

# OUTDOOR ALLIANCE

November 8, 2023

Senator Catherine Cortez Masto  
Chair, Subcommittee on Public Lands, Forests, and Mining  
520 Hart Senate Office Building  
Washington, DC 20510

Senator Mike Lee  
Ranking Member, Subcommittee on Public Lands, Forests, and Mining  
363 Russell Senate Office Building  
Washington, D.C. 20510

## **RE: October 25th Subcommittee Hearing to Receive Testimony on Forestry and Public Lands Legislation.**

Dear Chair Cortez-Masto, Ranking Member Lee, and members of the Subcommittee,

On behalf of the human-powered outdoor recreation community, thank you for holding October 25th's hearing on forestry, wildfire, and public lands legislation. Several of the bills before the Subcommittee would protect important outdoor recreation resources on public lands and improve forest health and wildfire resilience on our nation's forests. We also have significant concerns regarding several other proposals before the Subcommittee, which we have outlined in detail below.

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

Protected public lands are the settings for outdoor recreation opportunities across the U.S. As regular visitors to these lands, the outdoor recreation community



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benefits immensely from access to a wide variety of recreation opportunities, as well as from numerous ecological and cultural benefits like clean water, carbon storage, wildlife habitat, and clean air that public lands provide. To this end, our community has a strong interest in supporting durable protections for areas of ecological, cultural, or recreational significance, while also supporting science-based restoration actions intended to build resilience to climate change and other stressors across our landscapes. This combination of land protection and ecological restoration is vital for providing sustainable outdoor recreation opportunities for present and future generations and supporting America's thriving \$862 billion outdoor recreation economy.

Several of the bills considered during October 25th's hearing would protect important areas of public lands for their conservation, recreation, and cultural values, and in some cases, lift existing protections for areas of federal land. The outdoor recreation community is most supportive of land protection proposals that have been developed collaboratively with local recreationists in a way considers recreation alongside conservation values like clean water, biodiversity, wilderness character, and climate mitigation and supporting the land management priorities of Indigenous peoples. Alternatively, we are concerned by legislation that prescribes a more top down approach to land management that fails to acknowledge the input of local stakeholders and Tribes.

A number of the bills before the Subcommittee specifically seek to mitigate the risk that wildfires pose to communities and ecosystems. The outdoor recreation community is increasingly affected by severe wildfires that degrade recreation infrastructure and deter safe outdoor recreation during fire season. Outdoor Alliance recently released a policy report about wildfire in western U.S. forests that describes wildfire's impact on recreation and identifies key strategies for building wildfire resilience in the West.<sup>1</sup> In the report, we emphasize that a dramatic increase in the pace and scale of ecologically-sound fuel treatments is needed to return western U.S. forests (particularly dry forests) to a state of fire resilience, and that these fuel treatments can be designed and implemented in a way that also increases the resilience of recreation infrastructure and enhances the outdoor recreation experience.

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<sup>1</sup> Jamie Ervin, *Wildfire and Outdoor Recreation in the West: How Recreationists Can Support a Fire-Resilient Future*, Policy Report, Outdoor Alliance, Washington, D.C. (2023).



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As the Subcommittee considers proposals to address wildfire resilience on western public lands, we encourage the Subcommittee to consider the *quality* of forest health treatments, as well as the necessity that forestry projects proceed with public input and collaborative support. Outdoor Alliance supports the Forest Service's (USFS) goal of treating 50 million acres of forest lands in western states over the next decade, as outlined in the agency's 10-Year Wildfire Crisis Strategy.<sup>2</sup> In order to achieve this goal, the agency will need to increase the pace and scale of multiple restoration tools, including ecological forest thinning, prescribed fire, and managed wildfire, in order to secure effective, durable benefits for forest resilience. Proposals that focus solely on one restoration tool, such as forest thinning, should be accompanied by policy changes and investments that also support the other restoration tools, including low-to-moderate intensity fire. Moreover, we encourage the Subcommittee to reject proposals that unnecessarily short-circuit the National Environmental Policy Act (NEPA) process, particularly the invaluable opportunities for public input and science-based decision making that it provides. Retaining NEPA protections is critical for ensuring that forestry projects reflect the needs of local stakeholders, including outdoor recreationists, and incorporate the best available science.

Our comments on specific bills follow.

## **A bill to codify certain public land orders relating to the revocation of certain withdrawals of public land in the State of Alaska (S. 175)**

Outdoor Alliance opposes S. 175, which would codify five BLM public land orders from 2021 that opened tens of millions of acres in Alaska to oil and gas development and mining. The BLM is currently in the process of undergoing environmental review of these decisions, which were issued in the final weeks of the Trump administration. The agency expects to have an environmental impact statement (EIS) completed by August 31, 2024. Given the potential for energy development to adversely affect Alaska's environment, cultural values, and recreation opportunities, we strongly believe that BLM must be allowed to

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<sup>2</sup> U.S. Dep't Of Agriculture, Forest Service, FS-1187a, Wildfire Crisis Strategy – Confronting the Wildfire Crisis: A Strategy for Protecting Communities and Improving Resilience in America's Forests (2022), <https://www.fs.usda.gov/sites/default/files/Confronting-Wildfire-Crisis.pdf>.



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complete this environmental review process before making any final decision affecting such a vast area.

## Wyoming Public Lands Initiative Act of 2023 (S. 1348)

Outdoor Alliance opposes the Wyoming Public Lands Initiative Act of 2023 (WPLI Act). This bill, which was developed by a stakeholder group under the leadership of the Wyoming County Commissioners Association, would designate new Wilderness and other protected areas while also removing protections from thousands of acres of Wilderness Study Areas (WSAs) throughout the state. The 2023 version of the bill would also exempt all land covered by the Act from the BLM's proposed Conservation and Landscape Health rule (hereafter "Public Lands Rule") or a substantially similar rule.<sup>3</sup>

We oppose the bill for the following reasons.

First, our community opposes language excluding the bill area from the proposed Public Lands Rule. While we have some concerns and suggested improvements to the BLM's proposed rule, overall, we consider this rulemaking to be an important opportunity to improve how BLM decisions protect conservation values and also enhance recreation opportunities across some of America's most valued public lands. Furthermore, to our knowledge, this major new substantive addition was not developed or approved by the WPLI stakeholder groups, nullifying any level of consensus support that the group granted to earlier versions of the bill. We ask that the bill sponsors remove this new addition from the bill and allow the BLM to complete the process of developing the Public Lands Rule.

Second, while we generally support stakeholder-driven conservation efforts, we are concerned that the WPLI Act does not reflect a true consensus-based process. The bill would remove protections from more than 127,000 acres of WSAs while designating around 20,000 acres of new Wilderness and approximately 27,000 acres of special management areas—a significant skew towards releasing areas rather than retaining protections. As a result, the bill would leave many areas valued by the outdoor recreation community throughout Wyoming without any long term protection, and multiple local conservation and recreation organizations

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<sup>3</sup> 88 Fed. Reg. 19583 (April 3, 2023)



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that participated in the WPLI process oppose the bill. Outdoor Alliance and our member organizations would gladly support a true collaborative process for deciding the future of Wyoming's wild places. This process, however, must adequately take the concerns of local conservation and recreation stakeholders, as well as Tribes, into account.

## **Pecos Watershed Protection Act (S. 3033)**

Outdoor Alliance strongly supports the Pecos Watershed Protection Act, which would withdraw portions of the Upper Pecos Watershed from mineral development and also designate the Thompson Peak Wilderness Area. The Upper Pecos River provides numerous ecological and cultural values, as well as outstanding recreation opportunities including hiking, whitewater paddling, and climbing. The bill would protect whitewater resources between Cowles and Pecos, where the river flows through wooded high mountain canyons, barren tablelands with bluffs, and rugged rock formations. The proposed Wilderness would also protect portions of the Thompson Peak hiking trail. We especially appreciate that the proposed Wilderness boundaries would maintain access to the area's mountain biking resources, and we thank the bill sponsors for their work to incorporate input from mountain bikers and other recreationists into the bill's design.

## **Mount Blue Sky Wilderness Act (S. 3044)**

Outdoor Alliance strongly supports the Mount Blue Sky Wilderness Act, which would rename the Mountain Evans Wilderness in Colorado as the "Mount Blue Sky Wilderness." The Mount Evans Wilderness is named after John Evans, who has been roundly condemned for his role in the Sand Creek massacre, and should be renamed. We were thrilled to see the decision of the U.S. Board on Geographic Names renaming Mount Blue Sky earlier this year. This legislation is the next important step towards healing from the past.

As Governor of the Territory of Colorado, Evans supported raids targeting American Indians, issuing a proclamation to Coloradoans to "kill and destroy" Native Americans. In 1864, Evans facilitated one of the most brutal massacres in American history, the Sand Creek massacre, in which hundreds of men, women, and children were killed by a local militia under conditions created by Governor Evans. Two Congressional committees and one military committee investigated the event,



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recognizing guilt on the part of the United States. Governor Evans was found culpable and was forced to resign in disgrace. A 2014 report by the University of Denver confirmed Evans' culpability.

This landscape deserves a name which honors the area's natural and cultural values, rather than a perpetrator of atrocities against Native Americans. The Cheyenne & Arapaho Tribes have proposed using Mt. Blue Sky Wilderness as it signifies the Arapaho, as they were known as the Blue Sky People, and the Cheyenne who have an annual ceremony of renewal of life called Blue Sky.

## **FIRESHEDS Act (S. 1719)**

Outdoor Alliance opposes the FIRESHEDS Act. This bill would allow States to enter into agreements with federal agencies to plan and implement large scale fuel reduction projects in priority "firesheds" where wildfire risk to communities has been mapped as within the top 10% across the West. While we support S. 1719's goal of increasing the pace and scale of forest restoration on western public lands, we are concerned that the bill is unnecessarily duplicative of existing efforts, and we oppose the new legislative categorical exclusion (CE) and limits on judicial review proposed for fireshed management areas.

Under their Wildfire Crisis Strategy, the Forest Service has already undergone detailed mapping of firesheds throughout the West based primarily on community exposure to wildfire. Using the firesheds map, the agency has selected twenty one landscape-scale projects for implementation under the strategy, with potential for more in the future. These initial twenty one projects include many areas that contain high-value recreation resources, including the Colorado Front Range, the North Yuba landscape in California, and Central Oregon, and we are highly supportive of the agency's efforts to increase wildfire resilience in these areas. Given this context, we are unclear of the utility of a mandate for similar use of the firesheds map while unnecessarily adding complexity to the USFS's work.

While we appreciate some of the sideboards required for fireshed management projects, such as the requirement that fireshed management projects maximize the retention of old growth trees, we are highly concerned by the bill's proposed CE and limitations on judicial review. Specifically, Section 607(d)(4) would exclude fireshed management projects from NEPA analysis, and Section 607(e) would limit judicial



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review procedures by prohibiting courts from imposing preliminary injunctions in cases involving forest management activities within the wildland-urban interface. The proposed CE has no size limit and could potentially cover a wide range of forest management activities including thinning and salvage logging. While we generally support finding efficiencies in the NEPA process to help increase the pace and scale of forest restoration, we are concerned that excluding such a broad range of forestry activities from NEPA entirely will ultimately lead to projects advancing without necessary community support and without adequate consideration of public lands values, including outdoor recreation. Furthermore, we question whether the NEPA process is the most significant barrier to fuel reduction projects more broadly. Workforce capacity limitations, economic constraints, and funding all present hurdles to increasing the pace and scale of forest restoration, and we encourage the Subcommittee to consider where legislation might be helpful for addressing these barriers.

Finally, we are very concerned by Section(d)(5)(B), which would allow fire-shed management activities to occur within Inventoried Roadless Areas (IRAs) so long as the activities are allowed by the Forest Service's local land management plan. IRAs include some of our nation's most valuable backcountry recreation opportunities, and while certain fuel treatments might be appropriate and necessary in IRAs, we prefer that these fuel treatments be guided by the forestry language in the 2001 Roadless Rule rather than by any guidance around forestry activities in IRAs that might (or more likely might not) be included in land and resource management plans.

## **Catastrophic Wildfire Prevention Act of 2023 (S. 2132)**

Outdoor Alliance is concerned by the Catastrophic Wildfire Prevention Act of 2023, which would establish a pilot program by which the Forest Service would estimate a Stand Density Index (SDI) to reflect forest conditions prior to widespread fire suppression, and then design and implement forest health projects based on this pre-fire suppression SDI. While we support S.2132's intent that forestry projects reflect our best knowledge of historic, fire-resilient forest conditions, we are concerned by the bill's over-reliance on SDI as a metric for evaluating forest health on public lands in the western U.S. While useful for evaluating the overall density of forest stands, SDI calculations should not be the only factor considered by land managers when evaluating forest health and wildfire resilience. For example, SDI



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does not account for important factors like slope position, aspect, elevation, latitude, soil characteristics, climatic water deficit, and also does not always perfectly reflect other ecological features like forest composition. Through the forest plan revision process, the Forest Service already works to estimate the natural range of variation (NRV) for forest ecosystems. These NRV estimates are based on the best available science, stakeholder input, and traditional ecological knowledge, which provides a broader basis for decision making around forest management than SDI alone. We prefer these more holistic calculations of NRV to an approach that focuses solely on SDI and see no need for Congress to force the agency to use one specific metric for evaluating forest resilience.

## **Promoting Effective Forest Management Act of 2023 (S. 2867)**

Outdoor Alliance opposes the Promoting Effective Forest Management Act of 2023. This bill proposes a broad set of changes to federal forestry policy, including new reporting requirements, treatment goals, workforce programs, and policy changes. We are concerned that multiple provisions of S. 2867 are duplicative of existing policies and practices and that the bill overly emphasizes thinning as a forest restoration tool without regard for the quality and efficacy of fuel treatments. Perhaps most importantly, we strongly oppose Section 202 of the bill, which would restrict the Forest Service's current work to protect old growth and mature forests. We also support some portions of the bill, which we have noted below.

Title I, Accomplishments Over Rhetoric, establishes restoration targets and reporting requirements for federal forestry projects. We are concerned by Section 101, which would require agencies to establish acreage targets for thinning projects aimed at quadrupling the number of acres thinned by fiscal year 2027. While we support efforts to increase science-based forest restoration in the West, Section 101 overly emphasizes thinning without acknowledging the need to advance other restoration tools, particularly prescribed fire. Additionally, the USFS has already set bold acreage targets through its Wildfire Crisis Strategy, and setting independent targets for thinning would be duplicative of this existing effort.

Title II, Forest Management, proposes new policy changes and initiatives related to forest restoration projects. Outdoor Alliance strongly opposes Section 202, Management of Old Growth Forests, which would restrict the USFS's ability to update the definition of "old growth forest," redefine "mature forest," and





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encourage logging within mature forests. The outdoor recreation community benefits greatly from recreating in and around old growth forests, as well as from the vital ecosystem services like carbon storage and water filtration that these forests provide. We strongly support the USFS's current effort to define, inventory, and protect mature and old growth forests, and we oppose efforts by Congress to unnecessarily restrict this work. We are also concerned by Section 205, Using Grazing for Wildfire Prevention, which requires federal land management agencies to develop a strategy for increasing grazing for wildfire risk mitigation. In many cases, livestock grazing may exacerbate wildfire risk by introducing inflammable nonnative species such as cheatgrass, which displace native fire-resilient species and increase fuel continuity across both forest and non-forest landscapes. Finally, we support Section 203, Process-Based Restoration Techniques which would establish a pilot program for wetland and riparian restoration. This pilot program holds potential to accelerate natural climate solutions like beaver restoration that simultaneously improve water quality, wildlife habitat, and ecosystem carbon storage, while also building resilience to flooding and erosion.

Title III, Workforce, establishes a new workforce development program for forestry professionals and improves work benefits for wildland firefighters. We are concerned that Section 301, Logging Workforce, narrowly focuses on individuals involved with logging rather than on forest restoration more broadly. We suggest removing this section or broadening its focus to include workforce training opportunities in prescribed fire, aquatic restoration, and other ecological restoration activities needed to achieve fire and climate resilience in the West. Outdoor Alliance supports Sections 302, Break-In Service Consideration for Firefighter Retirements, which would require the Secretary of Labor to promulgate regulations to ensure that firefighters do not forfeit retirement benefits if they take a voluntary break of not more than nine months. Among other things, this section is necessary to ensure that female firefighters are not penalized for taking maternity or family leave.

Finally, within Title IV, Cultural Change in Agencies, we oppose Section 401's mandate that certain national forests with high wildfire risk use certain categorical exclusions within three years. CEs are already widely used for forestry projects throughout the National Forest System, and arbitrarily requiring each forest to use a particular CE regardless of that forest's capacity and existing wildfire mitigation efforts might push the agency to move forward with projects that lack stakeholder



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support. We support Section 402, Curtailing Employee Relocations, and recommend that this section be expanded to include agency employees beyond “line officers.” Forest Service employees build immense place-based knowledge during their time at a particular duty station, and we support incentives to encourage these employees to remain in place.

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Thank you for considering our community’s input. We look forward to working with you to support healthy, resilient ecosystems and sustainable recreation opportunities across America’s public lands.

Best regards,



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