Senate Energy and Natural Resources Committee - National Parks Subcommittee
Hearing on the Great American Outdoors Act
February 9, 2022

Statement For the Record
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Main Points:

- Great American Outdoors Act funding is helping address critical deferred maintenance needs in our national parks system.
- Federal land leadership should consider using the investment options for the National Parks and Public Lands Legacy Restoration Fund to maximize conservation funding flexibility beyond the program's current five-year authorization.
- Addressing overdue maintenance is vital, but the root of the problem is a lack of attention to routine maintenance.
- Looking ahead, energy revenues are unlikely to be a reliable source to fund conservation and recreation in the 21st century, and new alternatives including recreation fees and conservation leasing should be pursued.

Introduction

Chairman King, Ranking Member Daines, and members of the National Parks Subcommittee, thank you for the opportunity to submit this statement for the hearing record on the implementation of the Great American Outdoors Act. The Property and Environment Research Center (PERC), a conservation research institute based in Bozeman, Montana, has explored market-based solutions to improve stewardship of our public lands for over 40 years.[1] We have emphasized the need to address

[1] PERC—the Property and Environment Research Center—is a nonprofit research institute located in Bozeman, Montana, dedicated to improving environmental quality through markets and property rights. PERC's staff and associated scholars conduct original research that applies market principles to resolving environmental problems.

deferred maintenance on our public lands and supported the adoption of the National Parks and Public Lands Legacy Restoration Fund through the Great American Outdoors Act.[2]

Two years after the passage of GAOA, Congress is right to review the implementation of the program and the benefits to our public lands. The Legacy Restoration Fund provides up to $1.9 billion annually for deferred maintenance projects across federal land agencies for five years, and it is important to ensure those dollars are being spent effectively on the ground.

Progress on Deferred Maintenance

Funding from the Legacy Restoration Fund has begun to provide resources for federal land managers to address critical deferred maintenance needs under their care. Deteriorating trails, faulty wastewater systems, and eroding shorelines threaten the environmental health of our shared lands and detract from the visitor experience. At its core, conservation means taking care of what we already own, and tackling these maintenance needs is essential to our conservation legacy.

In the first year of implementation, dollars went to projects such as replacing maintenance facilities in Acadia National Park, repairing bridges in Yellowstone National Park, replacing transmission lines in Yosemite National Park, and repairing seawalls in Gateway National Recreation Area.[3] To be sure, this funding source is not enough to address all of the deferred maintenance needs on federal lands, so federal land managers have to decide which projects are priorities. As NPS Deputy Director Shawn Benge said, "[W]e're focusing Legacy Restoration Fund investments on projects that would substantially reduce deferred maintenance in sizable parks with considerable infrastructure along with those projects that would benefit the greatest number of visitors."[4] This approach helps ensure limited dollars go toward doing the most good for the parks system and visitors as a whole.

The Investment Option

Dollars from the Legacy Restoration Fund alone will not immediately resolve the deferred maintenance backlog. With an estimate of nearly $20 billion of deferred maintenance across all federal lands, $9.5 billion over five years will not solve the problem.[5] While much of the agencies' focus is on how to rapidly deploy these dollars on the ground, Congress and federal land leaders should not forget

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[2] *See* "Restoring Our National Parks." Holly Fretwell. Testimony before the U.S. Senate Committee on Energy and Natural Resources - Subcommittee on National Parks. July 11, 2018.

[3] National Parks and Public Lands Legacy Restoration Fund. National Park Service.

[4] "Repairs Are Underway From Largest Investment in National Parks in Over 60 Years." PEW Charitable Trusts. May 28, 2021.

[5] "Deferred Maintenance of Federal Land Management Agencies: FY2009-FY2018 Estimates and Issues." Congressional Research Service Report R43997. April 30, 2019.

about the opportunity to invest Legacy Restoration Funds in an endowment-like fund to generate future returns.

Capitalizing on this investment opportunity, if and when land managers deem it appropriate, can provide a measure of flexibility to help address future maintenance needs. It would also mean that additional funding beyond annual appropriations would continue to be available for deferred maintenance beyond the five-year limit of the Great American Outdoors Act.

Maintenance Needs: Deferred and Routine

While the Great American Outdoors Act provides much-needed dedicated funding for public lands, solving foundational maintenance issues is the only way to assure a solid future for conservation and recreation on federal lands. While the Legacy Restoration Fund can be used over the next five years for deferred maintenance projects like fixing bridges or repairing wastewater facilities, those dollars cannot be used for day-to-day maintenance on park assets. Eventually, without routine maintenance, the repairs and investments being funded today will end up on another deferred maintenance list years down the road once Legacy Restoration Fund authorization has expired.

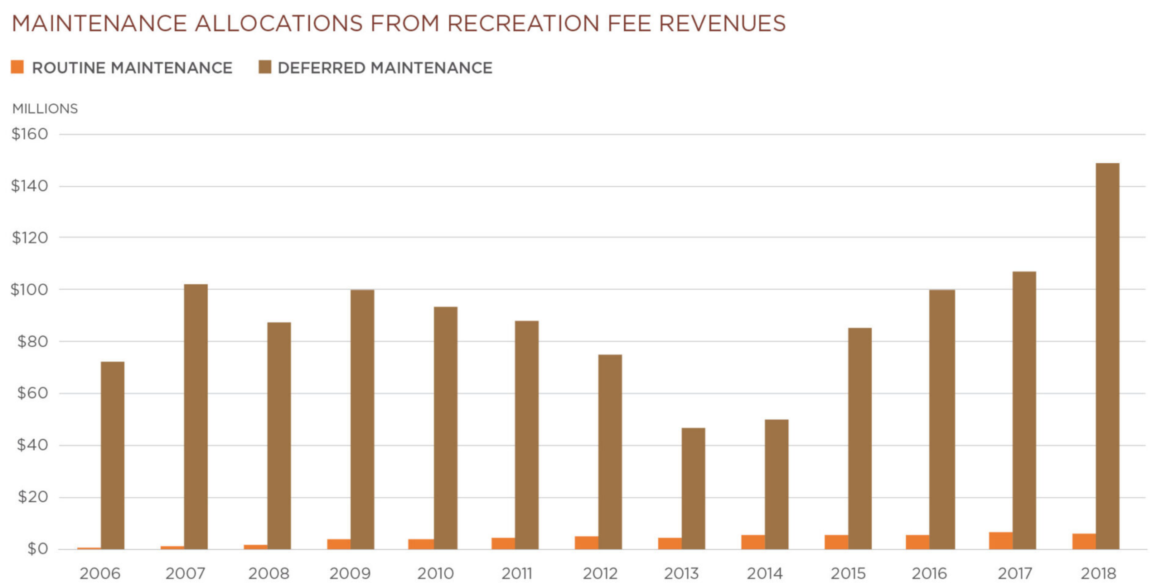
The challenge now is to ensure that the focus on deferred maintenance is coupled with a renewed interest in and commitment to routine maintenance. Congress and the Biden administration should not only ensure that the Great American Outdoors Act is implemented to address deferred maintenance but also ensure park superintendents and local land managers have the tools to conduct routine maintenance to protect these infrastructure investments.

One area for improvement relates to recreation fee revenues. Under the Federal Lands Recreation Enhancement Act, national parks and federal recreation sites that meet certain criteria are able to charge visitors nominal fees.[6] At least 80 percent of those fees remain at the site where they were collected to be spent without further appropriation, providing a flexible source of revenue for maintenance outside of base appropriations for local land managers. This fee authority, which is set to expire at the end of the current fiscal year, should be permanently authorized.

One drawback to the way the fee system is implemented is a central directive that limits how park staff can spend the revenues they collect. The National Park Service directs park superintendents to spend at least 55 percent of fee revenues on deferred maintenance, rather than allowing them to decide which on-the-ground needs to prioritize.[7] The internal directive means that while growth in fee revenues has generated more funding for overdue repairs, it has contributed much less to regular upkeep such as care

[6] 16 U.S.C. § 6806 (2004).
[7] "Fiscal Year 2022 Budget Justifications," p. RecFee-2. National Park Service.

of visitor facilities, road work that can prevent long-term damage, or hiring permanent employees to conduct routine maintenance. Statute mandates that fee receipts must be used in ways that benefit visitors, but local managers have the best knowledge and context to decide how to accomplish that, whether by addressing deferred projects, performing routine maintenance, or otherwise. Agencies should defer to them when it comes to deciding how to spend fee revenues.

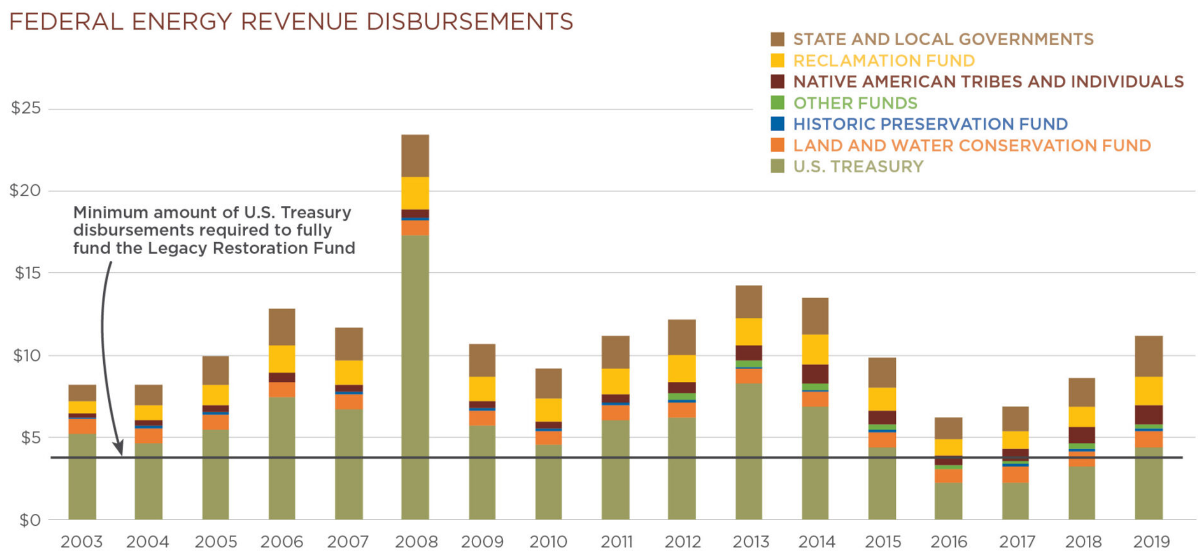


Making a dent in the deferred maintenance backlog through the Legacy Restoration Fund is certainly great progress, but if routine maintenance remains neglected, the fundamental problem will remain unresolved.

Unreliable Energy Revenues and Innovative Funding Sources

All of the funding for the Great American Outdoors Act comes from energy development on federal lands and offshore waters. Indeed, federal energy revenues have long provided significant funding for conservation and recreation on public lands. Several factors, however, threaten the viability of relying on energy revenues to support such programs, demonstrating the need for alternative funding sources.

Many policymakers have called for an end to new oil and gas leasing on public lands and waters, which would create obvious challenges for the future of energy-funded conservation and recreation programs. In particular, recent calls to ban offshore oil and gas drilling—which generates roughly half of all federal energy revenues—could eventually threaten the future of the Land and Water Conservation Fund, which has been funded by offshore energy revenues for more than half a century. Banning new fossil fuel energy leases would not immediately decimate energy revenues, but once existing leases expire, the effects on federal energy revenues would be significant. When it comes to offshore energy in particular, the National Ocean Industries Association estimates that if new offshore drilling were banned in 2022, it would reduce average offshore energy revenues by 61 percent by 2040, from $7.0 billion to $2.7 billion. If offshore revenues were to fall that drastically, then funding for the LWCF would be under threat.[8]



Those who oppose fossil fuel development might point to revenues from renewable energy as an attractive way to replace the oil and gas money. But while renewables are poised to grow federal revenues in coming decades, even optimistic projections do not have them rivaling current fossil fuel revenues anytime soon. [9]

Public land users are the most promising backers of public lands for the future. The growth of visitor revenues from recreation fees have already demonstrated how recreation user-based funding can provide resources to improve the recreation experience at federal sites. But approaches such as expanding land managers' ability to charge fees at more sites or increasing fees where appropriate could complement or perhaps eventually replace the energy-dependent funding used today. At the state level, hunters and anglers already finance the lion's share of wildlife conservation through purchases of hunting and fishing licenses and revenues from excise taxes on firearms, fishing tackle, boat fuel, and related gear. State fish and wildlife agencies use the revenues to increase outdoor recreation access, protect wildlife habitat, and fund similar purposes. And unlike the programs funded by energy

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[8] *See* "The Economic Impacts of the Gulf of Mexico Oil and Natural Gas Industry." Energy & Industrial Advisory Partners. May 26, 2020.

[9] "A Better Way to Fund Conservation and Recreation." Tate Watkins and Jack Smith. *PERC Policy Brief*. November 2020.

revenues, there is no mandated annual cap on any of these user-generated funds, meaning growth in outdoor recreation translates into more funding for public land management.[10]

Another approach would be to allow conservation groups to bid on natural resource leases on federal lands. Technically, any U.S. citizen can bid on and hold leases for energy, grazing, or timber resources on public lands. But legal requirements often preclude environmentalists from participating in such markets. Federal and state rules typically require leaseholders to harvest, extract, or otherwise develop the resources, effectively shutting out of the bidding process those who want to conserve resources.[11] Allowing conservationists to put their money where their mouths are by bidding, rather than relying on lobbying and litigation, would generate revenue that could be put toward conservation and recreation.

The issues presented by the current model warrant innovative and creative ideas that would circumvent the short- and long-term concerns of relying on energy revenues. Policymakers should enlist the help of conservationists and recreationists to expand funding models that can support future public land stewardship.

Conclusion

Addressing the deferred maintenance backlog is essential to the conservation of our federal lands, and the Great American Outdoors Act provides a much needed financial investment. The National Parks and Public Lands Legacy Restoration Fund empowers land managers to conduct some of the maintenance projects whose neglect has harmed the environment or detracted from the visitor experience for decades. As Congress reviews the implementation of the fund and what it means for the future of federal lands conservation, now is the time to consider the balance between one-time infrastructure investments and the routine maintenance funding required to protect those investments and care for a sustainable asset base. It also presents an opportunity to consider the wisdom of continuing to rely on energy revenues to support such programs and to examine creative alternative funding sources.

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[10] *See* "How We Pay to Play: Funding Outdoor Recreation on Public Lands in the 21st Century." Tate Watkins. *PERC Public Lands Report*. May 2019.

[11] *See* "Allow 'Nonuse Rights' to Conserve Natural Resources." Bryan Leonard, Shawn Regan, Christopher Costello, Suzi Kerr, Dominic P. Parker, Andrew J. Plantinga, James Salzman, V. Kerry Smith, Temple Stoellinger. *American Association for the Advancement of Science*. Vol. 373, Issue 6558, pp. 958-961.