

# OUTDOOR ALLIANCE

December 3, 2024

Senator Joe Manchin  
Chair, Committee on Energy & Natural Resources  
306 Hart Senate Office Building  
Washington D.C. 20510

Senator John Barrasso  
Ranking Member, Committee on Energy & Natural Resources  
307 Dirksen Senate Office Building  
Washington, DC 20510

## **Re: Energy Permitting Reform Act of 2024**

Chair Manchin and Ranking Member Barrasso,

On behalf of the human-powered outdoor recreation community, we write to share our perspectives on the Energy Permitting Reform Act of 2024 (ERPA).<sup>1</sup> As advocates for climate action, we appreciate Congress's work to chart a realistic path forward for more efficient permitting to facilitate America's clean energy transition. At the same time, we are deeply concerned by the tradeoffs related to fossil fuel and mineral extraction proposed in the ERPA, especially where they would alter longstanding and vital environmental protections. This letter outlines our positions on different aspects of the bill and provides recommendations for how the ERPA could be improved to better protect outdoor recreation and conservation values and better support America's \$1.2 trillion outdoor recreation economy.

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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<sup>1</sup> These comments are based on the text of the substitute bill passed out of Committee on July 31, 2024 as Amendment 42 and agreed to by voice vote, *available at* <https://www.energy.senate.gov/serVICES/files/2E73AFDC-2F04-408F-BF0C-5ACC29018139>.



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

The climate crisis is an existential threat to outdoor recreation and the outdoor economy in the U.S. As frequent visitors to public lands and waters, the outdoor community is directly affected by climate impacts like heat waves, wildfire, sea level rise, flooding, drought, and decreased snowfall. At the time of this writing, Congress is considering close to \$100 billion in disaster funding requests due to recent natural disasters, many of which were likely made worse by climate change.<sup>2</sup> These include Hurricane Helene, which brought historic flooding to communities across the southeast—many of which rely on outdoor recreation as a cornerstone of their economies—causing extensive damage to communities, public lands, waters, and infrastructure that will take years, decades, or more to fully repair. Accelerating the build out of renewable energy across the U.S. in order to address the climate crisis and mitigate these sorts of extreme weather events is an absolute priority for our community.

The outdoor community is also deeply familiar with the environmental review process facilitated by the National Environmental Policy Act (NEPA) and other bedrock environmental laws. The public input process afforded by NEPA is often the primary way that members of our community provide input on (or sometimes become aware of) projects and proposals that affect outdoor recreation access and conservation values on public lands. 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. Improving the NEPA process while retaining the law's core tenets of informed, science-based decision making, transparency, and robust public input is, similarly, a priority for our community.

With these perspectives in mind, we are open to—and supportive of—targeted science-based reforms to permitting laws, especially where they are shown to be necessary to achieve climate, recreation access, ecological restoration, and clean energy goals. To this end, Outdoor Alliance strongly supports the electricity transmission provisions in **Title IV, Electric Transmission**, of the ERPA, which

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<sup>2</sup> See, Climate Central, *Climate change increased wind speeds for every 2024 Atlantic hurricane: Analysis* (Nov. 20, 2024), available at [https://assets.ctfassets.net/cxgvgstp8r5d/gbln7ANc1uAzb5cbwQMxC/58c4b96cac793be4cbc215502d4b4bd/Climate\\_Central\\_2024\\_hurricane\\_attribution\\_report.pdf](https://assets.ctfassets.net/cxgvgstp8r5d/gbln7ANc1uAzb5cbwQMxC/58c4b96cac793be4cbc215502d4b4bd/Climate_Central_2024_hurricane_attribution_report.pdf).



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would strengthen the Federal Energy Regulatory Commission's (FERC) role in planning, siting, and permitting transmission infrastructure, including interregional transmission lines critical for distributing clean energy resources, and fairly allocate the costs of new transmission lines. Modeling suggests that these changes—along with existing FERC policy and other transmission provisions in the ERPA—would dramatically accelerate transmission expansion, potentially reducing grid emissions by 6.5 Gt CO<sub>2</sub> equivalent through 2050.<sup>3</sup> Similarly, we also support **Section 207**, which would establish a national goal of siting 50 gigawatts of renewable energy on federal land by 2030 and integrate this goal into the work of the Renewable Energy Coordination Office.

We are also deeply concerned with other aspects of the bill, primarily related to expanding fossil fuel development on public lands and waters, especially where the bill would limit frontline communities' ability to protect themselves from environmental hazards or agencies' ability to consider the best available scientific information to achieve the best outcome for a project.

The sections below outline our perspectives on specific provisions of the ERPA that would affect public lands and waters.

## **TITLE I—ACCELERATING CLAIMS**

Outdoor Alliance opposes **Section 101. Accelerating claims**, which would shorten the statute of limitations for challenges to authorizations to certain energy projects from six years to 150 days—a ~93% reduction. Shortening the timeline by this magnitude may have the consequence of pushing some groups to sue preemptively, which will burden agencies unnecessarily. It will likely also prevent some affected individuals or communities from challenging projects, in particular entities affected but unaccustomed to participating in these sorts of processes.

## **TITLE II—FEDERAL ONSHORE ENERGY LEASING AND PERMITTING**

Outdoor Alliance opposes **Section 201, Onshore Oil & Gas Leasing**. This section reinforces and updates Section 50265(b)(1)(B) of the Inflation Reduction Act (IRA),

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<sup>3</sup> Chaz Teplic, Katie Mulvaney, and Sarah Wang, *Estimating the Climate Impacts of the Energy Permitting Reform Act of 2024 Transmission Provisions*, Rocky Mountain Institute (August 2024), available at [https://rmi.org/wp-content/uploads/dlm\\_uploads/2024/08/rmi\\_estimating\\_the\\_climate\\_impacts\\_epra.pdf](https://rmi.org/wp-content/uploads/dlm_uploads/2024/08/rmi_estimating_the_climate_impacts_epra.pdf).



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which requires that the Secretary of Interior offer a certain number of acres of public lands for oil and gas leasing per year in order to approve a right of way for solar or wind energy. Whereas the IRA allows for Interior to select which lands it makes available for oil and gas development, the ERPA would require that only acres nominated by the oil and gas industry count towards the IRA's leasing requirements, which total 50% of the acreage nominated, or at least two million acres (whichever is lesser) each year.

We are concerned that Section 201 will lead to lands with high conservation and recreation values being degraded by oil and gas development. In addition to highly significant climate impacts, misguided oil and gas development can impair outdoor recreation resources on public lands in a number of ways, including through air and water pollution, physical impacts to viewsheds, safety concerns related to recreation and industrial activity occurring in close proximity, and damage to the outdoor “brands” of communities seeking to market themselves as centers for healthy outdoor recreation and tourism.<sup>4</sup>

By limiting the acreage contributing to the IRA's oil and gas leasing requirements to acres previously nominated in expressions of interest, Section 201 would limit BLM's ability to proactively protect important public land resources during oil and gas lease sales. Outdoor Alliance has worked for years to monitor oil and gas leasing on federal lands with the goal of avoiding or minimizing impacts to outdoor recreation resources. This work has successfully brought issues of concern to land managers' attention and has led to multiple leases being deferred that posed unacceptable (and unnecessary) damage to high value recreation assets like trails.<sup>5</sup> Section 201 will impair BLM's ability to strategically target oil and gas leasing in a way that incorporates this sort of public input.

We are similarly concerned by Subsection (b), which allows agencies to offer oil and gas leases for sale while an underlying resource management plan (RMP) is being revised. Section 201(b)(1) could be interpreted as preventing BLM from adding stipulations to leases beyond what is in a current RMP. Many RMPs are decades old and do not account for modern conditions or modern uses of public lands,

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<sup>4</sup> Jason Keith and Louis Geltman, Outdoor Recreation and Oil & Gas Leasing Reform, Policy Report, Public Lands Solutions and Outdoor Alliance, Washington, D.C. (2023).

<sup>5</sup> See, Will Bostwick, *You Saved Slickrock*, Outside Magazine (Feb. 25, 2020), <https://www.outsideonline.com/outdoor-adventure/environment/slickrock-utah-saved-drilling/>.



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including outdoor recreation, which has expanded considerably in both use and diversity since the time that many RMPs were finalized. At minimum, Section 201 must make clear that BLM can take necessary action to avoid or minimize the effects of oil gas leasing on conservation and recreation values.

The Bureau of Land Management recently codified protections for outdoor recreation through its oil and gas rule, which implements reforms directed by Congress and provides long-overdue protections for public land users and taxpayers.<sup>6</sup> We strongly support the agency's work to modernize the oil and gas leasing process, and Congress should not take steps that undercut these important reforms.

Outdoor Alliance opposes **Section 203, Permitting compliance on non-federal land**, which would remove the requirement that developers acquire a permit for drilling oil and gas wells on non-federal lands where the federal government owns less than 50% of the subsurface minerals. This “split-estate” scenario is common throughout the west, and this federal permitting requirement is a critical sideboard for ensuring that oil and gas development does not unduly harm environmental, cultural, or recreational resources.

Outdoor Alliance supports the intent of both **Section 206, Accelerating Renewable Energy Permits**, and **Section 209, Electric Grid Projects**, which would streamline the permitting process for certain renewable energy and electric grid projects on federal lands in part by directing federal land management agencies to develop new categorical exclusions for certain development activities related to renewable energy and grid capacity, including on previously disturbed land. We note that the definition of “previously disturbed land” cited at 10 § C.F.R. 1021.410(g)(1) includes lands that have been converted to invasive species—a factor that does not necessarily degrade an area's value for outdoor recreation. Additionally, we ask that Section 209(b)(3) be updated to clarify that reservoirs, including those used for pumped storage hydroelectric projects, do not qualify as “energy storage technology” under the ERPA.

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<sup>6</sup> See, Fluid Mineral Leases and Leasing Process, 89 Fed. Reg. 30916, 30986 (April 23, 2024). § 3120.32(d) provides that BLM shall consider “[t]he presence of recreation and other important uses or resources, giving preference to lands that would not impair the value of such uses or resources” when evaluating lands to be offered for oil and gas leasing.



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**Sec. 210, Hardrock mining mill sites** seeks to address concerns with hardrock mining waste disposal from the 2022 *Rosemont* court decision.<sup>7</sup> While we note that this proposed “fix” for Rosemont is a significant improvement over the Mining Regulatory Clarity Act—misguided hardrock mining legislation that has gained traction in Congress—Section 210 is more broadly written than necessary to allow for responsible mineral extraction. Section 210 would allow mining claimants to establish 5-acre mill sites “as are reasonably necessary for its operations” and use these sites for waste disposal or other operations incident to mining. We recommend that this section be targeted in the following ways:

- Remove the language “as are reasonably necessary” from subsection (c)(2)(A) and clarify that claimants are only allowed to claim the minimum number of mill sites necessary to dispose of mining waste.
- Clarify that, with regards to non-withdrawn lands, Section 210 preserves 1872 Mining Law’s core requirement that the right to use and occupy mining claims is contingent on the discovery of a valuable mineral deposit. As written, Section 210 includes a savings clause in subsection (a)(c)(8)(D) explicitly preserving the discovery requirement for withdrawn lands, which could be read to inadvertently imply that this requirement doesn’t extend to non-withdrawn lands. This ambiguity should be clarified in the ERPA.
- Delete the phrase “or other operations reasonably incident to mineral development” from the definition of mill sites. This language is not necessary to address *Rosemont*, which only addressed mining waste disposal.
- Increase funding for the Abandoned Hardrock Mine Fund. We are pleased that subsection (b) would invest mill site claim maintenance fees in abandoned hardrock mine remediation, however we recommend increasing claim maintenance fees beyond the current \$200/year and also identifying other sources of funding for this purpose. A 2020 U.S. Government Accountability Office study estimates that at least 140,000 abandoned hardrock mine features exist across federal public lands. Of these, around 67,000 pose physical hazards to people, and 22,500 pose environmental

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<sup>7</sup> *Center for Biological Diversity v. U.S. Fish & Wildlife Service*, 33 F.4th 1202 (9th Cir. 2022).





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hazards that threaten public health, wildlife, and aquatic ecosystems.<sup>8</sup> Greater investments are needed to address the scale of this remediation challenge.

Finally, in addition to addressing *Rosemont*, broader reforms to the 1872 Mining Law are greatly needed to address the demand for critical minerals in the transition to clean energy. At a minimum, these reforms should include adequate funding for abandoned mine remediation, royalties for hardrock mining, and clearer discretion for agencies to approve or deny mining projects based on foreseeable impacts to ecological, cultural, or recreational resources. Outdoor Alliance strongly supports the Clean Energy Minerals Reform Act (S.1742/H.R. 3495), which would implement these reforms and others needed to support a clean energy economy.

## **TITLE III—FEDERAL OFFSHORE ENERGY LEASING AND PERMITTING**

Outdoor Alliance opposes **Section 301, Offshore Oil and Gas Leasing**, which would require the Secretary of Interior to hold at least one offshore oil and gas lease sale totalling at least 60 million acres each year from 2025-2029, while limiting the agency's authority to add new stipulations to offshore leases. Offshore drilling is an existential threat to ocean and coastal recreation and tourism in the Gulf of Mexico, which is enjoyed by millions of Americans and generates billions of dollars in economic revenue every year. Moreover, offshore oil drilling worsens the effects of climate change as our nation and world struggle to reduce greenhouse gas emissions. We are concerned that this requirement for new offshore oil and gas lease sales would put thousands of miles of Gulf Coast states' coastline at-risk of another catastrophic spill like the 2010 DeepWater Horizon spill in addition to the thousands of smaller spills that occur in U.S. waters each year.

Outdoor Alliance appreciates the intent of **Section 302, Offshore Wind Energy**, which would require the Secretary of the Interior to offer at least one offshore wind lease sale totalling at least 400,000 acres each year from 2025-2029. Outdoor Alliance supports renewable ocean energy when it is carefully sited to protect ocean recreation opportunities and sensitive ecosystems. We support the national

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<sup>8</sup> Abandoned Hardrock Mines: Information on Number of Mines, Expenditures, and Factors that Limit Efforts to Address Hazards. United States Government Accountability Office. March 2020. Report to the Ranking Member, Subcommittee on Interior, Environment, and Related Agencies, Committee on Appropriations, U.S. Senate, <https://www.gao.gov/products/gao-20-238>.



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goal of 30 gigawatts for offshore wind energy production articulated through subtitle (c). However, we believe that offshore wind energy must be responsibly developed, with robust environmental review and meaningful community, stakeholder, and Tribal input.

## **TITLE VI—LIQUEFIED NATURAL GAS EXPORTS**

Outdoor Alliance opposes Title VI, which would mandate that the Secretary of Energy approve or deny applications to export liquefied natural gas (LNG), effectively ending the pause on LNG exports to nations that lack a free trade agreement put in place by the Biden Administration earlier this year. An analysis of independent modeling of emissions scenarios under the ERPA found that the bill's LNG provisions hold the greatest potential to increase carbon emissions of any section of the bill.<sup>9</sup> While the LNG export pause was put on hold by a federal court earlier this year, we nonetheless prefer that the federal government retain the ability to pause LNG exports as needed to address the climate crisis or other energy security concerns. Additionally, the proposed 90-day timeline for approving or denying applications likely does not provide the Department of Energy with enough time to adequately assess whether exports are in the public interest, especially considering that in the event that the ERPA passes the agency would have just 90 days to review multiple pending LNG export applications. Finally, we are concerned that Section 602 would require DOE to rely on two outdated studies until new supplemental reviews of the lifecycle greenhouse gas emissions and macroeconomic outcomes of LNG exports are completed, effectively forcing the agency to rely on outdated studies as it considers LNG export applications in the near term.

## **TITLE VII—HYDROPOWER**

Outdoor Alliance opposes the Hydropower Title. This title significantly diverges from the approach of the bipartisan Community Hydropower Improvement Act (S. 1521), introduced earlier this Congress by Senators Daines and Cantwell. The Community Hydropower Improvement Act was designed as a compromise to improve the hydropower regulatory process, to provide greater certainty for

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<sup>9</sup> Third Way, Quantifying the Emissions Impacts of The Energy Permitting Reform Act of 2024, Sept. 10, 2024), available at <https://www.thirdway.org/memo/quantifying-the-emissions-impacts-of-the-energy-permitting-reform-act-of-2024>.





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licensees while also promoting beneficial environmental outcomes. In contrast, the hydropower title in this bill would favor the hydropower industry at the expense of rivers, along with the communities and environmental and recreational values they support.

**Section 701, Hydropower License Extensions**, would extend the time to commence construction on newly-licensed projects for an additional 4 years consistent with language in S. 3373. This section is not in the public interest and builds on extensions that were previously made in 2018 with America's Water Infrastructure Act of 2018 (AWIA), S. 3021. Taken together with this prior legislation, this section would allow licensees to site bank for up to 14 years (prior to 2018 licensees had 4 years to commence construction).

**Section 702, Identifying and Removing Market Barriers to Hydropower**, includes provisions aimed at subsidizing generation, easing regulatory requirements, and reducing liability for hydropower projects identified as facing market-based barriers. However, it lacks any mandate for meaningful economic analysis of the long-term viability of these projects, including factors such as changing energy markets, climate change and changes to hydrology, aging infrastructure maintenance, community impacts, or the need to meet modern environmental standards.

**Section 703, Regulations to Align Timetables**, would mandate that all licensing and relicensing decisions be completed within 180 days of NEPA's completion. We agree that the Federal Energy Regulatory Commission should expedite its actions after completing its environmental analysis. However, the proposed timeline does not allow sufficient time for agencies to thoroughly evaluate alternative conditions, issue their authorizations and rationale documents, and ensure meaningful public participation.

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Thank you for considering our community's input. We look forward to working with you towards enhancing public lands and waters' role as climate solutions.



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Best regards,



Louis Geltman  
Vice President for Policy and Government Relations  
Outdoor Alliance

cc: Sen. Chuck Schumer, Senate Majority Leader  
Sen. Mitch McConnell, Senate Minority Leader  
Rep. Mike Johnson, Speaker of the House  
Rep. Hakeem Jeffries, House Minority Leader  
Rep. Bruce Westerman, Chair, House Natural Resources Committee  
Rep. Raúl Grijalva, Ranking Member, House Natural Resources Committee

Adam Cramer, Chief Executive Officer, Outdoor Alliance  
Heather Thorne, 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  
Ben Gabriel, Executive Director, American Alpine Club  
Rebekah Phillips, Executive Director, the Mazamas  
Madeline Bachner Lane, Chief Executive Officer, Colorado Mountain Club  
Chad Nelsen, Chief Executive Officer, Surfrider Foundation

