

**Statement of
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Senate Committee on Energy and Natural Resources

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

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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.