

OUTDOOR ALLIANCE

March 6th, 2023

Rep. Bruce Westerman
Chairman, House Committee on Natural Resources
202 Cannon HOB
Washington, DC 20515

Rep. Raúl Grijalva
Ranking Member, House Committee on Natural Resources
1203 Longworth HOB
Washington, DC 20515

RE: February 28th legislative hearing on H.R. __, “Building United States Infrastructure through Limited Delays and Efficient Reviews Act of 2023”

Dear Chair Westerman, Ranking Member Grijalva, and members of the Committee,

On behalf of the human-powered outdoor recreation community, we write to express our views on the discussion draft of the Building United States Infrastructure through Limited Delays and Efficient Reviews Act of 2023 (BUILDER Act), which was considered during February 28th's full committee legislative hearing. The discussion draft of the BUILDER Act proposes a sweeping set of changes to the National Environmental Policy Act (NEPA), which include limits on judicial review of agency decisions, expedited timelines, and significant limits on the types of information that agencies can consider during the NEPA process. While our community shares the Committee's interest in making NEPA more efficient and responsive to the challenges of our time, we find that the BUILDER Act would severely weaken agencies' ability to make reasoned, equitable, and science-based decisions through the NEPA process, and as a result we strongly oppose the bill.

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



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bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

Our community has extensive experience working in the NEPA process in the context of public lands management, from forest planning and BLM resource management plan development, to travel management, recreation management, and other natural resources decisions. We also at times work as proponents of recreation infrastructure projects—like trail networks—that require navigating the NEPA process, and we are familiar with the frustrations that can accompany NEPA from that perspective. We work at all levels of the NEPA process, from participating in collaborative groups, to submitting comments and meeting with agency decision makers, to participating on rare occasions as NEPA-related litigants. These experiences have provided us with an informed perspective on NEPA policies and practices.

Given this experience with the NEPA process, the outdoor recreation community is open to considering targeted science-based reforms to NEPA, especially if it is shown that they are necessary to achieve recreation access, ecological restoration, and clean energy goals. These reforms, however, absolutely cannot come at the expense of frontline communities' ability to protect themselves from environmental hazards, or at the expense of agencies' ability to consider the best available scientific information to achieve the best outcome for a project.

Rather than taking a targeted approach to NEPA reform, the discussion draft of the BUILDER Act instead proposes broad changes to established policies that have served as critical tools in protecting America's environment for more than half a century. Many of these are similar or identical to the deeply damaging NEPA regulations adopted by the Council on Environmental Quality under the Trump administration in 2020, which have since been rescinded. The outdoor recreation community strongly opposed the 2020 NEPA rules when they were proposed, and generated more than 20,000 messages to the administration and lawmakers in defense of NEPA and its core values.

In many cases, the BUILDER Act goes even further than the 2020 regulations in weakening NEPA's integrity. The discussion draft proposes a long list of reforms that are problematic. However, the following proposals are particularly concerning for our community:



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- Narrowing the application of NEPA—The bill redefines what constitutes a “major federal action,” giving agencies discretion to determine whether an action falls under NEPA’s scope. The bill also explicitly excludes federal financial assistance, such as federal loans and loan guarantees, from NEPA.
- Limiting the scope of reviews—The bill limits the scope of alternatives that agencies can consider and provides direction that alternatives can be designed to “meet the goals of the applicant.” Furthermore, the bill specifies that agencies do not have to undergo new scientific or technical research during the NEPA process.
- Severely limiting judicial review—The bill reduces the statute of limitations from six years to just 120 days following a decision and would also bar legal challenges to categorical exclusions. The bill would also prohibit injunctive relief for projects that are subject to judicial review.
- Prioritizing goals of the project sponsor over the public interest—The bill would allow project sponsors to prepare environmental reviews for their own projects, rather than having agencies complete these reviews themselves. The bill also encourages agencies to prepare alternatives that meet the goals of the applicant.

Together, these changes, and others proposed in the BUILDER Act, would most likely lead to a federal decision-making process that is more contentious, less equitable, and less protective of the public’s interest than the process that currently exists.

In addition to these substantive concerns with the legislation itself, we are also concerned that the BUILDER Act will not address the primary challenges that we experience as participants in the NEPA process. In our experience, the overwhelming obstacles to efficient NEPA implementation come from agency capacity constraints and issues of agency culture around NEPA implementation that are most appropriately addressed at the agency level and by providing staff and resources to management agencies. We were highly encouraged to see both the Infrastructure Investment and Jobs Act and the Inflation Reduction Act include significant funding to support environmental reviews, and we are eager to see these funds put into action. We encourage Congress to give agencies the opportunity to put these resources to work, and to consider where additional



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assistance, such as improving the federal hiring process, may be needed, before considering whether wide-reaching policy changes may be appropriate.

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Thank you for the opportunity to comment on the discussion draft of the BUILDER Act. The outdoor recreation community looks forward to working with you to support a NEPA process that promotes efficiency, government accountability, and public input.

Best regards,



Louis Geltman
Policy Director
Outdoor Alliance

cc: Adam Cramer, Chief Executive Officer, Outdoor Alliance
Chris Winter, Executive Director, Access Fund
Beth Spilman, Executive Director, American Canoe Association
Clinton Begley, Executive Director, American Whitewater
Kent McNeill, CEO, International Mountain Bicycling Association
David Page, Executive Director, Winter Wildlands Alliance
Tom Vogl, Chief Executive Officer, The Mountaineers
Pete Ward, Interim Director, American Alpine Club
Kaleen Deatherage, Interim Executive Director, the Mazamas
Keegan Young, Executive Director, Colorado Mountain Club
Chad Nelsen, Chief Executive Officer, Surfrider Foundation

