



To: House Committee on Natural Resources Republican Members
From: Subcommittee on Oversight and Investigations Staff; Sang Yi (Sang.Yi@mail.house.gov) (202-821-9930) and Meghan Holland (Meghan.Holland@mail.house.gov) (202-897-7480)
Date: April 27, 2021
Subject: Oversight hearing titled “Accessibility for People with Disabilities on National Parks and Public Lands”

The Subcommittee on Oversight and Investigations will hold a hearing titled, “Accessibility for People with Disabilities on National Parks and Public Lands” on **Tuesday, April 27, 2021, at 12:00 p.m. EST**. This is a virtual hearing.

Member offices are requested to notify Sang Yi by **4:30 p.m. EST on Monday, April 26, 2021**, if their Member intends to participate in person in the hearing room or remotely from his/her laptop from another location. Submissions for the hearing record must be submitted through the Committee’s electronic depository at HNRCDocs@mail.house.gov. Please contact David DeMarco (David.DeMarco@mail.house.gov) or Everett Winnick (Everett.Winnick@mail.house.gov) should any technical difficulties arise.

I. KEY MESSAGES

- Federal lands belong to all Americans, including those with disabilities. Millions of Americans live with a variety of functional disabilities, including those affecting mobility, vision, and hearing. A broad, one-size fits all approach is ill-suited to improve access to federal lands for these individuals given the varying conditions and scope of their disabilities and the wide variety of activities available on federal lands.
- Democrat policies fall short in supporting practical access to federal lands. By allowing environmental activists to dominate their policies, land managers are hampered from offering accommodations that would increase land access for individuals with disabilities and for all Americans.
 - In passing H.R. 803, Democrats designated 1.5 million acres as wilderness, which in practice severely limits accommodations from being provided to allow individuals with disabilities to access the impacted public lands.
- Republicans have solutions to improve access to our federal lands for all Americans by ensuring:

- Land designations balance protecting the environment with broad opportunities for access and multiple use, such as motorized and mechanized transportation for the mobility disabled;
- Funds provided by Congress to increase access to public lands and improve public lands infrastructure are actually spent on projects that achieve the intended goals, not on increasing bureaucracy and endless bureaucratic studies; and
- Federal land managers are providing robust information to visitors about land conditions and access options, managing lands to allow for the broadest suite of activities on the landscape and maximizing partnerships with organizations that work to connect individuals with disabilities to the outdoors.

II. WITNESSES

- Graham Hill, Former Member, National Disability Council [*Republican Witness*]
- Amy Bowen, U.S. Army Veteran, Iraq and Afghanistan
- Julie Edminston, Associate Executive Director, Wilderness Inquiry
- Michael Passo, Executive Director, American Trails

III. BACKGROUND

Solutions for improving federal lands accessibility must consider how restrictive land-use designations can hamper enjoyment, use, and access by the American public as well as limit options for resource management. For some with mobility impairments and other disabilities, restrictive land-use designations create additional challenges hampering their access to federal lands. The varying types and degrees of disabilities as well as agencies' inconsistent approaches to managing federal lands and allowable activities are all factors in addressing access issues.

Americans Living with Disabilities

According to the Centers for Disease Control and Prevention, 61 million adults in the United States live with a disability.¹ Of these adults living with disability:

- 13.7 percent have a mobility impairment,
- 5.9 percent are deaf or have serious difficulty hearing, and
- 4.6 percent have a vision disability with blindness or serious difficulty seeing.²

¹ *Disability and Health Promotion – Disability Impacts All of Us*, Centers for Disease Control and Prevention (last reviewed Sept. 16, 2020), <https://www.cdc.gov/ncbddd/disabilityandhealth/infographic-disability-impacts-all.html#:~:text=61%20million%20adults%20in%20the,have%20some%20type%20of%20disability.>

² *Id.*

As of August 2020, 4.7 million American veterans had a service-connected disability.³ Post 9/11 veterans have a 43 percent chance of living with a service-connected disability, significantly higher than veterans from other periods in American history.⁴

Management and Access on Federal Lands

Federal lands are managed by four agencies with largely different missions. The missions of the U.S. Forest Service (USFS), Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), and National Park Service (NPS)⁵ greatly influence the activities that can take place on federal lands.

For example, both BLM and USFS operate under a multiple use mission, and much of their lands are open to hunting and fishing.⁶ In contrast, USFWS manages lands under a dominant-use mission, which tasks the agency with preserving animals and plants, but allows for some additional compatible activities.⁷ USFWS considers wildlife related activities, like hunting, fishing, and birdwatching, priority uses, but may allow other activities based on their compatibility with specific units.⁸ NPS, however, generally has strict protections for the land it manages, and allowed recreational activities may be limited.⁹

In addition to differences based on agency, certain land management designations put in place by land managers or by Congress can impact access to public land, and thus impact access for disabled Americans:¹⁰

- Wilderness Areas - receive the highest level of protection, and generally prohibit commercial activities, motorized and mechanized uses, roads, structures, and facilities. For Americans with mobility impairments, restrictions on motorized and mechanized use can make these areas difficult or impossible to access.¹¹
- Inventoried Roadless Area – activities such road construction are prohibited, with limited exceptions. Restricting new road construction can make it difficult to create new access points for disabled Americans.¹²
- National Monument – uses vary according to the establishing law or proclamation, and the administering agency.¹³ Uncertainty regarding allowed uses can be a deterrent to

³ News Release, Bureau of Labor Statistics, U.S. Dep't of Labor, Employment Situation of Veterans – 2020 (Mar. 18, 2021), available at <https://www.bls.gov/news.release/pdf/vet.pdf>.

⁴ Press Release: U.S. Census Bureau, Census Bureau Releases New Report on Veterans (June 2, 2020), available at <https://www.census.gov/newsroom/press-releases/2020/veterans-report.html>.

⁵ *The Federal Land Management Agencies*, Congressional Research Service (Feb. 16, 2021), <https://www.crs.gov/reports/pdf/IF10585>.

⁶ Laura B. Comay, R. Eliot Crafton, Carol Hardy Vincent, & Katie Hoover, *Federal Land Designations: A Brief Guide*, Congressional Research Service (Oct. 11, 2018), <https://www.crs.gov/reports/pdf/R45340>.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

disabled Americans who, reasonably, would not want to travel to these areas only to be told their preferred activity or needed accommodations are not available.

Given varying levels of access available on federal lands as a result of differences in managing agency and in land use designations imposed by both land managers and Congress, it is clear a one-size-fit-all solution is not appropriate to address the varying access needs for disabled Americans, specifically, and for Americans in general.

Access in Practice

Federal public lands belong to all of us, and all Americans should have the opportunity to access and enjoy them. Consideration of the unique challenges people with disabilities face is imperative to forming solutions to improve access. In a 2006 statement to the Committee on Natural Resources (Committee), an NPS official testified that “accessibility involves not only ensuring that citizens with disabilities can access our parks, but also that once there, they can enjoy the same benefits that are provided to other visitors.”¹⁴ This concern is highlighted in certain practices designed to benefit the disabled community, but concern alone does little to provide real access or improve visitor experience. For example, each of the land management agencies offers a free access pass to Americans living with a permanent disability,¹⁵ but such passes are only meaningful if the lands themselves are accessible to these Americans.

Examples of programs increasing access to our federal lands for individuals with disabilities include:

- Glacier National Park – shuttles have wheelchair lifts so visitors can enjoy destinations along the Going-to-the-Sun Road; offers large-print, Braille, and audio versions of park brochures; and accessible evening and ranger-led programs are specially marked.¹⁶
- Arches National Park – availability of audio brochure of the park; wheelchair-accessible viewing point at Delicate Arch; and visitor center exhibits include tactile models and maps.¹⁷

¹⁴ *Disability Access in the National Park System: hearing Before the Subcomm on Nat'l Parks, H. Comm. on Nat. Resources*, 109 Cong. (2006) (statement of Sue Masica, Associate Director, Park Planning, Facilities, and Lands, Nat'l Park Service, Dep't of the Interior), available at: <https://www.doi.gov/ocl/nps-disability-access>.

¹⁵ *Federal Recreational Lands Passes*, U.S. Fish and Wildlife Service, Dep't of the Interior <https://www.fws.gov/refuges/visit/federal-recreational-lands-pass.html>; *BLM Accessibility Program*, Bureau of Land Management, Dep't of the Interior, [https://www.blm.gov/programs/recreation/recreation-programs/accessibility#:~:text=BLM%20Accessibility%20Program&text=The%20America%20the%20Beautiful%20%2D%20Access,%22Access%20Pass%22%20section%20below.](https://www.blm.gov/programs/recreation/recreation-programs/accessibility#:~:text=BLM%20Accessibility%20Program&text=The%20America%20the%20Beautiful%20%2D%20Access,%22Access%20Pass%22%20section%20below.;); *National Park Access Pass*, Nat'l Park Service, Dep't of the Interior, <https://www.nps.gov/subjects/accessibility/access-pass.htm>; *Free Lifetime Access Pass*, U.S. Forest Service, U.S. Dep't of Agriculture, <https://www.fs.usda.gov/managing-land/national-forests-grasslands/accessibility/access-pass#:~:text=Those%20with%20permanent%20disabilities%20can.pass%20to%20these%20Recreational%20Lands.&text=This%20defines%20a%20permanent%20disability,be%20applied%20for%20in%20person.>

¹⁶ *Accessibility Across America's Public Lands*, DEP'T OF THE INTERIOR (Sept. 5, 2018), <https://www.doi.gov/blog/accessibility-across-americas-public-lands>.

¹⁷ *Id.*

- Healing while Hunting at the National Wildlife Refuges – several National Wildlife Refuges offer deer hunting programs that are accessible to individuals with a range of disabilities, including those with missing limbs to individuals with quadriplegia.¹⁸

Additionally, in October 2019 then-Secretary of the Interior Bernhardt issued a Secretarial Order to increase public land access through the use of electric bikes on federal lands managed by DOI.¹⁹ In October 2020, NPS, BLM, USFWS and the Bureau of Reclamation published policies in the Federal Register implementing the Secretarial Order.²⁰ Electric bikes can be used by individuals with physical limitations, and serve as a way to expand recreational access to our lands.²¹

The conversation surrounding improving access to public lands must include addressing the needs of individuals who use a wheelchair, as well as other types of powered and unpowered mobility assistance. For example, the use of a motorized vehicle benefits an individual with a physical disability in several ways. For an individual who uses a wheelchair, it may allow them to reach the hunting blind that would be otherwise inaccessible to them. For an individual using a prosthetic arm, it may serve as the means to transport a deer after the hunting session is concluded.

However, given the significant number of Americans living with disabilities and the broad spectrum of disabilities that must be considered, the conversation cannot simply stop at mobility devices. To provide individuals with disabilities the capability to enjoy the same benefits as other visitors, accommodations like motorized and mechanized vehicle access, increased availability of information regarding on the ground conditions that could impact access and improved telecommunications connectivity, such as wireless connectivity, must all be addressed on federal lands. The flexibility to provide these accommodations will allow individuals with disabilities a greater opportunity to participate in outdoors activities.

Democrat Actions Lessen Accessibility to Federal Lands:

This year, the House passed H.R. 803, the Protecting America's Wilderness and Public Lands Act, which designated 1.5 million acres of wilderness.²² Though Democrats may purport to support increasing accessibility, their legislation has placed the most stringent restrictions on millions of acres of federal land. Democrats may assert that the Wilderness Act does not prevent someone using a wheelchair on wilderness land.²³ This affirmation,

¹⁸ *Id.*

¹⁹ Press Release, Dep't of the Interior, Dep't of the Interior Pushes to Increase Access and Recreational Opportunities for Electric Bicycles Use on Public Lands (Oct. 22, 2019), *available at* <https://www.doi.gov/pressreleases/department-interior-pushes-increase-access-and-recreational-opportunities-electric>

²⁰ *Interior Department recognizes e-bikes the same as bikes*, Bicycle Retailer (Oct. 2, 2020), <https://www.bicycleretailer.com/industry-news/2020/10/02/interior-department-officially-approves-e-bike-policy#.YIWQUpBKg2w>

²¹ *Id.* at 19

²² Press Release: Speaker of the House, Pelosi Statement on Passage of H.R. 803, Protecting America's Wilderness and Public Lands Act (Feb. 26, 2021) *available at* <https://www.speaker.gov/newsroom/22621-0>.

²³ 42 U.S.C. §12207 (c)(1)

however, is followed by “no agency is required to provide any form of special treatment or accommodation, or to construct any facilities or modify any conditions of lands within a wilderness area in order to facilitate such use.”²⁴ In the 116th Congress, members of the House Natural Resources Committee offered amendments to much of the legislation that was ultimately included in H.R. 803, in attempts to improve access for disabled Americans in wilderness. However, Democrats rejected those amendments, and in the 117th Congress, bypassed regular order and ignored similar concerns as expressed in the Rules Committee and on the floor of the House of Representatives.²⁵

Democrats supposed support for accessibility is flawed in two ways. First, the assessment of accessibility should include an analysis of the different types of disabilities, including but not limited to the impacts on individuals using wheelchairs. Second, although wheelchairs are not prohibited, there is no statutory language requiring that any accommodations be made to physically allow for wheelchairs to be used. In practice, wilderness areas are not accessible to wheelchairs.

Common Sense Solutions

There exist opportunities to advocate for common-sense solutions to increase accessibility to our federal lands.

1. We must continue to oppose restrictive designations, like wilderness designations. By virtue of being federal land, protections are already in place to promote conservation. It is important to address what the most stringent designations on our federal lands means for access for disabled and all Americans. Solutions should balance conserving our natural resources and giving land managers the direction to provide accommodations to individuals with disabilities that allow them to experience their public lands.
2. Policies enacted by land managers and Congress alike, as well as investments of taxpayer dollars, such as through the Great American Outdoors Act (Public Law 116-152), must improve access to our national parks and to federal public lands.
3. DOI should address the following issues:
 - a. Increased Availability of Information
 - Information about accommodations and accessibility should be made easier to find on DOI’s website and on www.Recreation.gov. By making access and accommodation information readily available, visitors may gather the information they need to plan their visits to federal lands.

²⁴ *Id.*

²⁵ *H.R. 803 - Colorado Wilderness Act of 2021 [Protecting America's Wilderness and Public Lands Act]*, House Committee on Rules, <https://rules.house.gov/bill/117/hr-803>

- Information provided at federal lands should be more widespread. For example, trails should include descriptions of difficulty and terrain in formats accessible to those with visual disabilities. Visitors should have the information needed to determine if a particular feature or facility is accessible to them, taking into account their personal abilities.

b. Considering Level of Access Based on Activity

- A variety of activities can take place on federal lands. Land managers should look to provide more accurate assessments of access opportunities based on accommodations available for specific activities. Visitors with disabilities seek practical information that can inform their choices of activities.
- For example, USFWS may manage land that is easily accessible for birdwatching, but requires additional accommodations for hunting. By delineating between activities, federal land managers can more accurately describe the levels of access and improve the information on which visitors rely.

c. Encouraging Public-Private Partnerships

- Many private organizations work to connect individuals with disabilities with the outdoors, and some specifically focus on serving veterans.²⁶
- A recent study found that land managers saw the benefits of existing partnerships, and would pursue additional partnerships after overcoming administrative hurdles.²⁷
- Many of the land management agencies at DOI already engage with privately funded organizations. Agencies should look to maximize the private resources available to them, such as, funding and volunteers capacity. For example, private organizations are able to fund access improvements in many cases, assist in providing disabled visitors the support needed to use federal lands, and serve as activity organizers.

²⁶ See National Park Recreation and Disability Access Program, NATIONAL PARK FOUNDATION, <https://www.nationalparks.org/our-work/programs/national-park-recreation-and-disability-accessibility-program>; *Accessibility Across America's Public Lands*, DEP'T OF THE INTERIOR (Sept. 5, 2018), <https://www.doi.gov/blog/accessibility-across-americas-public-lands>.

²⁷ Monika Derrien, Lee Cervený, & David Havlick, *Outdoor Programs for Veterans: Public Land Policies and Practices to Support Therapeutic Opportunities*, JOURNAL OF FORESTRY (2020) at 541, available at <https://academic.oup.com/jof/article/118/5/534/5857311>.