consider input from the Governor of,
14 political subdivisions of, and affected Indian
15 Tribes located in, the State in which the eligible
16 areas are located; and

17 (D) transmit to Congress lists of eligible
18 areas for consideration.

19 (g) EXISTING NATIONAL RECREATION AREAS.—

20 Each National Recreation Area established before the date
21 of enactment of this Act that is under the jurisdiction of
22 the Bureau of Land Management or the Forest Service
23 shall be—

24 (1) deemed to be a unit of the System; and

1 (2) notwithstanding subsection (d), adminis-
2 tered under the law pertaining to the applicable Sys-
3 tem unit.

4 (h) STANDARD FEES.—In accordance with sections
5 803 through 808 of the Federal Lands Recreation En-
6 hancement Act (16 U.S.C. 6802–6807), the Secretary
7 may establish a standard amenity fee at each National
8 Recreation Area designated after the date of enactment
9 of this Act, if—

10 (1) the purpose of the fee is to enhance visitor
11 services and stewardship of the recreation area; and

12 (2) the establishment of a fee is not prohibited
13 by other Federal law.

14 (i) COMPLIANCE WITH EXISTING LAWS.—Nothing in
15 this section modifies any obligation—

16 (1) of the Secretary to prepare or implement a
17 land use plan in accordance with section 202 of the
18 Federal Land Policy and Management Act of 1976
19 (43 U.S.C. 1712) or section 6 of the Forest and
20 Rangeland Renewable Resources Planning Act of
21 1974 (16 U.S.C. 1604);

22 (2) under the Endangered Species Act of 1973
23 (16 U.S.C. 1531 et seq.);

24 (3) under the Federal Water Pollution Control
25 Act (33 U.S.C. 1251 et seq.); or

1 (4) under any other applicable law.

2 (j) APPLICABILITY OF OTHER LAND MANAGEMENT

3 DESIGNATIONS.—Nothing in this section affects—

4 (1) any other land or water management des-
5 ignation under any other provision of law; or

6 (2) any obligation to comply with a requirement
7 applicable to such a designation.

8 (k) NATIVE AMERICAN TREATY RIGHTS.—Nothing
9 in this section alters, modifies, enlarges, diminishes, or ab-
10 rogates the treaty rights of any Indian Tribe, including
11 any off-reservation reserved rights.

12 **TITLE IV—MAINTENANCE OF**
13 **PUBLIC LAND**

14 **Subtitle A—Volunteers**

15 **SEC. 401. PRIVATE-SECTOR VOLUNTEER ENHANCEMENT**
16 **PROGRAM.**

17 (a) PURPOSE.—The purpose of this section is to pro-
18 mote private-sector volunteer programs within the Depart-
19 ment of the Interior and the Department of Agriculture
20 to enhance stewardship, recreation access, and sustain-
21 ability of the resources, values, and facilities of the Fed-
22 eral recreational lands and waters managed by the Federal
23 land management agencies.

24 (b) DEFINITIONS.—In this section:

1 (1) SECRETARY CONCERNED.—The term “Sec-
2 retary concerned” means—

3 (A) the Secretary of Agriculture (acting
4 through the Chief of the Forest Service), with
5 respect to National Forest System land; and

6 (B) the Secretary of the Interior, with re-
7 spect to land managed by the Bureau of Land
8 Management.

9 (2) VOLUNTEER.—The term “volunteer” means
10 any individual who performs volunteer services under
11 this section.

12 (c) ESTABLISHMENT.—The Secretary concerned
13 shall carry out a program under which the Secretary con-
14 cerned shall—

15 (1) enhance private-sector volunteer programs;

16 (2) actively promote private-sector volunteer op-
17 portunities; and

18 (3) provide outreach to, and coordinate with,
19 the private sector for the purposes described in para-
20 graphs (1) and (2).

21 (d) COOPERATIVE AGREEMENTS FOR STEWARDSHIP
22 OF FEDERAL LAND.—

23 (1) AUTHORITY TO ENTER INTO AGREE-
24 MENTS.—The Secretary concerned may enter into
25 cooperative agreements (in accordance with section

1 6305 of title 31, United States Code) with private
2 agencies, organizations, institutions, corporations,
3 individuals, or other entities to carry out one or
4 more projects or programs with a Federal land man-
5 agement agency in accordance with this section.

6 (2) PROJECT AND PROGRAM INSTRUCTIONS.—
7 The Secretary concerned shall include in the cooper-
8 ative agreement the desired outcomes of the project
9 or program and the guidelines for the volunteers to
10 follow, including—

11 (A) the physical boundaries of the project
12 or program;

13 (B) the equipment the volunteers are au-
14 thorized to use to complete the project or pro-
15 gram;

16 (C) the training the volunteers are re-
17 quired to complete, including agency consider-
18 ation and incorporation of training offered by
19 qualified nongovernmental organizations and
20 volunteer partner organizations;

21 (D) the actions the volunteers are author-
22 ized to take to complete the project or program;
23 and

24 (E) any other information that the Sec-
25 retary concerned determines necessary for the

1 volunteer group to complete the project or pro-
2 gram.

3 (3) AUTHORIZED PROJECTS AND PROGRAMS.—

4 Subject to paragraph (4), the Secretary concerned
5 may use a cooperative agreement to carry out
6 projects and programs for Federal land that—

7 (A) promote the stewardship of resources
8 of Federal land by volunteers;

9 (B) support maintaining the resources,
10 trails, and facilities on Federal land in a sus-
11 tainable manner;

12 (C) increase awareness, understanding,
13 and stewardship of Federal land through the
14 development, publication, or distribution of edu-
15 cational materials and products; and

16 (D) promote the use of Federal land as
17 outdoor classrooms.

18 (4) CONDITIONS ON USE OF AUTHORITY.—The

19 Secretary concerned may use a cooperative agree-
20 ment under paragraph (1) to carry out a project or
21 program for the Federal land only if the project or
22 program—

23 (A) complies with all Federal laws (includ-
24 ing regulations) and policies;

1 (B) is consistent with an applicable man-
2 agement plan for any Federal recreational lands
3 and waters involved;

4 (C) is monitored by the relevant Federal
5 land management agency during the project
6 and after project completion to determine com-
7 pliance with the instructions under paragraph
8 (2); and

9 (D) satisfies such other terms and condi-
10 tions as the Secretary concerned determines to
11 be appropriate.

12 **Subtitle B—Priority Trail**
13 **Maintenance**

14 **SEC. 411. INTERAGENCY TRAIL MANAGEMENT.**

15 (a) **IN GENERAL.**—The Secretaries shall establish an
16 interagency trail management plan to manage and main-
17 tain in a uniform manner trails that cross jurisdictional
18 boundaries between Federal land management agencies.

19 (b) **REQUIREMENT.**—The plan established under sub-
20 section (a) shall ensure compliance with all Federal laws.

○



October 30, 2019

Senator Michael Bennet

261 Russell Senate Office Building

Washington, DC 20510

Senator Cory Gardner

354 Russell Senate Office Building

Washington, DC 20510

Dear Senators Bennet and Gardner:

America Outdoors is the nation's leading association of backcountry outfitters. Our members provide outdoor recreation services to an estimated 5 million Americans each year. While our members do not operate ski areas, we are very appreciative of your sponsorship of the bipartisan **Ski Area Fee Retention Act (SAFRA) of 2019** and offer our association's support for the legislation.

We believe the bill will be a boost to the administration of special uses in National Forests by helping to fund the special uses program and authorizing agency personnel who are funded by ski area rental fees to work on other special use permits, as well as, vitally important ski area permits. We respectfully ask that you follow the implementation of this bill after its passage to ensure that your intent is realized. As you know, SOAR also authorizes special use permit fees to be used for permit administration, but similar to SAFRA, fees are also authorized for other purposes as well.

Please recognize America Outdoors as a supporter of SAFRA and let us know how we may support its passage.

Sincerely,

Aaron Bannon

Executive Director

America Outdoors Association

executivedirector@americaoutdoors.org

TESTIMONY OF
AMERICAN MOUNTAIN GUIDES ASSOCIATION

FOR CONSIDERATION BY THE
UNITED STATES SENATE
COMMITTEE ON ENERGY AND NATURAL RESOURCES

FULL COMMITTEE HEARING TO RECEIVE TESTIMONY ON PENDING LEGISLATION
S. 1665, the Simplifying Outdoor Access for Recreation Act
S. 1723, the Ski Area Fee Retention Act
S. 1967, the Recreation Not Red Tape Act

HELD ON OCTOBER 31, 2019
SD 366

Submitted by Matt Wade, Advocacy and Policy Director
American Mountain Guides Association
4720 Walnut Street Suite 200 • Boulder, Colorado • 80301
<https://amga.com>

American Mountain Guides Association
4720 Walnut Street, Suite 200
Boulder, CO 80301
{P} 303.271.0984 | {F} 720.336.3663
www.amga.com | info@amga.com

October 30, 2019

The Honorable Lisa Murkowski
Chair
Senate Energy and Natural Resources Committee
U.S. Senate
304 Dirksen Senate Building
Washington, D.C. 20510

The Honorable Joe Manchin
Ranking Member
Senate Energy and Natural Resources Committee
U.S. Senate
304 Dirksen Senate Building
Washington, D.C. 20510

Dear Chair Murkowski, Ranking Member Manchin, and Members of the Committee,

The American Mountain Guides Association respectfully submits this testimony for inclusion in the public record regarding the Full Committee Hearing on S. 1665, the Simplifying Outdoor Access for Recreation Act; S. 1723, the Ski Area Fee Retention Act; and S. 1967, the Recreation Not Red Tape Act, to be held on October 31, 2019 in Room 366 of the Dirksen Senate Office Building.

The American Mountain Guides Association (AMGA) is a 501(c)(3) educational non-profit organization that provides training and certification for climbing instructors, mountain guides, and backcountry skiing guides throughout the United States. Founded in 1979, the AMGA has trained over 13,000 climbing and skiing guides who provide outdoor experiences for the public on public lands. As the American representative to the International Federation of Mountain Guide Associations, the AMGA institutes international standards for the mountain guiding profession in the United States and serves as an educational body for land management agencies, outdoor businesses, clubs, and other recreation stakeholders. Of additional relevance to this hearing, our membership includes outfitters and guides who have been operating on public lands since the inception of the modern commercial recreation permitting system. We have extensive experience with public land management systems, philosophies, and permitting, and we welcome the opportunity to provide testimony on the Simplifying Outdoor Access for Recreation Act (SOAR Act) and the Recreation Not Red Tape Act (RNR).

We appreciate the Committee's recognition of the need to improve recreational access to public lands and we commend Chair Murkowski, Ranking Member Manchin, and the Committee for taking steps to advance legislation that will enhance opportunities for Americans from all walks of life to access and enjoy public lands. In particular, we believe there is a significant opportunity to enhance accessibility of public lands and increase recreational opportunities by modernizing the outfitter and guide permitting systems of the federal land agencies. Currently, these systems are antiquated, layered with unnecessary analysis, and they lack the tools necessary to quickly and efficiently authorize outfitted and guided activities. This prevents outfitting and guiding businesses from

growing to their full potential and limits opportunities for the public to benefit from the assistance of an outfitter, guide, outdoor education center, outdoor adaptive program, veteran's outdoor program, or volunteer-based club. The situation has become increasingly dire in recent years as fire suppression costs have further reduced the agencies' ability to attend to the need for outfitting and guiding services on public lands.

To illustrate the challenges being faced by some of our members, we would like to share a few stories.

The American Alpine Institute and the American Mountain Guides Association partner to offer guide training courses for veterans. These courses can be paid for with VA benefits and they prepare veterans for careers in the mountain guiding industry. Several courses are offered annually in the Cascade Mountains of Washington State. The courses are very popular, they fill to capacity, and there is typically a lengthy waitlist for each course. However, at the present moment it is not possible to provide more of these trainings because the Okanogan-Wenatchee National Forest has been unable to complete the required needs assessment and environmental review that is necessary to authorize additional courses. Consequently, fewer opportunities are available for veterans to prepare for careers in the mountain guiding industry.

The Colorado Mountain School (CMS), located in Boulder, Colorado, provides instruction and guiding in rock climbing, mountaineering, backcountry skiing, and avalanche awareness. CMS has been a permittee of the Arapaho-Roosevelt National Forest for over a decade and has maintained full compliance with the terms and conditions of the permit throughout that time. Despite acceptable performance, CMS is required to resubmit a temporary permit application every 180 days because the agency is unable to complete the analyses required to issue a longer-term permit. The repetitive reissuance of a short-term permit is unnecessarily time consuming and inefficient for both the Colorado Mountain School and for the Forest Service.

Appalachian Mountain Guides, a climbing guide service in Fayetteville, West Virginia, was contracted by the Boy Scouts of America (BSA) to help them develop an outdoor climbing area at the Summit Bechtel Reserve, a BSA property near the New River Gorge National River. Both parties were excited to collaborate on the project to expand recreation opportunities for kids. The project was scheduled to be completed by summer 2019, just in time for the 24th World Scout Jamboree. When planning the project, the Boy Scouts of America approached the National Park Service (NPS) to get permission to cross a small section of NPS-managed land that lies adjacent to the Scouts' property where the climbing area is located. They were told it would take 3 years to issue the necessary permit due to the amount of paperwork required. As a result, the new climbing opportunity was not available in time for the World Scout Jamboree.

The Montana Wilderness School, located in Southwest Montana, provides youth mountaineering and backpacking courses that foster personal growth and help kids develop an appreciation for the outdoors. They often have to drive over six hours to run their courses because the Custer-Gallatin National Forest in their backyard is only able to grant them a permit on an irregular basis, in some

cases once every five years. The local forest office has cited an inability to complete the required paperwork as the reason for not issuing permits on a regular basis.

Fortunately, there are good opportunities to improve efficiency and restore functionality to the outfitting and guiding permitting systems of the federal land agencies. The Simplifying Outdoor Access for Recreation Act (SOAR Act) will clarify existing authorities and establish new authorities that will make special recreation permits easier for outfitters and guides to obtain and manage, and easier for the agencies to administer. In the following section, we would like to point out several provisions in the bill that are particularly notable.

In Section 4, *Permitting Process Improvements*, the bill directs the agencies to evaluate the special recreation permitting process and identify opportunities to eliminate duplicative processes, reduce costs, and decrease processing times. This includes the authorization of programmatic environmental reviews and tiering, and an evaluation of existing categorical exclusions (CEs) to determine if one or more new CEs would expedite the permitting process without significantly affecting the human environment. At the heart of this section is the fact that guided recreation activities, as a category of actions, are unlikely to have significant impacts on the environment and therefore present a unique opportunity to increase efficiency while upholding National Environmental Policy Act (NEPA) requirements and maintaining land management best practices. As noted in the *USDA Forest Service Proposed Rule on National Environmental Policy Act Compliance*,

[m]any of these recreation special uses occur on existing NFS roads or NFS trails or in existing facilities that are designed and managed for those uses and have no more impacts than noncommercial public use.¹

In short, guided activities have no greater footprint on the environment than noncommercial public use and therefore, in most cases, should not require additional analysis beyond that which has already been done to approve noncommercial use. Taking this into account, we believe Section 4 of the bill will result in significant new efficiencies for both agencies and outfitters while ensuring existing environmental protections continue to be upheld.

Similarly, Section 4(d) of the bill directs the agencies to conduct needs assessments only when new uses are proposed in wilderness as required by the Wilderness Act. Needs assessments are lengthy, time-consuming studies conducted by the agencies to assess the agency and public need for a service. Under current practice, these studies are frequently conducted in areas outside of wilderness, significantly slowing down the permitting process, and, in some cases, preventing permits from being issued altogether. Section 4(d) of the bill will support the use of needs assessments in areas where they are required by statute while ensuring needs assessments are not unnecessarily delaying the permitting process in areas where they are not required. Also of note, Section 4(e) directs the agencies to make applications for recreation special use permits available online unless

¹ <https://www.fs.fed.us/emc/nepa/revisions/includes/docs/SpecialUsesCEsSupportingStatement.pdf>

doing so would not improve the efficiency of the permitting process. To provide context for the purpose of Section 4, it would address the situations described earlier in which opportunities for veterans to receive workforce training are being stifled on the Okanogan-Wenatchee National Forest and local youth in Southwest Montana are unable to attend outdoor enrichment programs on the National Forest closest to their home.

In Section 5, *Permit Flexibility*, the bill directs the agencies to allow a new activity to occur under an existing permit, without doing additional analysis, when the new activity is substantially similar to the already permitted activity. As an example, this would allow a permit holder who conducts backpacking trips to also offer day hikes.

In Section 5(c), the bill authorizes the Forest Service and Bureau of Land Management to issue a temporary special recreation permit for a term up to two years in length. This will bring significant new efficiencies in the form of less frequent permit processing, especially for Forest Service temporary permits which are currently limited to a term of 180 days. In practical terms, the effect of Section 5(c) will be to minimize the repetitive reissuance of short-term permits as described previously in the example from the Colorado Mountain School and the Arapaho-Roosevelt National Forest.

In Section 7, *Permits for Multijurisdictional Trips*, the agencies are authorized to offer a single joint special recreation permit for guided trips that cross agency boundaries. Outdoor trips typically follow natural features such as rivers, canyons, and high mountain ridges for ease of travel and maximum scenic value. Often times, agency boundaries are not perfectly aligned with these landscape features and in some cases a group may cross an agency boundary (or multiple agency boundaries) in the course of a single trip. Under the current system, this requires a permit from each agency. It is time consuming and costly for guides to apply for and maintain multiple permits with different agencies for just a single trip. It is also inefficient for the agencies to issue two separate permits to the same outfitter for a single activity. Section 7 of the bill would establish the necessary authorities to allow a single permit to be issued for trips that cross agency boundaries.

In Section 8(b), *Forest Service Permit Use Reviews*, the Forest Service is authorized to assign, at the time of a use review, additional use beyond the amount allocated when the permit was originally issued (provided capacity for the use exists). This is currently a common practice on some Forests although it is not technically allowable under current law. Section 8(b) of the SOAR Act will establish new policy to support existing common-sense practices for the allocation of additional use.

As Congress is considering the measures in the bill that increase efficiency and improve access, we would like to note the bill does not direct the agencies to make changes to existing carrying capacity determinations or changes to allocations between different user groups. Rather, the bill seeks to ensure that outfitters and guides are able to access existing capacity that has already been deemed appropriate for outfitting and guiding use, but which has previously been inaccessible due to administrative roadblocks.

In Section 9, *Liability*, the bill authorizes the agencies to allow special recreation permit holders to use liability waivers to the extent they are authorized by applicable State law. Presently, there is inconsistency among land management agencies, and even within individual agencies, on the use of liability release forms. The Bureau of Land Management generally allows them, the U.S. Forest Service allows them in some locations but not others, and the National Park Service does not allow them at all. The bill would resolve these inconsistencies and establish the principle that State law controls the validity of liability waivers. We are aware there may be concerns with the wording of this section of the bill. We support additional discussion among interested parties to identify alternative language and make the necessary amendments at markup.

In Section 9(c), *Indemnification by Government Entities*, the bill directs the agencies to waive the existing indemnification requirement for State-based institutions that are prohibited by state or local law from providing indemnification to the United States provided they carry the minimum required amount of liability insurance. Under current law, state-based institutions such as colleges, universities, and municipalities are unable to hold special recreation permits due to their inability to fulfill the indemnification requirement. Section 9(c) of the bill would remedy this situation and enable college outdoor recreation programs and municipal recreation districts, many of which offer low-cost outdoor courses and trips, to provide outdoor programs on public lands.

The Recreation Not Red Tape Act contains a number of provisions beyond those enumerated in the SOAR Act that will improve access to public lands, increase agency attention to outdoor recreation, and bolster the outdoor recreation economy. Section 201, *Access for Service Members and Veterans*, will provide veterans with valuable resources to help them learn about, and gain access to, outdoors-based careers. Section 302, *Recreation Performance Metrics*, will establish metrics to evaluate and advance recreation tourism goals. Section 303, *Recreation Mission*, will direct the Army Corps of Engineers, Bureau of Reclamation, Federal Energy Regulatory Commission and Department of Transportation to consider how land and water management decisions can enhance recreation opportunities and the recreation economy.

The issues related to outfitter-guide permitting that are being discussed in this hearing are truly bipartisan in nature. This is evidenced by the wide range of Democrats, Republicans, and outdoor industry stakeholders who support the bill. The broad array of support is not by accident. The SOAR Act has been developed over a period of 5 years with extensive input from the outdoor recreation community and in consultation with conservation groups and land management agencies. The bill has been carefully written to strike a thoughtful balance between the interests of diverse parties while facilitating change that is much needed and long overdue. The SOAR Act presents a wonderful opportunity for Congress to come together around a set of common interests and enact positive change that will truly enhance the recreational benefits of public lands and empower the American people to enjoy them.

* * *

Thank you for the opportunity to share our perspective on ways in which Congress can improve access for guided outdoor recreation on America's public lands. We look forward to working with Congress to implement improvements that will increase agency efficiency, grow the outdoor recreation economy, and expand opportunities for the public to experience the legacy of America's public lands.

Sincerely,

A handwritten signature in blue ink that reads "Matt Wade".

Matt Wade
Advocacy and Policy Director
American Mountain Guides Association

COALITION FOR OUTDOOR ACCESS

TESTIMONY

on the

Simplifying Outdoor Access for Recreation Act (S. 1665) ["SOAR Act"]

Submitted for

Senate Energy and Natural Resources Committee

Legislative Hearing

Thursday, October 31, 2019

I. Introduction

The Coalition for Outdoor Access (COA) respectfully submits this testimony on the Simplifying Outdoor Access for Recreation ("SOAR") Act, S. 1665, which is the subject of a legislative hearing scheduled for Thursday, October 31, 2019 in the Senate Energy and Natural Resources Committee.

The Coalition for Outdoor Access is an alliance of organizations with an interest in the outfitter-guide permitting systems of the federal land management agencies. The Coalition came together in 2014 to improve the operation of these systems for the benefit of the agencies, the recreational landscapes they support, the organizations who provide guided recreational experiences on federal lands and waters, and for the members of the public who use these services. The Coalition is made up of organizations that represent for-profit outfitters and guides, nonprofit outfitters and guides, university recreation programs, volunteer-based clubs, the outdoor industry, and the conservation advocacy community.

COA is invested in the success of this legislation, and we undertook work on this issue because we believe the agencies' permitting systems need to be improved in order to provide the public with more opportunities for recreation and education experiences on public lands. Providing more outdoor experiences on public lands is good for the people who have those experiences. It is also good for the lands and the agencies that administer them.

II. Background

A. Description of the Problem to be Solved

In general, the federal land management agencies require outdoor programs to apply for, and obtain, special recreation permits in order to take people out on public lands and waters. The federal land management agencies have different names for these permits, but they all generally require outdoors leaders to have permits to lead trips outdoors.

The permit requirement applies to any activity where money changes hands, including trips where the participants pay a participation fee, or the leader is paid compensation for his or her leadership services. This requirement applies to any outdoor leader, whether they are working for a for-profit business, non-profit organization or for themselves as an individual sole proprietor. As such, outdoor businesses, non-profit organizations, volunteer-based clubs,

college and university recreation programs, and individual guides are all required to obtain permits.

Despite being essential to outdoor programming, permits are not readily available in many locations. Numerous outdoor leaders and outfitter-guide businesses have reported to us that when they contact the land management agencies to inquire about the availability of permits, they have been told that no permits are available. As a result, they are unable to take people out on public lands.

We acknowledge that there are some circumstances in which it is necessary to deny a permit application. When an activity could have significant adverse environmental impacts, or when existing use in an area exceeds the area's carrying capacity, the agencies should limit the number of permits issued.

However, in many cases, the agencies deny permit applications because they do not have the administrative capacity to process the permit application and administer the resulting permit. These denials have nothing to do with limitations on the carrying capacity of the landscape, or on the potential for adverse environmental impacts. Instead, outdoor programs are being denied permits because the permitting system has become too complicated and labor intensive for the agencies to administer. The agencies – particularly the U.S. Forest Service – simply do not have the staff capacity to administer the complex permitting system that has developed over the years. When the agencies do not have the capacity to process permit applications, they stop issuing permits. That means fewer opportunities for people to have outdoor experiences on public lands.

B. The Need for Legislation

For several years, the Coalition for Outdoor Access has encouraged the agencies to use their own authority to improve their permitting processes. To date, our recommendations have not been implemented.

However, the U.S. Forest Service has acknowledged that simplification of its permitting procedures is needed. In June 2016, Forest Service Chief Tom Tidwell issued a memorandum entitled "Modernization of Special Uses to Enhance Visitor and Community Benefits" in which he acknowledged that "the scope and complexity of [the permitting] program continues to increase." Chief's Memorandum at 1. Chief Tidwell envisioned a transition away from using the permitting system to regulate recreational activities to a future in which the permitting program enhances the outdoor experiences and benefits people receive when they visit the National Forests. *Id.* Chief Tidwell went on to say:

I recognize agency capacity impacts how quickly we can act on requests for [special recreation permits]. Yet if we simplify our processes, we can do a better job of responding to requests for hosted outdoor activities, especially school groups and organizations introducing young people to the outdoors . . . I encourage you to thoroughly review the attached guidance paper and associated FAQs to learn more

about your existing flexibility. If there are [permit] moratoriums in place in areas for which you are responsible, I ask that you reconsider them where appropriate.

Chief's Memorandum at 2. The Chief's guidance contained detailed FAQs on how the permit application review process could be simplified. Unfortunately, the Chief's guidance was non-binding because it did not formally revise existing agency policy. As a result, this guidance does not have the force of law, and has not been adopted throughout the National Forest System.

For these reasons, legislation is needed to direct the agencies to review their permitting processes and identify areas for simplification and improvement. The complexity of the permitting process is limiting public access and preventing outdoor programs and local businesses from providing people with outdoor experiences on public lands.

III. Contents of the SOAR Act

The SOAR Act would require the agencies to evaluate the existing permitting system and identify ways to make improvements. It would then require the agencies to incorporate those improvements into their regulations and policy statements.

The Act was carefully formulated to strike a balance. It imposes a mandate upon the agencies to review their systems, but it does not prescribe a specific outcome. Instead, it respects and defers to the agencies' expertise on what changes should be made. Below, we outline key components of the SOAR Act that will address many of the issues outdoor businesses, leaders and organizations face with federal land management agency permitting.

As explained above, section 4 of the bill directs the agencies to evaluate the process for issuing recreational outfitter and guide permits and identify ways to eliminate duplicative processes, reduce administrative costs, and shorten processing times. The agencies would be required to revise agency regulations and policy statements to implement process improvements within 360 days. Section 4 would also require the agencies to make permit applications available online. This will help outdoor organizations and companies better plan for programming.

The SOAR Act would also directly address several other problems in the existing permitting system. Section 5 increases flexibility for outfitters, guides and other outdoor programs in three ways:

1. It would allow them to provide recreational activities that are substantially similar to the activity specified in their permit. Under existing policy, permit holders are often strictly limited to the activities specified in their permit. This section would, for example, allow a kayak outfitter to begin offering canoeing or stand up paddle board opportunities under an existing permit.
2. It would extend the terms of Forest Service and Bureau of Land Management temporary permits to up to two years, making them more usable. Currently, Forest Service temporary permits are limited to 180 days. Section 5 would also authorize the conversion of temporary permits into long term permits in some circumstances.

3. Section 5 would establish a program that would allow permit holders to temporarily return unused service days¹ so that they could be made available to other outdoor leaders. This would make more opportunities available and reduce the number of service days that go unused.

Section 6 increases the transparency of the permitting system by directing agencies to notify the public of when and where new recreation permits are available. Currently, there is no efficient way for outdoor leaders to find this information. This section would also require the agencies to provide timely responses to permit applications. This would address the common occurrence of permit applications going unacknowledged.

Section 7 simplifies the permitting process for activities that begin on land managed by one agency and cross into land managed by another agency. It would do so by authorizing the agencies to issue a single joint permit covering the lands of all the managing agencies. Currently, outdoor programs are required to obtain a separate permit from each of the agencies where their activity will take place, which makes the permitting process much more complicated. Under Section 7 of the bill, this process would be simplified.

Section 8 would protect Forest Service permit holders from losing service days as a result of seasonal fluctuations in demand or other circumstances beyond the permit holder's control. This ensures that outdoor programs do not lose access because of fire, weather or other natural disaster.

Section 9 has two components:

1. Sections 9(a) and (b) would help control liability insurance costs for permit holders by allowing them to use liability release forms with their clients. Currently, the rules on the use of liability release forms vary by agency and even between different regions of the same agency. This inconsistency causes problems for permit holders and conflicts with state law in states where the use of release forms is allowed.
2. Section 9(c) would reduce barriers to access for state universities, city recreation departments, and school districts by waiving the requirement imposed on permit holders to indemnify the U.S. government. The waiver would apply to entities that are prohibited from providing indemnification under state law. Currently, the requirement to indemnify the U.S. government imposed by some agencies is a significant barrier for state entities.

Section 10 reduces permit application costs for outdoor leaders by establishing a flat 50-hour cost recovery exemption for permit processing.

Section 11 addresses situations in which a long-term permit expires before the agency finishes processing the permit holder's renewal application. This is a common occurrence. Section 11 would toll the expiration of the permit for up to five years so long as the permit holder is in full

¹ The agencies generally allocate use to permit holders by assigning them a specified number of "service days" or "user days." One person on federal lands for one day equals one service day. One person on federal lands for five days equals five service days.

compliance with the terms and conditions of the permit and has submitted a timely permit renewal application.

The legislation has received extensive input from stakeholders to strike a carefully calibrated balance between mandating the agencies to review their permitting processes while leaving them the discretion to craft the most effective solutions for the unique attributes of the landscapes they are charged with stewarding.

IV. Conclusion

As a group of outdoor organizations and companies that have worked to improve the permitting systems of federal land management agencies to improve recreational access to federal lands and waters, the Coalition for Outdoor Access enthusiastically supports the SOAR Act and applauds the bill's introduction in both the House and Senate.

We appreciate the opportunity to submit testimony for the legislative hearing on October 31, 2019 in the Senate Energy and Natural Resources Committee. We hope to see this bi-partisan legislation move swiftly through committee and into law.

Sincerely,

The Coalition for Outdoor Access Steering Committee:

Jeannette Stawski, Committee Chair
Executive Director
Association of Outdoor Recreation and
Education

Courtney Aber
National Director
YMCA BOLD and GOLD

Aaron Bannon
Environmental Stewardship Director
National Outdoor Leadership School

Rebecca Bear
Director of Experience
REI

Katherine Hollis
Conservation and Advocacy Director
The Mountaineers

David Leinweber
Chairman, Pikes Peak Outdoor Recreation
Alliance
Owner, Angler's Covey Inc.

Patricia Rojas-Ungar
Vice President of Government Affairs
Outdoor Industry Association

Paul Sanford
National Director of Recreation Policy
The Wilderness Society

Matt Wade
Advocacy & Policy Director
American Mountain Guides Association

October 28, 2019

Senator Cory Gardner
354 Russell Senate Office Building
Washington, DC 20510

Senator Michael Bennet
261 Russell Senate Office Building
Washington, DC 20510

Re: Support for Ski Area Fee Retention Act of 2019

Dear Senators Gardner and Bennet:

We are writing on behalf of state ski associations to express support for the **Ski Area Fee Retention Act (SAFRA) of 2019**.

Our member ski areas strongly support the local retention of a percentage of permit fees paid by ski areas to the United States for their use of National Forest System lands. The 122 ski areas on public lands operate in 13 states, accommodate about 30 million skier/snowboarder visits per year and generate approximately \$37 million in permit fees to the Treasury annually. We support this bill as it would keep a portion of those funds on the forest on which they were generated, so they can be used by the Forest Service in support of permit administration and processing of ski area improvement proposals. The end result will be increased investment of private capital in needed ski area infrastructure to improve recreation opportunities for the future. Such investment is critical as ski areas play an important role in job creation and economic development in rural areas and throughout the states and regions we represent.

Retaining ski fees locally is necessary because the Forest Service Recreation program is underfunded and understaffed. The agency lacks the necessary resources to administer ski area permits and keep up with ski area improvement proposals. Lack of capacity with respect to permit administration, including review and approval of new ski area projects and timely NEPA review, negatively affects the ski areas, the visitors' experience and ultimately the rural economies in which ski areas are located.

Retaining recreation fees locally is not new. Congress has already authorized local retention of recreation user and permit fees through the Federal Land Recreation Enhancement Act (FLREA). In fact, the Forest Service retains over \$90 million annually through FLREA. It is time for ski area fees, which are not included in FLREA, to be retained at the local level as well through the Ski Area Fee Retention Act of 2019. Doing so will provide ski areas with the certainty they need to make long-term business decisions on improving and enhancing their operations for the future. It will also help facilitate implementation of year-round recreation activities for guests, thereby creating year-round jobs and boosting local economies, and ultimately improve the recreation experience for visitors.

The undersigned associations support the bill's approach of allowing retained fees to be spent on ski area special use permit administration, including processing of ski area proposals for improvements. This will provide for adequate staffing and training for administering ski area permits on a day-to-day basis as well as improved processing of proposals for needed infrastructure at ski areas, including chairlifts, snowmaking and year-round facilities as authorized by the Ski Area Recreation Opportunity Enhancement Act (SAROE). Retained funds may also be spent on interpretation, visitor information and visitor services and support of avalanche safety programs. Our associations strongly support the transfer mechanism in the bill that allows the sharing of fees with other ski forests to the extent one National Forest can't reasonably spend its retained fees in a given year, as it will help avoid a winner/loser scenario among ski forests and will foster broad support for ski fee retention. Finally, we support the mechanism in the bill allowing the agency to apply retained funds for non-ski area permit administration and administrative sites leasing authority in the event that retained funds are still available after all ski area needs have been met.

Thank you again for your leadership and introduction of the Ski Area Fee Retention Act of 2019. We look forward to working with you to ensure passage of this critical legislation.

Sincerely,



Melanie Mills
President & CEO
Colorado Ski Country USA



Michael L. Reitzell
President
Ski California



Robert Looper
President
Idaho Ski Area Association



Jeff Schmidt
President
Montana Ski Area Association



Jessyca Keeler
President
Ski New Hampshire



George Brooks
Executive Director
Ski New Mexico



Jordan Elliott
President
PNSAA



Nathan Rafferty
President & CEO
Ski Utah



Molly Mahar
President
Ski Vermont



October 30th, 2019

Senator Lisa Murkowski
Chair, Senate Committee on Energy and Natural Resources
522 Hart Senate Office Building
Washington, DC 20510

Senator Joe Manchin
Ranking Member, Senate Committee on Energy and Natural Resources
306 Hart Senate Office Building
Washington, DC 20510

Re: October 31st Full Committee Hearing to Receive Testimony on Pending Legislation

Dear Chairman Murkowski and Ranking Member Manchin:

On behalf of the outdoor recreation community, thank you for holding a hearing to consider the Recreation Not Red-Tape and SOAR Acts, two valuable bills to improve access to and management of public lands and waters for outdoor recreation. Our community greatly appreciates the Committee’s attention to these bills and the Committee’s work in considering the importance of outdoor recreation and the challenges that can be imposed by imprecise management, both through this hearing and the hearing held in March of this year.

S. 1967, the “Recreation Not Red-Tape Act”

Opportunities for outdoor recreation on our country’s public lands and waters benefit Americans’ quality of life and foster a connection to place and a stewardship ethic. They also support a thriving outdoor recreation economy, employing 7.6 million Americans, driving \$887 billion in annual consumer spending, and generating \$65.3 billion in federal tax revenue and \$59.2 billion in state and local tax revenue each year. Our country’s public lands are the birthright of every American, and outdoor recreation is the most common way for Americans to come to know their public lands.





Over the past 50 years, our country has made tremendous strides in protecting iconic places on our public lands and preserving landscapes for their intrinsic value, and establishing additional protections through tools like the Wilderness Act will continue to benefit outdoor recreation and conservation. However, even as we pursue these protections—as well as development activities on public lands and waters—the gap between public lands managed for Wilderness character and public lands managed as multiple use has left some of our most important recreation-rich landscapes lacking in appropriate management or protection. Unquestionably, there are places on the public lands—particularly those close to towns or cities—where management should prioritize sustainable recreation use in a healthy and protected landscape.

Similarly, land managers are currently and appropriately responsible for stewardship of the resources under their charge, and simultaneously accountable for performance metrics related to development activity (for example, the number of board feet produced from a National Forest System unit). Many land management agencies, however lack a recreation mission component, and land managers are not evaluated based on their success in meeting objectives around the quality of the recreation experience.

This dynamic—and the historic tension between conservation and development—has left outdoor recreation at times unnecessarily neglected, and there are substantial opportunities to improve access to recreation opportunities, the quality of the recreational experience, and the attendant benefits, both economic and more personal.

The Recreation Not Red-Tape Act (RNR) will help to ensure that outdoor recreation is given appropriate consideration by land managers. This, in turn, will help more Americans to have access to quality recreation experiences and support economic diversification and resiliency for our country's public lands communities.

Together, our organizations strongly support provisions in RNR that:

- Direct management agencies to develop recreation performance metrics for the evaluation of land managers;





- Add recreation to the mission of important land management agencies, including the Corps of Engineers, the Bureau of Reclamation, FERC, and the Department of Transportation;
- Improve access to outdoor recreation programs for service members and veterans;
- Extend seasonal recreation opportunities where appropriate;
- Improve the availability of federal and state recreation passes and facilitate their online sale; and
- Help land managers accept volunteers to conduct stewardship activities, and facilitate trail maintenance across agency jurisdictions.

Additionally, our organizations have had significant positive experience in working with many of the recently-formed state offices of outdoor recreation and believe that they make a valuable contribution towards, among other benefits, better coordination between states and federal land managers in support of recreation goals. We appreciate the bill's statement of support for the role of these offices.

We also greatly appreciate the inclusion of the SOAR Act within RNR to make needed improvements to the special use permitting process, which we discuss in greater detail below.

Most importantly, the outdoor recreation community strongly supports the bill's provision to help identify and protect important areas for outdoor recreation through a National Recreation Area System.

As noted above, our country has developed a system of protected public lands that serves as a model for much of the world. Our focus on the most iconic and pristine backcountry areas, however, can sometimes leave close-to-town, accessible, frontcountry areas—which can be some of the most important places for recreation—exposed to inappropriate development pressure or leave recreationally significant areas subject to less than ideal management.

Currently, when land managers conduct planning activities like Forest Planning for National Forests or Resource Management Plan development for BLM units, they are appropriately required to inventory for areas that could become new Wilderness or Wild and Scenic River designations. While these inventories and designations are absolutely essential, right now there is no analogous land-use





designation process specifically dedicated to assisting Congress in evaluating, protecting, and enhancing outdoor recreation opportunities. RNR instructs land managers, during their existing planning processes, to inventory for places of recreational significance, just as they currently are required to inventory for potential new Wilderness or Wild and Scenic Rivers designations. This process will assist Congress in developing new National Recreation Area designations and help to ensure that management plans appropriately account for recreation.

This change will facilitate greater access to sustainable recreation in healthy, ecologically sound surroundings for more Americans, including those living in a diversity of geographic settings, from rural to urban. This process will make sure recreationally significant areas on public lands are given the management attention they deserve, benefitting public lands communities and the businesses supported by the outdoor recreation economy. More Americans will have better access to high quality settings for activities like mountain biking, climbing, skiing, paddling, and hunting and angling in close-to-home settings.

S. 1665, the “Simplifying Outdoor Access for Recreation (SOAR) Act”

For many people, structured, facilitated outdoor experiences provide a first exposure to more adventurous forms of outdoor recreation and to the natural world. These opportunities are essential for allowing new participants to experience outdoor recreation activities in a safe environment that allows for skill building and helps participants become more conscientious visitors to sensitive landscapes. These experiences are also essential for helping to connect communities that have historically lacked these opportunities with their public lands and waters.

The ability for facilitated access providers to offer these experiences is dependent, however, on a challenging and dated system for special use permitting for public lands activities. The SOAR Act will improve the recreational permitting systems so more people can experience public lands through volunteer-based clubs or with an outfitter, guide, non-profit outdoor leadership organization, or university outdoor program.

We strongly support this bill, which reflects years of thoughtful input from facilitated access providers, conservation organizations, and others.





S. 1723, the "Ski Area Fee Retention Act"

The human-powered outdoor recreation community is concerned by the Ski Area Fee Retention Act and believe substantial changes are necessary in order to ensure the bill redounds to the benefit of all National Forest visitors.

In general, it is appropriate for ski areas to be paying fees for their essentially exclusive use of public lands, and those fees must be directed toward a public purpose broader than addressing the industry's own development needs. While we are not opposed to National Forests retaining ski area fees in general, we are concerned that ultimately, appropriations would be scaled back (or a spending offset identified from elsewhere in the Forest Service's budget), and the result would be replacing appropriated dollars with money allocated to specific, very limited purposes related to ski area development.

If this bill moves forward, we believe it essential that the purposes for which retained fees can be used be broadened to encompass special-use permitting and recreation infrastructure needs beyond what is directly related to ski areas. This change should continue to benefit the ski industry by freeing agency capacity, as well as by making Forests more attractive recreation destinations, bringing more customers to their businesses.

* * *

The outdoor recreation community greatly appreciates the committee's attention to improving recreation opportunities on our country's public lands and waters, and we look forward to continuing to work with you.

Best regards,

Louis Geltman
Policy Director
Outdoor Alliance

Kirsten Blackburn
Advocacy Manager
The Conservation Alliance





October 25, 2019

Senator Lisa Murkowski
Chairman
U.S. Senate Committee on Energy and Natural Resources
522 Hart Senate Office Building
Washington, D.C. 20510

Senator Joe Manchin
Ranking Member
U.S. Senate Committee on Energy and Natural Resources
306 Hart Senate Office Building
Washington, D.C. 20510

Dear Chairman Murkowski and Ranking Member Manchin,

The Outdoor Recreation Roundtable is the nation's premier coalition of outdoor recreation trade associations comprised of 29 members and serving more than 100,000 businesses. The outdoor business community thanks you for your attention to the *Recreation Not Red-Tape Act (S. 1967)* and *Simplifying Outdoor Access for Recreation Act (S. 1665)*, and strongly supports swift passage of these bills. These important pieces of legislation are supported by businesses and nonprofits across the industry and will help ensure the continued growth of this vibrant sector.

Outdoor recreation is a major economic force in America, accounting for 2.2 percent of the economy, supporting 5.2 million jobs - many of them in rural areas - and contributing \$778 billion in economic output, surpassing other sectors such as agriculture, utilities, mining, and chemical products manufacturing.

As the popularity and impact of this industry continues to grow, federal agencies need updated tools to provide sustainable and improved access to, and infrastructure on, America's public lands and waters. The *Recreation Not Red-Tape Act* removes barriers and offers sensible, 21st century proposals for identifying and appropriately managing our unparalleled outdoor recreation assets now and into the future.

The *Simplifying Outdoor Access for Recreation Act* expands access to outdoor experiences by improving outfitter and guide permitting systems. This legislation simplifies processes, increases flexibility in allowed activities, improves fee collection procedures and much more. All these provisions - supported by members of the outdoor industry and conservation community - will positively impact a wide range of organizations that deliver facilitated recreation experiences, including for-profit and non-profit guides and outfitters, university recreation programs and volunteer-based clubs.

Thank you for your consideration and we hope to work with you on swift passage of these bills through committee. We look forward to continuing to work with you to ensure all Americans have access to recreation experiences on their public lands and waters and that all communities benefit from the growing recreation economy.



Sincerely,

America Outdoors Association
American Trails
American Horse Council
American Mountain Guides Association
American Sportfishing Association
Archery Trade Association
Association of Marina Industries
Boat Owners Association of the United States
International Snowmobile Manufacturers Association
Marine Retailers Association of the Americas
Motorcycle Industry Council
National Association of RV Parks and Campgrounds
National Forest Recreation Association
National Marine Manufacturers Association
National Park Hospitality Association
National Shooting Sports Foundation
PeopleForBikes
Recreational Off-Highway Vehicle Association
RV Dealers Association
RV Industry Association
Snowsports Industries America
Specialty Equipment Market Association
Specialty Vehicle Institute of America
Sports & Fitness Industry Association
The Corps Network

October 29, 2019

Senator Michael Bennet
261 Russell Senate Office Building
Washington, DC 20510

Senator Cory Gardner
354 Russell Senate Office Building
Washington, DC 20510

Dear Senators Bennet and Gardner:

The Outdoor Recreation Roundtable (ORR) is the nation's leading coalition of outdoor recreation trade associations comprised of 29 members serving more than 100,000 businesses. The undersigned members of ORR wish to express their appreciation for your introduction of, and support for, the bipartisan **Ski Area Fee Retention Act (SAFRA) of 2019**.

Ski areas are an important part of the broader outdoor recreation industry that makes significant economic contributions and helps to create healthier communities, healthier rural economies and healthier people. According to recently released data from the Bureau of Economic Analysis, outdoor recreation accounts for 2.2 percent of GDP, generates \$778 billion in output and supports 5.2 million American jobs. This bill would locally retain a portion of the \$37 million that resorts generate annually to be used by the U.S. Forest Service (USFS) in support of the ski industry and other year-round industries that rely on access and adequate infrastructure on USFS lands. Many forests and districts have something to gain from this kind of legislation.

Retaining ski area permit fees will be beneficial because the USFS recreation program is currently underfunded and understaffed. As a result of declining agency budgets, the growing cost of wildfires and the downsizing of jobs among special uses administrators, the agency lacks the necessary resources to administer recreation permits, directly impacting businesses across the outdoor industry. Lack of capacity with respect to permit administration can negatively affect not just these recreation providers, but also visitor experiences and ultimately the rural economies in which recreation providers operate.

This bill will also help facilitate implementation of year-round recreation activities that are increasingly important for consumers hoping to collect more experiences, creating year-round jobs, boosting local economies and ultimately improving and diversifying the recreation economy in these mostly rural areas. It is also critical that we continue to invest in and support adequately funding the USFS in annual appropriations.

We thank you for your leadership on the Ski Area Fee Retention Act of 2019 and for the growing recreation industry.

Sincerely,

America Outdoors
American Horse Council
Archery Trade Association
Association of Marina Industries

Boat Owners Association of the United States
International Snowmobile Manufacturers Association
Motorcycle Industry Council
National Forest Recreation Association
National Park Hospitality Association
Recreational Off-Highway Vehicle Association
RV Industry Association
Specialty Equipment Market Association
Snowsports Industries America
Specialty Vehicle Institute of America
Sports & Fitness Industry Association

Testimony of Marc Berejka

Director, Government & Community Affairs
Recreational Equipment, Inc.

Submitted to the Senate Energy and Natural Resources Committee

Full Committee

Hearing to Receive Testimony on Pending Legislation

November 12, 2019

Chairwoman Lisa Murkowski and Ranking Member Joe Manchin:

On behalf of the REI Co-Op, I want to thank you for holding a hearing on the Simplifying Outdoor Access for Recreation (SOAR) Act (S. 1665), Recreation Not Red Tape Act (S. 1967), and Ski Area Fee Retention Act (S. 1723).

As you may know, REI is an 80-year-old co-op and retailer of outdoor gear and apparel. We are dedicated to the notion that a life outdoors is a life well-lived. We now have over 150 stores, plus a robust online platform as well as over 18 million co-op members across the country. We also provide classes, outings, and travel adventures to hundreds of thousands of Americans every year. Our mission is to awaken in people a lifelong love of the outdoors, to educate and outfit them, and to help them enjoy the many benefits of time spent in nature.

Streamlining the federal permitting system is exceedingly important to the health of the guiding and outfitting community and, by extension, the millions of Americans who annually enjoy the outdoors via guided adventures. The SOAR Act and Recreation Not Red Tape Act will help eliminate unnecessary regulatory burdens on guides and outfitters, while also creating an easier path for more people to access public lands through whatever form of outdoor recreation they enjoy. For example, at REI, our Adventure Travel group and our Outdoor School lead daylong and multi-day trips into the outdoors, ultimately generating thousands of trips per year on our public lands. Many guides and small outfitters do the same. These trips are complicated to plan, require a significant lead time, and – when federal lands are involved – are fully reliant on the federal agencies' processes for permit approval. In many cases, the process has become outdated, bureaucratic and difficult, and has placed an additional burden on obtaining permits – especially when trips may fall under the jurisdiction of more than one federal and/or state agency. We are confident that the Recreation Not Red Tape Act and the SOAR Act will both help to alleviate these regulatory pain points.

We also appreciate this hearing including the Ski Area Fee Retention Act (S. 1723), which will be an important contribution to the recreation economy through increasing investments in ski communities. We applaud the bipartisan, innovative approach to solving for overburdened areas used for outdoor recreation.

As a recent U.S. Commerce Department (Bureau of Economic Analysis) report demonstrates, the outdoor recreation economy – and in particular, those enterprises that guide people outdoors – play an

important role in boosting our overall economy. Regarding the recreation economy as a whole, the report found that "inflation-adjusted (real) GDP for the outdoor recreation economy grew by 3.9 percent in 2017, faster than the 2.4 percent growth of the overall U.S. economy." The BEA report, as well as reports from the Forest and Park services, highlight how outdoor recreation is good for our gateway communities and more rural regions. Per BEA, "Guided tours/outfitted travel/...accounted for \$12.9 billion and was also one of the fastest growing activities in 2017, growing 11.4 percent." These small, entrepreneurial businesses play an especially important role in communities that surround public lands. Permit streamlining legislation is vital in order to pump economic lifeblood into these businesses and communities.

Moreover, we are enthusiastic about the bipartisan, bicameral support emerging for an outdoor recreation package that would include permit streamlining and an adjustment to the ski area permit fee system. At REI, we have found that bipartisan support for public lands initiatives centered on recreation can regularly bridge the partisan divide. The large public lands package that passed earlier this year, as a result of your leadership within this committee, is just one noteworthy example of the notion we commonly refer to as #UnitedOutside. Time outdoors brings us together as a people. The committee's hearing continues that #UnitedOutside spirit, bringing Republicans and Democrats together around the benefits of time spent outdoors on our public lands.

Lastly, we want to take this opportunity to thank you for your continued bipartisanship and hard work on advancing important solutions that will ensure greater access to our treasured public lands. We appreciate your focus on this important issue and look forward to working with you and your colleagues to make sure these important pieces of legislation become law.

