



November 30, 2023

The Honorable Tom Tiffany
Chairman
House Committee on Natural Resources
Subcommittee on Federal Lands
U.S. House of Representatives
Washington, D.C. 20515

The Honorable Joe Neguse
Ranking Member
House Committee on Natural Resources
Subcommittee on Federal Lands
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Tiffany, Ranking Member Neguse, and Members of the Federal Lands Subcommittee:

On behalf of our more than one million members and supporters, The Wilderness Society (TWS) writes to express its views on the Expanding Public Lands Outdoor Recreation Experiences Act, AKA the “EXPLORE Act,” scheduled to be heard by the Subcommittee on November 30, 2023. We respectfully request that this letter be included in the hearing record.

The EXPLORE Act is a comprehensive package of legislation bills on a wide range of subjects. The Wilderness Society supports the bill overall and strongly supports certain sections of the legislation. We will identify those sections below. At the same time, we have concerns about some components of the bill and several recommendations for improvement. We will lay out our concerns and recommendations for improvement in the order in which they appear in the bill.

TWS strongly supports the following portions of the EXPLORE Act:

- Title II Access America – TWS supports efforts to increase access to federal lands and waters for people with disabilities and military veterans. We also strongly support efforts to increase youth recreation visits to Federal lands, and welcome the Committee’s efforts to extend the Every Kid Outdoors program.
- Title III Simplifying Outdoor Access for Recreation – Title III has many valuable elements that would increase opportunities to experience federal lands and waters. A key component of this title is the SOAR Act, which TWS has supported for many years. Passage of the SOAR Act would dramatically improve guided recreation opportunities on federal lands and waters. We thank the Committee for incorporating the bill into the EXPLORE Act with only minor amendment.

COMMENTS ON SPECIFIC SECTIONS

Section 113 Federal Interagency Council on Outdoor Recreation

Section 113 establishes the Federal Interagency Council on Outdoor Recreation (FICOR) as a permanent, Congressionally-chartered council of the Executive Branch. We think this an important step for improving coordination between the federal land and water management agencies.

We commend the sponsors for basing the EXPLORE Act's FICOR language on the America's Outdoor Recreation Act, S. 873, the Senate's version of the recreation package. This is a significant improvement over the language in H.R. 3107, the Improving Outdoor Recreation Coordination Act.

The EXPLORE Act improves upon the Senate bill when it defines "Federal recreation lands and waters." Instead of relying solely on the definition of Federal recreation lands and waters in the Federal Lands Recreation Enhancement Act, 16 U.S.C. § 1601 *et seq* (FLREA), the EXPLORE Act expands this definition to include the lands and waters managed by the National Oceanic and Atmospheric Administration and the Army Corps of Engineers. These two agencies are not covered by FLREA. However, it is important to include them here.

Unfortunately, the EXPLORE Act does not take the additional step of including the lands and waters managed by the Bureau of Indian Affairs in the definition of Federal recreation lands and waters. We regard this as a significant oversight since BIA would be a FICOR member under the EXPLORE Act and has responsibility for Tribal Parks across the country. We can think of no reason why NOAA and the Army Corps should be included, and BIA should not be included. We urge the Committee to correct this oversight.

We commend the sponsors of the EXPLORE Act for authorizing the four relevant Cabinet Secretaries to rotate the leadership of the Council in the manner in which they believe it will work best. This will help to ensure that all four departments have an opportunity to lead the Council and participate fully in the Council's affairs.

Section 122 Protecting America's Rock Climbing

The Wilderness Society supports the inclusion of section 122, derived from the Protecting America's Rock Climbing Act (PARC Act, H.R. 1380) in the EXPLORE Act. Section 122 will provide increased clarity on the management of fixed climbing anchors in designated Wilderness. We note that the PARC Act was revised through an Amendment in the Nature of a Substitute (ANS) when it was marked up by this Committee on June 21, 2023. The ANS made the PARC Act nearly identical to the climbing section of the America's Outdoor Recreation Act, S. 873 (AORA). This was a significant improvement to the bill.

However, a few variances remain between section 122 and the climbing section of AORA. We believe one of these variances is significant. Section 122(e) of the EXPLORE Act omits language that appears in the parallel subsection of AORA. We think the omitted language is important and we urge the House to insert it into the EXPLORE Act at markup. To do so, we recommend that the House revise subsection 122(e) of the EXPLORE Act to read as follows (insertion shown in red):

(e) EXISTING ROUTES.—The guidance issued under subsection (a) shall include direction providing for the continued use and maintenance of recreational climbing routes (including fixed anchors along the routes) in existence as of the date of enactment of this Act, in accordance with this Act, and where determined to be appropriate.

The inserted language preserves essential discretion for the land management agencies to determine when the continued use of specific climbing routes is appropriate. This decision-making lies squarely within the management functions of the agencies. Without this language, subsection (e) could be read to require the agencies to allow the continued use of every route in existence on the date of enactment. We believe such a requirement would be too broad. For that reason, we urge House members to support an amendment to insert this language into the EXPLORE Act.

Section 123 Range Access

TWS has concerns about section 123 of the EXPLORE Act as written. We believe the requirement to construct a shooting range on every National Forest and Bureau of Land Management district is arbitrary and fails to consider the level of local demand. We also believe that agencies should be able to collect fees for the use of shooting ranges. We recommend the following changes to address these concerns:

- Modify section 123 to direct the agencies to assess the need for shooting ranges on a specific unit. Impose a mandate only where a clear need exists.
- Eliminate the restriction in section 123(b)(3)(B)(iv) that limits the ability of the agency to charge fees for the shooting range. Allow the agencies to charge expanded amenity recreation fees under FLREA.

Section 127 Motorized and Nonmotorized Access

Section 127 has some positive elements but is also ambiguous in some respects. We recommend replacing the text of section 127 to resolve these ambiguities. Our replacement text appears below.

We oppose the insertion of the savings clause in section 127(e). Our concern is that this subsection could undermine the travel management plans of the agencies and result in motorized use in nonmotorized areas. It could also give agencies a loophole to avoid completing travel management plans in the future. We recommend that subsection (e) be deleted.

We recommend replacing section 127 with the following text:

SEC. 127. MOTORIZED AND NONMOTORIZED ACCESS.

(a) In General.—The Secretary concerned shall seek to have, not later than 5 years after the date of enactment of this Act, in a printed and publicly available format that is compliant with the format for geographic information systems—

- (1) for each district administered by the Director of the Bureau of Land Management, a **travel management plan, reflected in the national ground transportation linear feature dataset**; and
- (2) for each unit of the National Forest System, a motor vehicle use map **that is compliant with the Travel Management Rule (36 CFR 212, Subpart B)**.

(b) OVER-SNOW VEHICLE-USE MAPS.—The Secretary concerned shall seek to have, not later than 10 years after the date of enactment of this Act, in a printed and publicly available format that is compliant with the format for geographic information systems—

- (1) **for each district administered by the Director of the Bureau of Land Management on which over-snow vehicle-use occurs, a winter travel management plan, reflected in the national ground transportation linear feature dataset; and**
- (2) **for each unit of the National Forest System on which over-snow vehicle use occurs, an over-snow vehicle use map that is compliant with Subpart C of the Travel Management Rule (36 CFR 212, Subpart C).**

~~, an over-snow vehicle use map for each unit of Federal recreational lands and waters administered by the Chief of the Forest Service or Director of the Bureau of Land Management on which over-snow vehicle use occurs, in accordance with existing law.~~

(c) OUT-OF-DATE PLANS AND MAPS.—Not later than 20 years after the date on which the Secretary concerned adopted or reviewed, through public notice and comment, a **travel management plan** or map described in subsection (a) or (b), the Secretary concerned shall review, through public notice and comment, and update, as necessary, the applicable **travel management plan or** map.

(d) MOTORIZED AND NONMOTORIZED ACCESS.—The Secretaries shall seek to **improve** ~~create additional~~ opportunities, as appropriate, for motorized and nonmotorized access and experiences on Federal recreational lands and waters administered by the Chief of the Forest Service or the Director of the Bureau of Land Management.

~~(e) SAVINGS CLAUSE.—Nothing in this section prohibits a lawful use, including a motorized or nonmotorized use, on Federal recreational lands and waters administered by the Chief of the Forest Service or the Director of the Bureau of Land Management, if the Secretary concerned fails to meet a timeline established under this section.~~

Section 131 Gateway Communities

Section 131 imposes a significant unfunded mandate on the federal land management agencies. Subsection (a) directs the agencies to “collaborate with State and local governments, Indian Tribes, housing authorities, applicable trade associations, nonprofit organizations, and other relevant stakeholders to identify needs and economic impacts in gateway communities...” Section 131(a)(1). The agencies are instructed to carry out this work “using existing funds available to the Secretaries.”

The task of collaborating with all these agencies is a major undertaking that will require significant agency resources. Congress should not require the agencies to take on this work with existing funds available. Doing so will force the agencies to neglect their other assigned responsibilities in order to comply with these mandates. If Congress intends to impose new mandates on the agencies, it has a responsibility to provide the additional funding necessary to carry out those mandates.

Section 132 Improved Recreation Visitation Data

TWS supports the goals of section 132 but believes it is problematic in two ways.

a. Single Visitation Data Reporting System

First, subsection (a) requires the agencies to establish a single visitation data reporting system that provides an estimate of the number of visitors broken down by recreational activity. Developing a unified visitation data reporting system would be a significant improvement over the current piecemeal system. However, we urge the committee to be realistic about the challenges of producing unified data across multiple federal land management agencies. This task will be difficult for several reasons.

1. Of the five agencies covered by this bill (BLM, BOR, NPS, USFWS, USFS) only two have entrance gates at which visitors can be counted as they arrive (NPS and USFWS). Two of the five agencies (BLM and USFWS) have completely porous boundaries that make it very difficult to count people upon their arrival.
2. Although some NPS and USFWS units have entrance gates at which the agencies are able to count visitors, this data paints an incomplete picture of visitation at Park Service units

and Wildlife Refuges. The reason for this because even units with gates have other entry points through which people can gain access without being counted. In addition, some NPS and USFWS have no entrance gates. As a result, visitation data for NPS and USFWS units is, inherently, an underestimation of visitation.

3. Because their borders are porous, BLM and USFS must use other methods for measuring visitation. Some of the alternative methods currently being used involve labor intensive field surveys that can only be conducted once every five years. This makes the task of producing unified visitation data on an annual basis more difficult.

The differences in data collection methodologies and collection frequency will make it challenging for the agencies to produce unified annual visitation data. Some evolution in the agencies' data collection strategies may be required. For these reasons, we urge the committee to give the agencies plenty of time to comply with this mandate.

b. Real Time Data Pilot Program

Section 132(b) requires the Secretaries to create a data pilot program that predicts visitation in real time and make that data available to the public through multiple media platforms. The bill instructs the agencies to carry out this work "using existing funds available to the Secretaries."

This task is a major undertaking that will require the integration of data sets from multiple sources. This will be a challenging technological development process. Congress should not require the agencies to take on this work with existing funds available. Doing so will adversely affect the agency's other assigned responsibilities.

Section 153 Partnership Agreements to Modernize Campgrounds

Section 153 requires the land management agencies to enter into an arbitrarily set minimum number of agreements within three years to modernize campgrounds and other facilities on federal lands and waters. However, section 153 does not authorize the agencies to set minimum standards for contract acceptability. Consequently, the requirement to enter into a minimum number of agreements could force them to accept bad agreements. We recommend that the committee revise section 153 to explicitly authorize the agencies to set minimum standards for contract acceptability and eliminate the minimum number of agreements in section 153(c).

Section 156 Outdoor Recreation Legacy Partnership Program

Access to high-quality parks is limited for many people in the United States including 28 million children who do not have any such parks within a half-mile radius of their homes. This deprivation is especially severe in low-income and communities of color.

Section 156 aims to address this issue by expanding the eligibility for the Outdoor Recreation Legacy Partnership (ORLP) and codifying the ORLP program to make it permanent. ORLP is funded through the Land and Water Conservation Fund and supports the creation and improvement of outdoor recreation infrastructure in eligible areas of a population of 25,000 or more, with priority given to low-income communities. This section has earned bipartisan support because it seeks to address outdoor recreation deficits, promote job training, public-private partnerships, and ensure equitable access to the benefits of local parks.

Although TWS supports section 156, we note that the EXPLORE Act omits an essential element of the original Outdoors for All Act that would ensure greater access to the benefits of the ORLP program. Section 3(b) of the original bill (H.R. 1065) and section 406(b)(2)(B) of AORA (S. 873) would allow the Secretary to waive the match requirement for ORLP grants under certain circumstances. It reads:

(B) WAIVER.—The Secretary may waive all or part of the matching requirement under subparagraph (A) if the Secretary determines that—
(i) no reasonable means are available through which the eligible entity can meet the matching requirement; and
(ii) the probable benefit of the project outweighs the public interest in the matching requirement.

We recommend that this waiver authority be reinserted into the EXPLORE Act. Without this authority, the Secretary will not be able to harness the true potential of the ORLP program.

Similarly, we recommend that section 156(b)(2)(B) of the EXPLORE Act be amended to allow grantees to use up to 10% of their grant receipts for administrative expenses. Currently, this subsection limits grantees to 7% for administrative expenses.

Conclusion

Thank you for your time and consideration of our views and the views of our millions of members and supporters.

Sincerely,

A handwritten signature in cursive script that reads "Paul Sanford". The signature is written in black ink and is positioned below the word "Sincerely,".

Paul Sanford
Director of Policy Analysis