



June 12, 2023

To: State Land Use Planning Advisory Council

From: Scott Carey, AICP, State Lands Planner

RE: Review of Proposed Public Lands Rule and Approval of Comment Letter

Background

In April, the Bureau of Land Management (BLM) published a [notice in the Federal Register](#) that they were proposing new regulations that would establish a framework to ensure healthy landscapes, abundant wildlife habitat, clean water and balanced decision-making on our nation's public lands. The main intent of the proposed regulations are to put conservation on an equal footing with other multiple uses, help guide responsible development, and respond to new pressures on public lands. One of the big provisions of the proposed regulations is conservation leasing, a tool authorized by the Federal Land Policy and Management Act (FLPMA), to facilitate restoration work on public lands in cooperation with community partners. There is currently a 75 day public comment period on the proposed regulations, comments are due to the BLM on June 20, 2023.

For additional information about the proposed Public Lands rule please see the attached BLM fact sheet that is attached to this memo.

At the April 14, 2023 meeting, the Council scheduled a special meeting to review the proposed [Public Lands Rule](#). At this meeting, the Council also directed staff to prepare a letter for the Council's consideration to provide formal comment on the proposed regulations.

Analysis

Given the potential land use planning implications across the state associated with the proposed Public Lands Rule, staff has prepared a proposed comment letter for the Council's consideration. The proposed letter is roughly 6 pages long and contains language that hits the following points.

- 1) Stresses consistency of conservation leases with local land use plan.
- 2) Expresses that the proposed rule should go through the NEPA review process.

- 3) Reiterates the need for the BLM to update Resource Management Plans in Nevada
- 4) Expresses support for increased Tribal engagement and the use of traditional ecological knowledge.
- 5) Reiterates the need for the BLM to combat speculative leasing practices.
- 6) Stresses that mitigation should be completed locally.
- 7) And provides specific comments to the proposed rule that were requested by the BLM.

A copy of the Council's proposed scoping comment letter is attached to this memo. Per NRS 321.750 (4), the Council is authorized to advise any federal or state agency or local government on land use planning and policy. If approved, the Chair would be authorized to sign the letter on behalf of the Council and a copy of the letter would be posted on the Council's website. Additionally, a copy of the letter would be sent to Governor Lombard, Senator Catherine Cortez Masto, Senator Jackie Rosen, Congresswoman Dina Titus, Congressman Mark Amodei, Congresswoman Susie Lee, Congressman Steven Horsford, and Jon Raby, BLM Nevada State Director. Additional copies of the letter may be sent to any other officials or agencies as directed by the Council.

Recommendation: *Staff recommends that the Council review and discuss the proposed comment letter and recommend and changes to the letter. If approved, staff recommends that the Chair be authorized to sign the scoping letter and transmit a copy to the individuals and agencies included in the letter and to others as directed by the Council.*



U.S. Department of the Interior
Bureau of Land Management

FACT SHEET: Proposed Public Lands Rule

The proposed Public Lands Rule would establish a framework to ensure healthy landscapes, abundant wildlife habitat, clean water and balanced decision-making on our nation's public lands. The proposal would uphold the Bureau of Land Management's (BLM) multiple use and sustained yield mission, ensuring the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations. By putting conservation on an equal footing with other uses, the proposal would help guide responsible development while safeguarding important places for the millions of people who visit public lands every year to hike, hunt, camp, fish, and more.

This proposal comes at a pivotal moment, as our public lands face new and growing challenges. Climate change is driving unprecedented drought and increasingly intense fires, a loss of wildlife, and an influx of invasive species. At the same time, public lands face growing pressure as recreation increases and development on private land disrupts habitat. This proposal would ensure the BLM is able to respond to these pressures, managing for healthy lands today so that it can deliver its multiple use mission now and in the future.

What would the proposed Public Lands Rule do?

1. Promote restoration of our lands and waters.
 - Consistent with the historic investments made through the Bipartisan Infrastructure Law and the Inflation Reduction Act, the proposal would direct land managers to identify landscapes and develop plans for restoration, prioritizing places based on land and water health, partnership opportunities, and benefits to local communities, among other factors, with opportunities for public input.
 - The proposal would establish consistent frameworks for interested parties to pursue restoration on public lands, including through conservation leasing. Under a conservation lease, an external entity could propose to enter into an agreement with the BLM to help achieve restoration or mitigation outcomes on public lands. For example, a non-profit organization could put people to work restoring mule deer or elk habitat and, through a conservation lease, be assured the work could take hold and flourish. The proposal does not contemplate BLM requiring leasing; rather, it is something an outside entity would request.
 - Conservation leasing is also an important tool for compensatory mitigation, which compensates the public for the impacts of development on public land through investments in restoration and other mitigation measures. The conservation leasing provisions in the proposal come, in part, in response to feedback from state, local, and industry partners who requested a reliable path to pursue compensatory mitigation on public lands to facilitate development projects.

2. Provide for balanced, responsible development.

- To support informed decision-making, the proposal would broaden the use of land health standards beyond BLM's grazing program while providing more information as the public weighs in on management decisions. Incorporating land health standards and guidelines into land management is a best practice employed by state and federal land management agencies, including the U.S. Forest Service.
- By using land health assessments and building conservation decisions into the land management process, the proposal would enable the BLM to better work with local communities and developers to identify appropriate places to site projects and deconflict development proposals.
- The proposal would ensure BLM management decisions continue to be guided by science and data. The BLM would use existing data collections and new information to identify trends and implement adaptive management strategies.

3. Conserve the best intact, healthy landscapes.

- The proposal is pragmatic, directing the BLM to conserve what's already in good shape. It would call on the BLM to maintain intact lands to help support wildlife, migration corridors, and ecosystem function. The proposal follows explicit direction in the Federal Land Policy and Management Act (FLPMA) to protect and preserve lands in their natural condition, where appropriate.
- The proposal would support President Biden's vision for locally driven and locally led conservation, enabling communities, through the land management planning process, to help identify lands for restoration and protection and to provide input on where development may be appropriate.
- The proposal would provide consistent and clear direction to ensure BLM is appropriately managing important historic, cultural, and scenic resources and complying with FLPMA's direction to prioritize protection and designation of Areas of Critical Environmental Concern.

What won't the proposed rule do?

- The proposal does not change the BLM's multiple use mission – indeed, it will ensure the BLM's ability to deliver it in the future. Energy development, mining, grazing, timber, outdoor recreation, and other uses will continue.
- The proposal does not undermine any existing valid rights or require the use of conservation leasing.
- The proposal does not impede development on public lands. It will help facilitate responsible development through informed planning that deconflicts uses, while providing a path for developers to pursue compensatory mitigation.
- The proposal does not change the existing land management planning process; rather, it will create more opportunity and tools for local communities to shape the management of their public lands.

What's next?

This proposal reflects the beginning of an important conversation with BLM's partners and stakeholders. Public involvement through this rulemaking process is crucial to ensure the BLM is making appropriate land management decisions on the ground.

We want to hear from you. To learn more about this proposed rule, or to provide comment, please visit <https://www.regulations.gov>.