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Congress of the United States
House of Representatives
Washington, DC 20515-4401

COMMITTEE ON
NATURAL RESOURCES
RANKING MEMBER

COMMITTEE ON
ARMED SERVICES

CONGRESSIONAL WESTERN CAUCUS
CHAIRMAN EMERITUS

July 2, 2020

Dear Rep. Ann M. Kuster,

As a Member representing a district east of the 100th meridian, I bring to your attention a little-known provision included in H.R. 1957, the legislative vehicle for the Great American Outdoors Act (S. 3422), that recently passed the Senate under expedited consideration. The bill is likely to be voted on in the House later this month. H.R. 1957 provides permanent mandatory funding of at least \$900 million a year to the Land and Water Conservation Fund (LWCF), and monies in the LWCF are used to finance the expansion of federal land. Provisions in the bill related to the LWCF are identical to H.R. 3195, which you cosponsored, except for the insertion of this small but significant change to the underlying law that severely disadvantages your state and district.

Under the LWCF Act, not more than 15 percent of the land added to the National Forest System with LWCF monies can be west of the 100th meridian, which bisects the United States roughly in half through the Great Plains. The rationale behind this requirement being included in the law was that Western states already had high concentrations of federal land, and that greater investment and parity for Eastern states was long overdue. As a Member from Utah, a state with close to 70 percent federal land ownership, I support the 100th meridian requirement. Eastern states deserve equality in federal land ownership as Congress intended. A last minute “conforming amendment” to H.R. 1957 eliminated this requirement, siphoning critical LWCF funds away from Eastern states in perpetuity. It’s not right. For a Member who supports fully and permanently funding LWCF and represents a district east of the 100th meridian, H.R. 1957 is a wolf in sheep’s clothing.

A very small change to H.R. 1957 to remove this “conforming amendment” would address this problem for Eastern and Western states alike. This would prevent you from thinking you were supporting a good bill when in fact it would disadvantage your constituents. I have attached additional background information on this matter for your review and consideration. If you have interest in working together to ensure this amendment is accommodated as the bill moves through the House, please be in touch. I can be reached through Brandon Miller at brandon.miller@mail.house.gov.

Sincerely,

Rob Bishop
Member of Congress

Background on the little-known “Conforming Amendment” inserted into the Senate-passed
Great American Outdoors Act (H.R. 1957 / S. 3422)

100th Meridian Requirement for Forest Service Land Acquisition: The LWCF Act includes an express limitation on National Forest System lands requiring not more than 15 percent of the land added to the National Forest System with LWCF monies can be west of the 100th meridian. The rationale behind this requirement being included in the law was that Western states already had high concentrations of federal land, and that greater investment and parity for Eastern states was long overdue.¹ Specifically, this provision states that “[N]ot more than 15 percent of the acreage added to the National Forest System pursuant to this section shall be west of the 100th meridian.”²

2019 GAO report on 100th Meridian Requirement: In December 2019 the Government Accountability Office (GAO) released a report, “Forest Service Has Not Taken Steps to Ensure Compliance with Limitation on Land Acquisition” documenting that 80 percent of the lands acquired with LWCF funds were west of the 100th meridian.³ “The Forest Service acquired a total of 153,228 acres using LWCF funds during fiscal years 2014 through 2018, and the majority of this land was west of the 100th meridian. Eighty percent of this total acreage (121,909 acres) was located west of the 100th meridian, and 20 percent (31,319 acres) was located east of the meridian,” the report stated. “While the Forest Service is aware of the 100th meridian provision of the LWCF Act, the agency has not taken steps to ensure compliance with this provision and is unable to demonstrate it is meeting this requirement of the LWCF Act,” the report concluded.

USFS Final Guidance Enforcing 100th Meridian Requirement: In April 2020, in response to the GAO report, USDA issued final guidance on conformance with the 110th meridian requirement, stating “the Forest Service must immediately implement the 100th meridian provision. All available funding must be allocated according to the 100th meridian provision.” Under this legal interpretation, some 23,000 acres of current, funded western projects cannot be implemented. The dollar amount associated with the total acreage is \$34,410,075, according to the U.S. Forest Service.

Little-known “Conforming Amendment” Inserted in the Great American Outdoors Act: S. 3422, the Great American Outdoors Act, introduced on March 9 included an obscure “conforming amendment,” removing the underlying 15/85 percent 110th meridian requirement from the LWCF Act.⁴ This was not part of the previously-introduced permanent mandatory LWCF bills from the 116th Congress (H.R. 3195 / S. 1081). If enacted, this provision will nullify USFS’s guidance and no longer require 85 percent of the land added to the National Forest System with LWCF monies be east of the 100th meridian.

Funding Disparity for States East of the 100th Meridian: Since the creation of the LWCF, roughly 60 percent (over \$11.4 billion) of all LWCF funds have been appropriated to federal land management agencies for land acquisition. Of that total, the Forest Service has been appropriated over \$3.1 billion, which amounts to roughly 27%.⁵ In recent years, eastern states have been deprived of Forest Service LWCF spending, receiving just 20 percent of all acquisition recreation projects versus 80 percent for projects west of the 100th meridian.⁶ **If the “conforming amendment” in the Senate-passed GAOA becomes law, each state east of the 100th meridian can anticipate losing their rightful share of roughly \$1.19 billion over the next 10 years that the existing LWCF statute presently mandates. Divided equally among the impacted states, this rightful share amounts to approximately \$32 million dollars over ten years which would be effectively surrendered with the inclusion of this conforming amendment.**

¹ <https://foresthstory.org/wp-content/uploads/2017/01/The-Land-We-Cared-for-A-History-of-the-Forest-Service-Eastern-Region.pdf>

² <https://uscode.house.gov/statutes/pl/94/422.pdf>

³ <https://www.gao.gov/assets/710/703050.pdf>

⁴ <https://www.congress.gov/116/bills/s3422/BILLS-116s3422pcs.pdf>

⁵ <https://www.crs.gov/reports/pdf/RL33531>

⁶ <https://www.gao.gov/assets/710/703050.pdf>