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November 10, 2025

U.S. Department of the Interior
Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attn: 10044-AF03

*Submitted via Federal eRulemaking Portal at [regulations.gov](https://www.regulations.gov):
<https://www.regulations.gov/document/BLM-2025-0001-0001>*

Re: Comments on the Proposed Rescission of the Conservation and Landscape Health Rule (Docket No. BLM-2025-0001-0001)

To Whom It May Concern,

On behalf of the undersigned organizations and our millions of members and supporters, please accept these comments regarding the Bureau of Land Management's (BLM's) Conservation and Landscape Health Rule (referred to throughout these comments as "the Public Lands Rule" or "the Rule"). We strongly oppose the current proposal to rescind the Public Lands Rule. Promulgated in 2024 with broad and substantial public support, the Rule provides long-overdue direction to modernize public land management. Rescinding the Public Lands Rule would revert public lands management to outdated approaches to the detriment of rangelands, wildlife, and land health. The Public Lands Rule implements the single best reading of the Federal Land Policy and Management Act (FLPMA).

As part of the interested public, our organizations have thousands of staff, volunteers, members, and grantees who live, work, and recreate in the western United States, where BLM-managed lands are a vital part of the landscape and local communities. Each of our organizations previously submitted comments on the Public Lands Rule, and we have attached an extensive record to these comments. Additionally, we refer you to the extensive record and findings produced by the BLM, articulating the need and rationale for the Rule. These findings are documented throughout the Rule preamble at 89 Fed. Reg. 40308-33 and include, for instance, a determination that:

The BLM's ability to manage for multiple use and sustained yield of public lands depends on the resilience of ecosystems across those lands.... Establishing and safeguarding resilient ecosystems ha[ve] become imperative as the public lands experience adverse impacts from

climate change and as the BLM works to ensure public lands and ecosystem services benefit human communities.

We incorporate by reference the entire record from the rulemaking for the Public Lands Rule,¹ as any reevaluation of the Rule would require the Department of the Interior (DOI) to thoroughly review and consider all aspects of that record before proceeding with the proposal to repeal the Rule. Ultimately, the extensive record supporting the Public Lands Rule, as well as the information below, demonstrates that law, science, policy, and reliance interests support maintaining the Rule and its common-sense and widely supported regulatory direction. In addition, the Rule provides extensive economic benefits and government efficiencies that the BLM must fully consider. And finally, the proposed rescission lacks a rational justification, is based on unsupported claims, and is contrary to law in numerous respects.

I. Introduction

A. Coalition background and interests.

The undersigned organizations share a longstanding commitment to the responsible stewardship, conservation, and sustainable management of BLM public lands. Our broad coalition has deep roots in the American West. Collectively, our organizations have thousands of staff, volunteers, members, and grantees who live, work, and recreate in the western United States, where BLM-managed lands are a vital part of the landscape and local communities. What's more, our organizations collectively have millions of members and supporters across the nation and the world who care deeply about U.S. public lands and their health and resilience.

Our organizations bring decades of experience engaging in BLM planning, policy, and place-based decision-making. We have consistently contributed to identifying high-quality conservation lands, nominating areas of critical environmental concern (ACECs), and promoting the use of the best available science and data in land management decisions. The Public Lands Rule directly supports and enhances this ongoing land management planning work. In addition to our policy engagement, some of our groups and volunteers actively contribute to the stewardship of BLM lands through on-the-ground restoration and species recovery projects, invasive species removal, habitat enhancement, trail maintenance, recreational access improvements, clean-up efforts, and educational and interpretive programming. These efforts reflect our enduring investment in the health and accessibility of public lands.

Our organizations previously submitted written comments in support of the Public Lands Rule during its development, and many of us participated in the public engagement opportunities afforded by the BLM during virtual and in-person public meetings. Since the Rule's promulgation, we have worked to support its implementation through a range of activities and have consistently demonstrated support for the Public Lands Rule. Based on our deep engagement and long-standing investment in the health of BLM lands, we strongly oppose any effort to rescind or weaken the Rule.

¹ On November 4, 2025, The Wilderness Society and Conservation Lands Foundation submitted via first-class mail the voluminous record from the process to promulgate the Public Lands Rule.

B. The Rule should be retained in full and implemented.

1. The Rule is well-justified, strongly supported, long overdue, and necessary to meet the BLM's multiple use and sustained yield mission.

As described in more detail in Section II below, the Public Lands Rule is not only consistent with the BLM's statutory obligations under the Federal Land Policy and Management Act (FLPMA), it is essential to fulfilling them. The Rule provides long-needed direction and tools to support the BLM in achieving the balanced management mandated by Congress in the agency's multiple use and sustained yield mission. This statutory directive requires the BLM to ensure that public lands remain capable of providing a broad range of uses and values for both current and future generations. The Rule supports this mandate by equipping the agency with the direction, data, and tools necessary to manage resilient, healthy landscapes that can sustain the many demands placed upon them, including conservation, recreation, energy development, and resource extraction.

The justification for the Rule was detailed in the extensive administrative record, including the draft and final versions of the Rule, submitted public comments, and agency research and documents. Furthermore, the Rule is underpinned by both legal and scientific support. Legal scholars and practitioners have affirmed the Rule's conformance with statutory direction and its necessity in giving meaningful effect to provisions of FLPMA that have been historically under-implemented, including the prioritization of ACECs and the responsibility to prevent unnecessary or undue degradation. Similarly, a robust body of ecological and climate science – including studies and reports by the federal government's own scientists – confirms that resilient ecosystems are fundamental to achieving the BLM's multiple use and sustained yield mandate over time.

The Public Lands Rule is long overdue. Widespread land degradation across the BLM estate has already compromised the agency's ability to manage for multiple use and sustained yield. As the BLM acknowledged in the preamble to the final Rule, the general resilience of public lands is directly tied to the agency's capacity to meet its statutory obligations. Rescinding or weakening the Rule would compromise the BLM's ability to achieve its legal responsibilities under FLPMA. The BLM should retain and implement the Rule in full to ensure public lands remain productive, resilient, and available for the diverse uses and values they are meant to support.

2. The Rule enjoys broad public support and benefited from a robust public process leading to its adoption.

The Public Lands Rule garnered overwhelming support during the BLM's 90-day comment period on the proposed rule in 2023, which included three in-person and two virtual meetings. Recognizing the need to modernize BLM land management and better balance conservation with utilization, 92% of the over 150,000 public comments submitted during the comment period were in support of the Public Lands Rule. Nearly four dozen members of Congress, more than 100 local elected officials, governors, businesses, and retired BLM officials, along with a chorus of scientists, conservation groups, and Tribal organizations, supported the Rule. Legal experts also weighed in,

confirming that the Rule upholds the BLM's core mission, including eight state attorneys general and 27 law professors.² This broad showing of support is consistent with recent (2025) polling that shows that over 72% of voters in the Rocky Mountain West support prioritizing the protection of sources of clean water, air quality, and wildlife habitat while providing opportunities to visit and recreate on national public lands.³ Furthermore, four in five voters say the loss of open natural areas is a problem across the West.

3. The Rule creates efficiencies, provides statutorily required information and data, and offers management guidance and solutions that developers and stakeholders alike have long identified.

The Public Lands Rule is helping modernize BLM land management by increasing efficiencies in decision-making processes and providing tools and policies that streamline analyses and authorizations. Many of the tools and guidance provided by the Public Lands Rule to the BLM are those that developers and stakeholders have long sought. For example, the Rule provides for mitigation leases, which developers have been interested in using to offset project impacts by protecting and improving the health of public lands. These leases offer a consistent and transparent mechanism to facilitate development, such as energy infrastructure, by enabling compensatory mitigation directly on public lands. By incorporating mitigation leases into project design, developers can build broader support from communities, local governments, Tribes, and private landowners, providing greater certainty for successful project development. They can also help meet other permitting requirements, such as those at the state level, ultimately streamlining approval processes and improving project efficiency.

The Rule also enhances the BLM's ability to assess and manage the health of public lands more comprehensively, leading to more efficient decision-making. Rather than limiting land health evaluations to grazing allotments, the BLM is now applying land health standards across all managed lands and program areas. The preamble to the final Rule notes that existing land health standards vary across regions and states, creating a complex system of rangeland evaluation, whereas the Rule includes a process for developing and adopting consistent national land health standards.⁴

Additionally, the Rule directs the BLM to conduct watershed condition assessments to inform land health evaluations, which will streamline permit renewals and address the existing backlog of land health assessments. As the preamble to the final Rule states, “[a]t a critical moment in the health and history of our public lands, the rule directs the BLM to perform such assessments and evaluations at broad spatial and temporal scales, thereby *creating efficiencies in the land health process and opportunities to streamline permit renewals and authorizations.*”⁵

² See attachment for documentation of support for the Public Lands Rule, including letters from elected officials, businesses, and other organizations, as well as editorials, op-eds, reports, and related materials.

³ 2025 Colorado Rockies State of the West Poll, <https://www.coloradocollege.edu/other/stateoftherockies/conservationinthewest/2025.html> (attached).

⁴ 89 Fed. Reg. 40308, 40312 (May 9, 2024).

⁵ *Id.* (emphasis added).

Together, watershed condition assessments and land health evaluations provide the undersigned groups and our members a data-driven foundation for engaging with the BLM in its planning and decision-making. The Public Lands Rule's assessments, evaluations, reporting, and periodic monitoring and updating requirements provide publicly available data and inventories of public land resources and other values required to satisfy FLPMA's directive to prepare and maintain an inventory of all public lands and their resources and values.⁶ This information is also needed to fulfill FLPMA's requirement that the public receive "adequate notice and opportunity to comment upon and participate in the formulation of plans and programs relating to the management of the public lands."⁷ Some of our groups and members regularly engage in the BLM's resource management planning, land use decisions, and the identification and protection of ACECs. Some of us plan to utilize this information to raise public awareness about the health of BLM lands in our advocacy, education, and outreach efforts to protect public lands and waters. Without the Public Lands Rule, we will be deprived of (among other data) information about watershed conditions, restoration and resilience, landscape intactness, and land health on BLM lands.⁸ That information is critical to allow us to make educated decisions about how to engage in advocacy for the protection of BLM public lands, such as what land use plans and specific BLM lands to prioritize for our advocacy, what lands to seek ACEC designation for, and what resources at what BLM-managed locations are in the most urgent need of protection or restoration.

Some of our groups' membership also includes educators, scientists, fishing and hunting guides, sportsmen, natural medicine practitioners, artists, and outdoor recreationists who use and enjoy BLM lands, benefit from restoration and protection efforts on BLM lands, and whose use and enjoyment is impacted by inventory gaps, unchecked degradation, and the chronic failure of the agency to supply statutorily mandated inventory and land health data across all BLM lands.

The preamble to the final Rule explains that the Rule's direction to conduct watershed condition assessments and land health evaluations at broader spatial scales "responds to comments recommending landscape-scale approaches as a way to address the backlog of pending land health assessments and evaluations," in addition to building on best practices currently deployed by BLM field offices.⁹ It describes in more detail: "Section 6103.1.2(f) provides for tiering documentation and evidence from broad-scale assessments and evaluations for project-level decisions, such as grazing permit renewals, which promotes efficiency and streamlines decision-making. This provision responds to comments concerned with the existing backlog of assessments [and] land

⁶ 43 U.S.C. § 1711(a) ("The Secretary shall prepare and maintain on a continuing basis an inventory of all public lands and their resources and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern. This inventory shall be kept current . . .").

⁷ 43 U.S.C. § 1712(f).

⁸ See e.g., 43 C.F.R. § 6102.5(a)(6) ("Share watershed condition assessments in a publicly available national database to determine changes in watershed condition and record measures of success based on conservation and restoration goals.").

⁹ 89 Fed. Reg. at 40324.

health evaluations.”¹⁰ Resolving this backlog will enable more efficient permitting processes for public lands authorizations.

As the environment changes, and human use of public lands changes in tandem, the BLM has been in need of modernized policies and an updated science-based management framework to advance and uphold the multiple use and sustained yield mission. The Public Lands Rule addresses this need and enables the BLM to better address the growing pressures and impacts on Western communities from increasing wildfires, drought, demand for recreation, and access to nature. FLPMA’s sustained-yield principle requires the BLM to have a long-term perspective in its management actions to ensure land health and capacity are maintained in perpetuity.

Additionally, many of the provisions in the Public Lands Rule were long overdue despite clear congressional mandates in FLPMA, and helped modernize BLM management in accordance with other existing guidance. As discussed further in Section II below, the Public Lands Rule confirms that FLPMA requires consideration of conservation-related uses, and the Rule provides tools and guidance to ensure the BLM considers conservation-related resource values alongside other multiple uses.

Unfortunately, for the last several decades, despite the ecological importance of the BLM’s 245 million acres, the Bureau’s on-the-ground implementation of its mission has been unbalanced, tilting substantially toward extractive uses while discounting its obligation to ensure sustained yield. For example, approximately 81% of the Bureau’s lands are open to oil and gas extraction, more than 60% are open to livestock grazing, and more than 4% have active mining claims.¹¹ This management imbalance is embodied by the fact that only 13% of BLM lands have durable protections.¹² This severe management imbalance is a reflection of the BLM’s regulatory imbalance. Until 2024, the BLM had regulations guiding the administration of mining, grazing, logging, energy, and other activities authorized on public lands but lacked the equivalent for managing lands for even the expressly enumerated conservation uses required by FLPMA: “recreation, . . . watershed, wildlife and fish, and natural scenic, scientific and historical values.”¹³ The Public Lands Rule finally addressed this regulatory gap. In doing so, it increased certainty for developers and stakeholders

¹⁰ *Id.*

¹¹ The Wilderness Society, *Open for Drilling: The Outsized Influence of Oil and Gas on Public Lands* (2025), https://www.wilderness.org/sites/default/files/media/file/Open%20for%20Drilling_TWS%20Report_0.pdf (attached); Public Employees for Environmental Responsibility (PEER), *Evaluating Trends in Rangeland Health of Bureau of Land Management Lands: Insights from 2023 Grazing Allotment Data*, May 2024, <https://peer.org/wp-content/uploads/2024/05/Evaluating-Trends-Rangeland-Health-BLM-Lands-5-5-24-FINAL.pdf> (attached); Bureau of Land Management, *Public Land Statistics 2024* <https://www.blm.gov/sites/default/files/docs/2025-07/BLM-Public-Land-Statistics-2024.pdf>, page 134 (attached).

¹² *Executive Action vs. the Nature Crisis: Top 8 Opportunities President Biden Should Pursue to Meet His America the Beautiful Commitment*, Center for American Progress (Nov. 22, 2022), <https://www.americanprogress.org/article/executive-action-vs-the-nature-crisis-top-8-opportunities/>; The Wilderness Society, *Open for Drilling Report* (finding that over 81% of BLM lands are available for oil and gas leasing); The Wilderness Society interactive map: [The BLM Public Lands Rule: What’s at Stake](#).

¹³ 43 U.S.C. § 1702(c).

regarding how conservation will be managed on public lands and provided the agency with tools to improve efficiencies in decision-making processes.

C. By contrast, the current rescission rulemaking process is inadequate and should not proceed.

When the BLM proposed the Public Lands Rule in 2023, the BLM undertook significant efforts to ensure transparency and meaningful public participation. The agency extended the comment period to 90 days and hosted multiple in-person meetings — in Denver, Albuquerque, and Reno — as well as two virtual sessions, allowing stakeholders to ask questions and provide informed input. In addition, the BLM held dozens of meetings with diverse audiences, including congressional briefings, meetings with states and stakeholder interest groups and associations, and presentations at conferences and events. The agency also developed and shared accessible informational materials, including FAQs, guides, infographics, and Spanish-language slide decks. These actions reflected a clear commitment to ensuring that the public could understand the proposed rule and fully engage in the process.

In contrast, the BLM is now proposing to rescind this widely supported Rule without any comparable effort to facilitate public engagement. The BLM has not offered any in-person or virtual meetings, reviewer guides, fact sheets, FAQs, or other outreach materials, and has provided only a 60-day comment period. On October 2, 2025, a coalition of ten conservation organizations sent a letter to the BLM and the Department of the Interior requesting a meeting and meaningful public engagement on the Rule’s rescission.¹⁴ *The BLM never responded to or otherwise acknowledged the request.*

Compounding the group’s concerns, this comment period has overlapped with a federal government shutdown, an event that has significantly curtailed staff capacity, slowed communications, and drastically limited the public’s ability to access basic information or receive responses to basic inquiries. Several organizations submitting these comments attempted to contact the BLM for clarifications or answers to questions that would have informed our input. These messages to the BLM were only met with automatic out-of-office responses.¹⁵ This disruption has further constrained the ability of communities, organizations, scientists, and other stakeholders to analyze the proposed rescission and develop substantive, informed comments.

In addition, it is our understanding that Tribal Nations did not receive government-to-government consultation regarding the proposed rescission Rule. Several of the Public Lands Rule updates to BLM land management processes and tools directly impact Tribes, as discussed further in Section V below, and consultation regarding any rollback of these changes is necessary. The BLM may not rely on the guidance in a recent memo from OIRA regarding “streamlining the review of de-regulatory

¹⁴ See attached October 2, 2025 letter to Secretary Burgum.

¹⁵ See attached out of office email replies to organizations such as Conservation Lands Foundation, Defenders of Wildlife, The Wilderness Society, and Public Lands Center.

actions,” which improperly suggests that agencies may avoid their consultation obligations under Executive Order 13175 for de-regulatory actions.

For these reasons, we urge the BLM to reopen and extend the public comment period, and hold public meetings — both virtual and in-person — to allow for meaningful engagement from all interested stakeholders. Given the lack of transparency and limited opportunities for public participation to date, these steps are essential to ensure an informed and inclusive process. As detailed in Section II below, if the agency decides to move forward, the BLM should reissue a proposed rule that includes a clear and adequate rationale for the proposed rescission, allowing the public to provide substantive and informed comments in response.

II. The proposed rescission lacks a rational justification and is contrary to law.

A. The BLM’s notice and comment procedures were insufficient, and the stated rationales for the rulemaking are unclear, internally inconsistent, and incomplete.

The BLM has not provided the necessary information to understand or address the basis for the proposed rescission of the Public Lands Rule. While the BLM’s aim is clearly to undo the Public Lands Rule — a rule that the agency only recently finalized and began to implement — the reasons for the rollback are so sparse as to preclude informed, fair, and meaningful evaluation of the rationale. As described in more detail below, substantial parts of the Public Lands Rule are proposed for elimination without any mention or justification whatsoever. In contrast, other parts of the Rule are given only fleeting treatment via rationales that demonstrate a fundamental misunderstanding of the Rule itself and the sound basis and necessity for its promulgation.

The Administrative Procedure Act (APA) requires that a notice of proposed rulemaking must contain “either the terms of substance of the proposed rule or a description of the subjects and issues involved.”¹⁶ The APA’s notice and comment requirements “serve the salutary purposes of (1) ‘ensur[ing] that agency regulations are tested via exposure to diverse public comment, (2) ensur[ing] fairness to affected parties, and (3) [giving] affected parties an opportunity to develop evidence in the record to support their objections to the rule . . .’ ”¹⁷

Absent an adequate explanation for the BLM’s abrupt reversal, the public is left to guess which of the handful of concerns expressed in the proposed Rescission Rule apply to any of the Public Lands Rule’s multitude of provisions for gathering data, achieving landscape health and restoration objectives, and ultimately modernizing and making more efficient land management. For example, the rescission would remove the first regulatory definition of “Indigenous Knowledge” in the BLM’s history,¹⁸ eliminate the management objective to “improve engagement and co-stewardship of

¹⁶ 5 U.S.C. § 553(b)(3).

¹⁷ *AFL-CIO v. Chao*, 496 F. Supp. 2d 76, 91 (D.D.C. 2007) (citing *Int’l Union, United Mine Workers of Am. v. Mine Safety and Health Admin.*, 407 F. 3d 1250, 1259 (D.C. Cir. 2005)).

¹⁸ 43 C.F.R. § 6101.4(h).

public lands with Tribal entities,”¹⁹ and do away with several data-gathering and land health monitoring requirements, including watershed condition assessments and the application of land health standards to all BLM lands. Are these provisions being removed because the agency believes they are unnecessary, violate FLPMA, or invite third-party challenges to BLM planning decisions? We cannot know.

The BLM fails to address many parts of the Public Lands Rule in the proposed Rescission Rule. As a result, we are handicapped in responding to the “subjects and issues involved” and unable to meaningfully participate in the rulemaking process, in violation of the APA.²⁰

B. The BLM has not provided adequate justification for its change in position, and the Rescission Rule is arbitrary.

The BLM must provide specific rationale for repealing a rule.²¹ In particular, an agency must provide “a reasoned explanation” if, in rescinding a rule, it disregards “facts and circumstances that underlay or were engendered by the prior policy.”²²

In the proposed Rescission Rule, the BLM abandons — without explanation — the strong concerns that motivated the agency to enact the Public Lands Rule. These concerns were repeatedly articulated in the Proposed and Final Public Lands Rule, supported with citations to peer-reviewed science, and, according to the agency’s own conclusion as outlined in the final Public Lands Rule, have a direct nexus to the BLM’s ability to satisfy its dual statutory mandates to manage for multiple use and sustained yield.

1. The BLM has failed to provide a reasoned justification for disregarding its prior factual findings about the need for the Public Lands Rule.

The BLM adopted the Public Lands Rule “to ensure ecosystem resilience” and to “prevent . . . degradation of public lands,”²³ which are essential for the agency to comply with its obligations under FLPMA. In the 2024 preamble to the Final Rule, the BLM detailed a need for the Public Lands Rule because the 245 million acres it manages “have become increasingly degraded in recent decades through the appearance of invasive species, extreme wildfire events, prolonged drought, and increased habitat fragmentation,” and because “[d]egradation of the health of public lands threatens the BLM’s ability to manage public lands as directed by FLPMA.”²⁴ Indeed, the Public Lands Rule uses the term “degraded” eight times.²⁵

¹⁹ *Id.* § 6101.2(i).

²⁰ *See* 5 U.S.C. § 553(b)(3).

²¹ *See, e.g., Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983) (“[When] an agency chang[es] . . . course by rescinding a rule [it] is obligated to supply a reasoned analysis for the change beyond that which may be required when an agency does not act in the first instance.”).

²² *See, e.g., F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009); *Nat’l Ass’n of Manufacturers v. United States Sec. & Exch. Comm’n*, 105 F.4th 802, 812 (5th Cir. 2024).

²³ 43 C.F.R. § 6101.1.

²⁴ 89 Fed. Reg. at 40309.

²⁵ 43 C.F.R. §§ 6101.2(e), 6101.4(w), 6102.3(b), 6102.4(a) & (a)(1)(i), 6102.5(b), 6103.1.1(c), 6103.1.2(f)(5).

To support its concern about the degraded condition and decline of BLM lands, the agency cites its own science, including a December 2022 paper titled *Long-Term Trends in Vegetation on Bureau of Land Management Rangelands in the Western United States*, published in the journal *Rangeland & Ecology Management* with authors from the BLM, the USDA's Agricultural Research Service, and scientists at the University of Montana, as well as the BLM-authored October 2021 Greater Sage-grouse Monitoring Report, which extensively details Greater Sage-grouse habitat degradation.²⁶

Degraded lands cannot serve the foundational multiple use and sustained yield purposes that Congress set forth for BLM-managed lands in FLPMA. For example: degraded rangelands cannot supply forage for livestock; degraded habitat cannot support fish and wildlife; degraded BLM forest lands cannot support timber harvests; and degraded rivers, streams, and landscapes reduce the quality of hunting, fishing, and other recreation, as well as drinking and irrigation water sources. In the 2023 preamble to the draft Public Lands Rule, the BLM explained that the Rule is “designed to ensure that the nation's public lands continue to provide minerals, energy, forage, timber, and recreational opportunities, as well as habitat, protected water supplies, and landscapes that resist and recover from drought, wildfire, and other disturbances.”²⁷ In the Final Public Lands Rule, the BLM reiterated that “[w]idespread degradation of land health significantly limits the ability of public lands and their ecosystems to provide such resources and values and is inconsistent with the management direction and responsibility conferred to the BLM through FLPMA.”²⁸

The obligation to manage for resilience and conservation comes directly from FLPMA. FLPMA's history, purpose, and plain language demonstrate that protecting public lands from environmental degradation and conserving specific ecological attributes — including watersheds and wildlife habitat — have always been central to the BLM's mission, though the BLM did not historically implement it entirely. Section 103(c) of FLPMA defines the BLM's “multiple use” mandate to explicitly require “a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources.”²⁹ FLPMA's sustained yield mandate requires the BLM to avoid permanent impairment of land productivity to ensure a high level of valuable uses “in perpetuity.”³⁰ As the Supreme Court recognized in *Norton v. Southern Utah Wilderness Alliance*, this FLPMA provision obligates the BLM to “control depleting uses over time, so as to ensure a high level of valuable uses in the future.”³¹

To fulfill its mandates, the agency created specific tools and requirements “needed to provide clear direction and comprehensive guidance”³² in the Public Lands Rule that would, among other things: identify and protect intact landscapes; update data and monitoring; facilitate more durable restoration and mitigation; and ensure that Tribal Nations are engaged in all aspects of BLM land

²⁶ 89 Fed. Reg. at 40309.

²⁷ 88 Fed. Reg. 19583, 19585 (Apr. 3, 2023).

²⁸ 89 Fed. Reg. at 40309.

²⁹ 43 U.S.C. § 1702(c).

³⁰ *Id.* § 1702(h).

³¹ 542 U.S. 55, 58 (2004).

³² 89 Fed. Reg. at 40312.

management, including through consultation, opportunities for co-stewardship, and appropriate use of Indigenous Knowledge.

The proposed Rescission Rule rolls back the Public Lands Rule in its entirety without any mention whatsoever about the agency's serious concerns — announced just months ago and grounded in its own science — about building resilience, stemming degradation, and addressing the impacts of climate change on BLM public lands. The regulatory directions (for example, ACEC designation and land health assessments) that were “needed” by the agency to “create[e] efficiencies” and “streamline permit renewals and authorizations”³³ suddenly “hamstring the Bureau . . . to meet a deadline” and “add unnecessary burdens to BLM decision making.”³⁴ The BLM can certainly change course, but in doing so, the agency must “examine the relevant data and articulate a satisfactory explanation” for changing its policy.³⁵ An agency action lacking a “reasoned explanation” for “disregarding facts and circumstances that underlay . . . the prior policy,”³⁶ or reflecting an unexplained inconsistency,³⁷ is arbitrary.³⁸

The BLM states in the preamble to the proposed Rescission Rule that the Public Lands Rule “threaten[s]” to upset the appropriate balance that the BLM must strike under FLPMA, “vests too much discretion” in agency staff, “invites” third parties to lodge “fruitless challenges,” and is generally “unnecessary.”³⁹ This is a remarkable about-face that fails to acknowledge the BLM's prior position—or the underlying factual determinations and circumstances that supported it—namely, that the BLM lands are increasingly degraded and that the conservation tools, monitoring, and data collecting mechanisms put forward in the Public Lands Rule are needed to address this decline and build the resilience necessary to fulfill the multiple use and sustained yield mandates today and into the future.

2. The BLM has failed to provide any justification for rescinding significant portions of the Rule.

While some parts of the proposed rescission have unsupported rationales, the BLM fails to provide any rationale whatsoever for rolling back numerous other provisions of the Public Lands Rule. The BLM only briefly mentions its rationale for reversing three aspects of the Public Lands Rule: the mitigation and restoration leasing provisions, the guidance on ACEC designation and protection, and the broader application of the land health regulations. The rest is eliminated without reason.

For example, there is no basis provided for rescinding the following components, among other aspects of the Public Lands Rule: the BLM's commitments to meaningful

³³ *Id.* at 40312, 40313.

³⁴ 90 Fed. Reg. at 43991.

³⁵ *Motor Vehicle Mfrs. Ass'n*, 463 U.S. at 43.

³⁶ *Fox Television Stations, Inc.*, 556 U.S. at 515-16 (2009).

³⁷ *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 222 (2016).

³⁸ See 5 U.S.C. § 706(2)(A) (a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law”).

³⁹ 90 Fed. Reg. at 43990-92.

government-to-government consultation with Tribal Nations; respect for and inclusion of Indigenous Knowledge; direction to seek opportunities for Tribal co-stewardship; use of the full mitigation hierarchy, inventory of landscape intactness, restoration plans, development of restoration goals and measurable outcomes; tracking of restoration implementation and progress; watershed condition assessments; development of national land health standards; annual land health reports; and land health evaluations.

The public cannot be forced to try to guess why the BLM eliminated these parts of the Rule. Without any mention of these specific components in the proposed Rescission Rule, we would improperly be supplying a reason “that the agency itself has not given.”⁴⁰

3. The BLM’s claim that elements of the Rule are unnecessary is false and an unexplained departure from the agency’s findings when adopting the Public Lands Rule.

As described above, the BLM is proposing to abandon the Public Lands Rule as “unnecessary,”⁴¹ when just months ago it saw the Rule as “necessary,” creating “clarification” and an “efficiency of process,” “a way to address the backlog of pending land health assessments and evaluations,” “promot[ing] efficiency and streamlin[ing] decision-making,” and “needed to ensure . . . that project goals are being met.”⁴² Just as it was when it was adopted, the Public Lands Rule is needed to provide clear regulatory direction, increase consistency and efficiency, and ensure data-driven decision-making.

For instance, the Public Lands Rule responded to a longstanding need for watershed condition assessments and for broader and improved application of land health standards outside the context of livestock grazing.⁴³ In response to these needs, the Rule established a process to generate watershed condition assessments and conduct land health evaluations “at broader spatial scales, as opposed to at the scale of an allotment or other more narrowly drawn boundary or project area” in a manner that “builds on best practices currently deployed by BLM field offices” and is meant to “address the backlog of . . . assessments and evaluations.”⁴⁴ The Rule also “provides for tiering documentation” to “promote[] efficiency and streamline[] decision-making.”⁴⁵ The land health standards have historically applied to rangeland, and the Rule sets out a path to create national

⁴⁰ *Motor Vehicle Mfrs. Ass’n*, 463 U.S. at 43.

⁴¹ 90 Fed. Reg. at 43991.

⁴² 89 Fed. Reg. at 40310, 40320, 40324, 40336.

⁴³ See e.g., comments on the draft Conservation and Landscape Health Rule submitted by the Theodore Roosevelt Conservation Project dated June 29, 2023 at pages 9-11, [Regulations.gov](https://www.regulations.gov) comment tracking number BLM-2023-0001-146604; comments on the draft Conservation and Landscape Health Rule submitted by the National Wildlife Federation and affiliate federations, dated June 30, 2025 at pages 11 and 21, comment tracking number BLM-2023-0001-148080; comments on the draft Conservation and Landscape Health Rule submitted by Defenders of Wildlife, dated July 5, 2025 at pages 36-40, comment tracking number BLM-2023-0001-153629; comments on the draft Conservation and Landscape Health Rule submitted by the Conservation Lands Foundation, dated July 5, 2023 at pages 15-22, comment tracking number BLM-2023-0001-152588.

⁴⁴ 89 Fed. Reg. at 40324.

⁴⁵ *Id.*

standards that apply to all BLM lands, which will help ensure consistency in evaluation, better stewardship, and fill data gaps.⁴⁶ In doing so, the BLM found that the expanded land health standards provisions will “creat[e] efficiencies in the land health process and opportunities to streamline permit renewals and authorizations.”⁴⁷

The Public Lands Rule also “provides specific direction” and enumerates “guiding principles,” including, but not limited to the: protection of intact landscapes; utilization of restoration plans; evaluation of lease proposals; and establishment of mitigation programs, all to address degradation and facilitate ecosystem resilience on public lands to enable ongoing multiple use and sustained yield.⁴⁸ This type of clear guidance will logically reduce the time agency staff spend seeking direction, streamline the decision-making process, prevent costly errors and project delays, and help ensure consistency across field offices and over time.

Inventories of intact landscapes, durable and measurable mitigation, restoration plans, and watershed condition assessments also help ensure that the agency is fulfilling its multiple use and sustained yield mandates. Regular data, monitoring, and restoration are key components of BLM planning for long-term resource productivity, and without quality information, the agency will once again face the numerous challenges to its 245 million acres of land that inspired the Public Lands Rule, for example, “the appearance of invasive species, extreme wildfire events, prolonged drought, and increased habitat fragmentation.”⁴⁹ These are all the BLM’s *own* conclusions detailed in the Public Lands Rule that have not been rebutted or reckoned with in the proposed Rescission Rule.

4. The transparency, clear regulatory timelines, and public participation elements of the Rule are more likely to reduce, not increase, litigation risk.

The Public Lands Rule would likely reduce, not increase, litigation risk. The proposed Rescission Rule ventures, without support, that the Public Lands Rule could invite “fruitless challenges” that could slow down agency processes.⁵⁰ Imagining hypothetical but unspecified challenges in the sparse rationale in the rescission notice, the BLM assumes litigation would be directed at provisions of the Rule regarding values that the agency “should, and already does, consider,” claiming the Rule is “unnecessary.”⁵¹

Far from being “unnecessary,” the Public Lands Rule strengthens the BLM’s multiple-use framework by creating clarity, predictability, and transparency for how the agency balances conservation, recreation, and development. It modernizes management decisions in line with science, law, and public accountability: exactly what FLPMA envisioned. While not exhaustive, the following examples

⁴⁶ *Id.* at 40323.

⁴⁷ *Id.* at 40312.

⁴⁸ *Id.* at 40320.

⁴⁹ *Id.* at 40309; see also Matthew S. Dietz, Alison C. Flint & R. T. Belote, *Landscape Intactness As A Necessary Component Of Multiple-Use and Sustained-Yield Management of Bureau of Land Management Public Lands*, 36 Colo. Env’t L. J. 219 (2025), available at <https://scholar.law.colorado.edu/celj/vol36/iss2/1> (attached).

⁵⁰ 90 Fed. Reg. at 43992.

⁵¹ *Id.*

illustrate how the Rule provides the tools and consistency needed to ensure that BLM fulfills its statutory mandates.

Despite FLPMA's clear direction, the BLM has never fully implemented its ACEC responsibilities or developed consistent, modern guidance for identifying and protecting ACECs (refer to Section B.2. below regarding failure to fulfill ACEC mandate). The BLM has never had guidance on identifying and protecting intact landscapes, and currently, the BLM only applies land health standards to about 60% of the lands it manages. Lastly, without the Rule, mitigation for impacts to public lands often occurs on private property because the BLM lacks clear authority to authorize restoration or mitigation directly on the lands it manages. The Rule corrects this by establishing transparent mechanisms for restoration and mitigation leases that deliver direct public and ecological benefits. Overall, the Rule is essential for the BLM to fulfil its obligations under FLPMA, leading to less conflict and increased transparency for the public.

While there certainly has been past litigation brought by conservation groups, public land users, Tribal Nations, and others challenging the BLM's failure to consider environmental impacts or harms, the volume of litigation would be likely to decrease, not increase, if the agency's consideration of these values is systematic and transparent. The Public Lands Rule is responding to a longstanding need to combat degradation and improve process efficiency. Many lawsuits have been filed to address the degradation of public lands, for example, due to overgrazing, pollution, old-growth timber harvests, and oil and gas leases in sensitive areas, or with impacts on cultural resources. But the Public Lands Rule's regular data gathering (e.g. landscape intactness inventories and 10-year watershed condition assessments), restoration and mitigation requirements, information sharing (e.g., restoration plans with evaluations and updates every five years), adaptive management (e.g., course correction when land health evaluations show standards are not being met), and meaningful Tribal consultation provisions would all address public land degradation and reduce the risk of environmental harm.

The BLM's transparency about its weighing of conservation values alongside other uses will help foster trust, improve decision-making, facilitate early resolution of conflict, and, ultimately, help the agency ensure its decisions are more durable and less subject to litigation because decisions will utilize science and quality data, incorporate stakeholder participation, and involve meaningful Tribal engagement.

5. The BLM fails to recognize or address the strong scientific bases for the Rule.

The Public Lands Rule is based on a well-established and growing body of scientific research that stresses the importance of conserving lands to sustain and enhance ecological resilience.⁵² For instance, a newly published article by experts at The Wilderness Society confirms that protecting the most intact, functioning landscapes is necessary to ensure the resilience of ecosystems and

⁵² See, e.g., Kevin Doherty et. al., *A sagebrush conservation design to proactively restore America's sagebrush biome*, U.S. Geological Survey Open-File Report (2022), <https://pubs.usgs.gov/of/2022/1081/ofr20221081.pdf> (attached).

compliance with the BLM's multiple use and sustained yield mission.⁵³ Similarly, a recently published article by Defenders of Wildlife (2025) emphasizes the necessity of addressing climate change, habitat loss, invasive species, and other leading drivers of species imperilment for effective conservation outcomes. Specifically, the Defenders of Wildlife study found that the top two drivers of species imperilment are climate change (91% of imperiled species are adversely affected) and habitat loss (90% of imperiled species are adversely affected).⁵⁴ Because most imperiled species (86%) are adversely affected by multiple threats, the study emphasizes the importance of holistically addressing threats to stem biodiversity loss. The Public Lands Rule is designed to be consistent with this approach through its emphasis on ecological resilience, restoration, and conservation of intact ecosystems, among other objectives.

Another recent study showed that vegetation is rapidly shifting on BLM lands to the detriment of ecological health today and into the future. Using remote sensing, Kelnihesselink et al. (2023) found widespread increases in cover and production of annual (invasives) grasses and forbs between 1991 and 2020.⁵⁵ They also found that annual plants now exceed perennials on more than 52 million acres (21% of the BLM's surface estate). The authors conclude that these vegetative shifts threaten the ecological function and habitat value of millions of acres of public lands, and that maintaining ecological function will be an enormous challenge, requiring the BLM to adopt a greater focus on restoration.

C. The Public Lands Rule is consistent with and necessary to fulfill the BLM's statutory mandates set forth in FLPMA.

The proposed Rescission Rule is based on erroneous legal conclusions. Contrary to the BLM's contentions, the Public Lands Rule fulfills, not violates, the agency's statutory mandates. As the Bureau recognized when promulgating the Rule, "FLPMA has always encompassed conservation as a land use."⁵⁶ In both purpose and policy, conservation as a use has been baked into FLPMA from the beginning. Congress declared a policy in FLPMA that the Bureau must manage public lands in a manner "that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archeological values" and "that, where appropriate, will preserve and protect certain public lands in their natural condition."⁵⁷ Congress also expressly

⁵³ Dietz, Flint, Belote 2025; *see also* Appendix B submitted with TWS et al. July 2023 comments on proposed rule, which includes a compilation of relevant peer-reviewed scientific articles documenting the need and opportunity to protect and connect intact landscapes and manage for resilient ecosystems in the face of climate change and related stressors (reattached).

⁵⁴ Talia E Niederman et. al., *US Imperiled species and the five drivers of biodiversity loss*, 75 BioScience 7 (July 2025), at 524–33, <https://doi.org/10.1093/biosci/biaf019> (attached).

⁵⁵ Andrew R. Kelnihesselink et. al., *Long-Term Trends in Vegetation on Bureau of Land Management Rangelands in the Western United States*, 87 Rangeland Ecology & Management (2023), at 1–12, <https://doi.org/10.1016/j.rama.2022.11.004> (attached).

⁵⁶ 89 Fed. Reg. at 40310.

⁵⁷ 43 U.S.C. § 1701(a)(8); *see also* S. Comm. on Energy & Nat. Res., 95th Cong., Legislative History of the Federal Land Policy and Management Act of 1976 at vi (Comm. Print 1978) ("The policies contained in [FLPMA] will shape the future development *and conservation* of a valuable national asset, our public lands." (emphasis added)).

instructed the Secretary of the Interior to “take any action necessary to prevent unnecessary or undue degradation of the [public] lands.”⁵⁸

1. The BLM mischaracterizes and misunderstands what the Public Lands Rule says and does.

In an attempt to support its faulty legal conclusions, the BLM’s proposed Rescission Rule mischaracterizes and misunderstands the Public Lands Rule in at least two fundamental ways. First, the proposed Rescission Rule asserts that the Public Lands Rule “constrains agency flexibility necessary to manage under principles of multiple use and sustained yield” and that the leasing provisions “threaten to upset the appropriate balance” that the BLM must strike when managing public lands for multiple use and sustained yield.⁵⁹ But the proposed Rescission Rule fails to specify to any meaningful degree what elements of the Public Lands Rule warrant these conclusions, or why. The plain text of the Public Lands Rule and the agency’s thorough explanation in promulgating it demonstrates that the Rule does nothing to upset FLPMA’s “balance.”

The Rule is clear that it “does not prioritize conservation above other uses.”⁶⁰ The Public Lands Rule “provides for considering and, where appropriate, implementing or authorizing conservation as one of the many uses managed under FLPMA, *consistent with the statute’s plain language*.”⁶¹ Specifically, the restoration and mitigation leases contemplated by the Rule would “not override valid existing rights or preclude other, subsequent authorizations so long as those authorizations are compatible with the restoration or mitigation use.”⁶² In short, restoration and mitigation leases would not disturb existing authorizations, valid existing rights, or State or Tribal land use management.

As the BLM explained in promulgating the Public Lands Rule, the agency “has a long history of exercising [its] broad regulatory authority to manage its lands through leases and similar instruments, including by issuing permits or right-of-way grants that authorize the permit holder to implement restoration and mitigation as a component or a condition of an authorization to use the public lands[.]”⁶³ Just as an oil and gas lease on BLM land might limit the ability of that area to be available for other uses in the future (e.g. renewable energy siting or recreation), an area subject to a restoration or mitigation lease may not be available for future oil and gas leasing and development or other incompatible uses—subject, of course, to valid existing rights. This work of balancing competing uses lies at the heart of BLM management and is nothing new. The BLM, in the preamble to the Public Lands Rule, offers several past examples where the agency has weighed conservation management and other uses, such as the Desert Renewable Energy Conservation Plan, the Greater Sage-grouse Plans, and the West-wide Energy Corridors designated by the BLM.⁶⁴

⁵⁸ 43 U.S.C. § 1732(b).

⁵⁹ 90 Fed. Reg. at 43991.

⁶⁰ 89 Fed. Reg. at 40308.

⁶¹ *Id.* (emphasis added).

⁶² *Id.* at 40311; *see also id.* at 40327.

⁶³ *Id.* at 40314.

⁶⁴ *Id.* at 40308.

The BLM's new claim that the Public Lands Rule improperly tips the multiple use scales is not only wrong, but also internally inconsistent. As the proposed Rescission Rule admits, the Public Lands Rule "[regulations] tend not to compel specific BLM action," but rather they "require[] that the BLM consider certain values."⁶⁵ These values that are to be considered are explicitly articulated in FLPMA's multiple use mandate: meeting future needs, conforming to changing needs and conditions, use of some land for less than all of the resources, recreation, wildlife and fish, natural scenic, scientific and historical values, and management "without permanent impairment of the productivity of the land and the quality of the environment."⁶⁶

Second, the BLM sets up a false dichotomy in the proposed Rescission Rule between conservation and "productive uses" of BLM land, suggesting that conservation could exclude "productive uses, such as grazing, mining, and energy development."⁶⁷ This misses the point of the Public Lands Rule, which recognizes that conservation is critical to ensuring the productivity of public lands and resources into the future, supporting all multiple uses.

Relatedly, the tools contained in the Public Lands Rule enable the BLM to consider all uses of the land, as it must. Restoration, mitigation, land health standards, intact landscapes, and watershed condition assessments all aid the BLM in ensuring sustained yield and multiple use. Hunting, fishing, and other recreational activities—identified in FLPMA as parts of the BLM's mission—require a baseline of land health. The same applies to wildlife habitat, watersheds and drinking water, livestock grazing lands, forestry lands, and other protected uses. Just as a farmer will leave a field fallow for a year to restore soil fertility, conserve moisture, and break pest and disease cycles, long-term public land management must include restoration and mitigation.

In promulgating the Public Lands Rule, the BLM recognized that "the definition of 'multiple use' makes clear, and courts have affirmed, that managing some lands for conservation use is a permissible, and indeed crucial, aspect of managing public lands under the principles of multiple use and sustained yield, as FLPMA requires."⁶⁸ In the proposed Rescission Rule, the agency appears to no longer recognize this relationship and misunderstands the purpose of the Public Lands Rule.

2. The BLM mischaracterizes and misunderstands the definition of multiple use and related direction in FLPMA.

The BLM's notice of proposed rulemaking likewise misapprehends FLPMA. As noted above, conservation is part and parcel of managing for multiple use and sustained yield under FLPMA and always has been, as decades of federal case law has already made clear. The BLM has previously acknowledged and confirmed the same, such as in the preamble to the proposed and final Public Lands Rule and in briefing in federal court as recently as this year. Just as the BLM must reasonably and sufficiently address changes between its proposed Rule rescission and the factual bases

⁶⁵ 90 Fed. Reg. at 43991-92.

⁶⁶ See 43 U.S.C. § 1702(c).

⁶⁷ 90 Fed. Reg. at 43991.

⁶⁸ 89 Fed. Reg. at 40313 (citing 43 U.S.C. § 1702(c) and several federal cases).

underpinning the original Rule, any deviation from the agency’s previously stated legal interpretation must be thoroughly and rationally explained.

The Public Lands Rule is consistent with FLPMA’s mandate that the BLM manage lands for “multiple use and sustained yield.”⁶⁹ In fulfilling that mandate, FLPMA requires the BLM to manage public lands in a way that “protect[s] the quality of the scientific, scenic, historical, ecological, environmental, air and atmospheric, water resources, and archaeological values” and, when appropriate, to “preserve and protect certain public lands in their natural condition.”⁷⁰

FLPMA’s definitions of multiple use and sustained yield evidence Congress’s intent that public lands be managed for conservation purposes. It defines “multiple use” as:

management of the public lands and their various resource values so that they are utilized in the combination that will ***best meet the present and future needs of the American people***; making the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; ***the use of some land for less than all of the resources; a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values; and harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment*** with consideration being given to the relative values of the resources and ***not necessarily to the combination of uses that will give the greatest economic return or the greatest unit output.***⁷¹

“Sustained yield” means the “achievement and maintenance in perpetuity of a high level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.”⁷² Moreover, Congress specifically authorized the promulgation of implementing regulations necessary to “carry out the purposes” of FLPMA.⁷³

Courts, too, have long recognized that conservation is critical to the BLM’s FLPMA mandate. Over twenty years ago, the U.S. Supreme Court described the land use planning process as one of the BLM’s “main tool[s]” for protecting public lands from impairment, consistent with the agency’s multiple use and sustained yield mandate.⁷⁴ More specifically, the Tenth Circuit has expressly stated that “conservation to protect environmental values” is a “possible use[]” under FLPMA’s multiple use mandate—and that it is “past doubt that the principle of multiple use does not require the BLM

⁶⁹ 43 U.S.C. §§ 1701(a)(7) & 1732(a).

⁷⁰ *Id.* § 1701(a)(8).

⁷¹ *Id.* § 1702(c) (emphasis added).

⁷² *Id.* § 1702(h).

⁷³ *Id.* § 1740.

⁷⁴ *Norton v. S. Utah Wilderness All.*, 542 U.S. 55, 58–60 (2004).

to prioritize development over other uses.”⁷⁵ The Tenth Circuit recently confirmed that *Richardson* identified conservation as “one of the multiple uses” under the BLM’s “statutory mandate for land management under the multiple use principle.”⁷⁶

Having thoroughly documented conservation as a key component of the statutory text, legislative history, and agency implementation of FLPMA, legal scholars agree.⁷⁷ For instance, former Interior Department Solicitor and preeminent public land law scholar John Leshy documented the origin story of the modern BLM and FLPMA in his seminal book, *Our Common Ground: A History of America’s Public Lands*. Leshy describes how FLPMA’s concepts of “multiple use” and “sustained yield” trace back to Congress’s use of the same terms in the 1960 Multiple Use and Sustained Yield Act governing national forests, and how, sixteen years later, Congress intentionally altered the definition to be considerably more conservation-oriented.⁷⁸

Thus, the plain language of FLPMA, as well as Congress’s, the agency’s, the courts’, and legal scholars’ prior interpretations of this statutory language, all compel the conclusion that FLPMA mandates management for conservation uses and extractive uses together. Moreover, FLPMA’s plain language calls for agency regulations to cover all its enumerated purposes.⁷⁹ The Public Lands Rule fulfills this mandate.

For all these reasons, while FLPMA certainly provides the BLM with discretion in deciding *how* to balance multiple uses of public lands, the only permissible interpretation of the statute is that the BLM *must* treat conservation as one of those multiple uses for which land shall be managed.⁸⁰ Yet the BLM’s rescission notice does not wrestle with the statutory language, case law, and robust body of scholarship and agency practice interpreting it. Instead, it simply concludes that the BLM has now determined that the rule “violates existing statutory requirements.”⁸¹ To the extent the rescission notice provides any rationale for this sudden change in position, it appears to be that conservation is not a “use” of public lands under FLPMA, and that only Congress – or the Secretary of the Interior via FLPMA’s withdrawal authority, 43 U.S.C. § 1714 – can designate or manage lands for conservation.⁸² But the BLM’s newfound insistence that conservation is not a permissible “use” under FLPMA is inconsistent with the plain language of the statute and the long-held understanding that conservation is central to the statute’s multiple-use mandate, for the reasons already discussed.

⁷⁵ *N.M. ex rel. Richardson v. Bureau of Land Mgmt.*, 565 F.3d 683, 710 (10th Cir. 2009).

⁷⁶ *W. Watersheds Project v. Vilsack*, No. 23-8081, 2024 U.S. App. LEXIS 27235, at *26 (10th Cir. Oct. 28, 2024).

⁷⁷ E.g., Sandra B. Zellmer, *Conservation as Multiple Use*, 66 ARIZ. L. REV. 467, 477–85 (2024) (attached); Jamie Pleune, *The BLM’s Public Lands Rule and “Periodic Adjustments in Use to Conform to Changing Needs and Conditions” Under the Federal Land Policy and Management Act*, 42 PACE ENV’T L. REV. 101, 123–42 (2024) (attached) (concluding that “since FLPMA’s passage, Congressional directions and authorizations have consistently demonstrated that conservation is inherent in BLM’s multiple use duties”).

⁷⁸ John D. Leshy, *Our Common Ground: A History of America’s Public Lands*, 490–98 (Yale Univ. Press 2001) (excerpt attached).

⁷⁹ See 43 U.S.C. § 1740.

⁸⁰ See *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 400 (2024) (noting that courts must enforce a statute’s “single, best meaning”).

⁸¹ 90 Fed. Reg. at 43991.

⁸² See *id.*

The BLM’s characterization of the conservation activities discussed by the Public Lands Rule as passive “non-use” is also inconsistent with the Rule itself, which contemplates active, intentional stewardship of areas under a conservation lease. For example, “Restoration” includes both passively *and actively* assisting the recovery of an ecosystem to a more natural, native ecological state.⁸³ “Protection” is “not synonymous with preservation and allows for active management or other uses consistent with multiple use and sustained yield principles.”⁸⁴ And the definition of “Mitigation” involves a list of actions, which include avoiding impacts altogether, but also include “repairing, rehabilitating, or restoring the affected environment” and “maintenance operations.”⁸⁵ These definitions confirm that conservation, restoration, and mitigation, as contemplated under the Rule, involve a range of both passive and active public lands management activities.

The BLM’s claim that withdrawal or statutory designation are the only permissible paths to managing an area for conservation values is equally dubious, especially because FLPMA Section 202 expressly allows the agency to limit uses beyond formal withdrawals or statutory designations, including by “giv[ing] priority to the designation and protection of areas of critical environmental concern.”⁸⁶ As a result of this statutory direction, resource management plans determine, among other things, which areas are available versus unavailable for oil and gas leasing, and under what conditions.⁸⁷ In fact, Congress very recently endorsed this framework via the One Big Beautiful Bill Act, in which it explicitly tethered “availability” under the Mineral Leasing Act to lands designated as open for leasing under a land use plan pursuant to Section 202 of FLPMA.⁸⁸ This is all part and parcel of multiple use.⁸⁹

D. The Public Lands Rule is necessary to fulfill the BLM’s sustained yield statutory mandate.

Rescinding the Public Lands Rule would revert public lands management to an outdated framework that has proven insufficient to achieve the BLM’s statutory sustained yield mandate in FLPMA.⁹⁰ The Public Lands Rule emphasizes the need to restore public lands in order to fulfill the sustained yield mandate and identifies ecological restoration of degraded landscapes as one of its three core strategies. One of the stated primary objectives of the Public Lands Rule is to “accelerate restoration

⁸³ 43 C.F.R. § 6101.4(w).

⁸⁴ *Id.* § 6101.4(t).

⁸⁵ *Id.* § 6101.4(n).

⁸⁶ 43 U.S.C. § 1712(c)(3); *see also id.* § 1712(a).

⁸⁷ *See* 43 C.F.R. § 1601.0-5(n); *Montana Wildlife Fed’n v. Haaland*, 127 F.4th 1, 19 (9th Cir. 2025); The Wilderness Society, *Open for Drilling Report*.

⁸⁸ Public Land Law 119-21 § 50101(b)(3), 139 Stat. 137 (2025).

⁸⁹ The rescission notice perplexingly cites designation of Wilderness Areas or National Parks as examples of Congress permitting agencies to set aside land and prevent development for preservation purposes. 90 Fed. Reg. at 43991. But Wilderness and National Parks are congressional designations, not delegations to the agency – showing a fundamental misunderstanding of some of the most basic concepts of federal public land law. By contrast, FLPMA does very explicitly *require* BLM to prioritize designation and protection of ACECs – indeed, the only one of the multiple uses that the agency is obligated to give such priority attention. The rescission notice also perplexingly cites *West Virginia v. EPA*, 597 U.S. 697 (2022), 90 Fed. Reg. at 43991, which does not support the agency’s view.

⁹⁰ *See* 89 Fed. Reg. at 40309-10 (preamble, Section II.A, “Background—The need for resilient public lands to achieve multiple use and sustained yield”).

and improvement of degraded public lands, air, and waters to properly functioning and desired conditions.”⁹¹ The overall rationale for the original rulemaking discussed above explicitly stated how updated policies were necessary to fulfill the sustained yield mandate, and rescinding the Public Lands Rule would jeopardize the BLM’s ability to comply with this requirement under FLPMA.

1. Land Health Determinations

The Public Lands Rule applies land health standards to all BLM-managed public lands and programs, and establishes Fundamentals of Land Health that mirror the Fundamentals of Rangeland Health used in the BLM grazing program. The BLM’s rationale for the Rule stated that public lands “have become increasingly degraded in recent decades through the appearance of invasive species, extreme wildfire events, prolonged drought, and increased habitat fragmentation. Degradation of the health of public lands threatens the BLM’s ability to manage public lands as directed by FLPMA.”⁹² The Public Lands Rule is necessary because data shows that public lands are not currently in a sustainable condition in contravention of FLPMA’s legislative direction.

Public Employees for Environmental Responsibility (PEER) published a report documenting rangeland health conditions and data for 155 million acres of BLM-managed lands across the American West.⁹³ The report found that a large percentage of public lands are not meeting the desired land health conditions, including 50% of the assessed acres that failed to meet the minimum rangeland health requirements under the fundamentals of rangeland health and standards and guides. This data from PEER, which is focused solely on grazing allotments, demonstrates that the BLM rangelands are not being managed in a sustainable manner. The Public Lands Rule’s requirement that the agency focus on land health across all lands the agency manages will help the BLM make strides towards identifying problems, working towards restoration, and preventing degradation in the first place.

2. Invasive species.

In the last few years, the U.S. Geological Survey has published multiple reports on the health of the Sagebrush Sea ecosystems (which encompass over one hundred million acres of BLM-managed lands), most recently finding that only 13.6% of relatively intact core areas remain and documenting substantial habitat losses due to extraction and other activities.⁹⁴ The agency also found that invasive weeds are dominating significant portions of BLM rangelands and continue to

⁹¹ 43 C.F.R. §§ 6101.2(e) & subpart 6102.

⁹² 89 Fed. Reg. at 40309.

⁹³ *Evaluating Trends in Rangeland Health on Bureau of Land Management Lands: Insights from 2023 Grazing Allotment Data* (attached).

⁹⁴ Note that this analysis did not exclude non-BLM public land and private inholdings. *Doherty USGS A sagebrush conservation design to proactively restore America’s sagebrush biome*; Thomas Remington, et. al., *Sagebrush conservation strategy—Challenges to sagebrush conservation*, U.S. Geological Survey Open-File Report (2021), <https://pubs.usgs.gov/publication/ofr20201125> (attached); *Kleinhesselink Long-Term Trends in Vegetation on Bureau of Land Management Rangelands in the Western United States*; Brady Allred, et. al., *Improving Landsat predictions of rangeland fractional cover with multitask learning and uncertainty*. *Methods in Ecology and Evolution* (2021), <http://dx.doi.org/10.1111/2041-210x.13564> (attached).

spread.⁹⁵ For example, Allred et al. found that nearly one-third of public land in the cold desert ecoregion, which comprises a significant portion of the public land in the interior West, is dominated by invasive species. This compares to only 4% in 1992. In addition to the spread of invasive species, Kleinhesselink et al. documented a decline in herbaceous perennial cover and production, which is especially acute in the deserts of southern Arizona and New Mexico, as well as in Mediterranean California. Perennial herbs are crucial for a wide array of wildlife species, such as the greater sage-grouse.

3. Aquatic resource health.

Aquatic resources in the arid and semi-arid West are highly sensitive to land management. On many BLM-managed lands, stream channels are incised and disconnected from their floodplains, leading to lower water tables, reduced groundwater discharge, and a decrease in soil water storage capacity, ultimately resulting in less drought resilience. A sampling of the BLM's aquatic habitat shows that only 25% of its floodplain area is healthy, active, and connected to rivers and streams, indicating a clear need for management actions that restore these and other critical freshwater systems.

Using lotic and lentic Proper Functioning Condition assessments, the BLM categorizes streams as either Properly Functioning Condition, Functioning-at-Risk, or Non-Functioning. The minimum acceptable management goal for a stream is at least Proper Functioning Condition, because any rating below Properly Functioning Condition indicates a condition that is not sustainable. In Montana and the Dakotas, the BLM's assessment of riparian condition across the streams it manages indicates that approximately one-third of streams assessed as of 2018 did not meet Proper Functioning Condition.⁹⁶ In Wyoming, an analysis of available riparian condition data showed that half of its riparian areas are rated as not meeting Proper Functioning Condition.⁹⁷ Similarly, in the Salmon (ID) Field Office, less than half (49%) of the stream miles that have been assessed are in Proper Functioning Condition while just over half (52%) of its lentic acres are in Proper Functioning Condition.⁹⁸

Lotic Aquatic Inventory and Monitoring (Lotic AIM) data is another way the BLM assesses the health of its streams, rivers, and associated riparian and floodplain areas. The Lotic AIM indicators are critical for understanding the health and function of stream and river systems and can be compared to benchmarks or reference points that represent healthy, functioning lotic systems. Lotic

⁹⁵ *Id.*

⁹⁶ Bureau of Land Management, *Montana/Dakotas Low-Tech, Process Based Riverscape Restoration Programmatic Environmental Assessment*, DOI-BLM-MT-0000-2020-0006-EA, June 2022, p. 28-29. https://eplanning.blm.gov/public_projects/2000265/200379597/20074310/250080492/LTPBR_EA_Final.pdf (attached).

⁹⁷ Bureau of Land Management, *Programmatic Environmental Assessment Low-Tech, Process Based Riverscape Restoration*, DOI-BLM-WY-0000-2024-0002EA, June 2022, p. 2. https://eplanning.blm.gov/public_projects/2027025/200604585/20113381/251013372/LTPBR_WY_Programmatic_EA%20-%20Final.pdf (attached).

⁹⁸ Bureau of Land Management, *Upper Salmon Aquatic and Riparian Habitat Restoration Environmental Assessment*, DOI-BLM-ID-I040-2024-0013-EA, July 2025, p. 25, https://eplanning.blm.gov/public_projects/2033668/200622449/20139700/251039680/Environmental%20Assessment%20Upper%20Salmon%20Aquatic%20and%20Habitat%20Restoration.pdf.

AIM benchmarks have been established based on historical data, scientific literature, and regional ecological assessments and are used to evaluate the condition of aquatic ecosystems. Deviations from these benchmarks may indicate stressors or impacts that require management action. The BLM's Lotic AIM data for 12 indicators across seven of its field offices in Oregon and Washington show that there isn't a single field office that is meeting all of its established benchmarks at least 50% of the time.⁹⁹ In Utah's Moab Field Office, more than 50% of its stream reaches were in major to moderate departure for large wood, bank cover, floodplain connectivity, and specific conductance.¹⁰⁰

As noted in Section II.B.1 above, the BLM adopted the Public Lands Rule "to ensure ecosystem resilience" and to "prevent . . . degradation of public lands,"¹⁰¹ which are essential for the agency to comply with its obligations under FLPMA. The condition of the BLM's aquatic resources indicates that the new regulations and tools outlined in the Rule are warranted and will better position the BLM to identify natural resources that aren't functioning as they should, adapt management as needed to minimize unnecessary and undue degradation, prioritize and develop strategies for restoration, and more thoroughly monitor the health of its natural resources going forward.

4. Drought.

BLM-managed public lands across the West are also experiencing increasingly severe and chronic drought conditions. Using data from the Farm Service Agency, we found that for the five years from 2018 to 2022, over three-quarters of BLM lands in the continental US were located in counties experiencing chronic drought, defined by a drought meter rating of D3 or more within a year. In 2021, 70% of BLM lands were stricken by severe or extreme drought.¹⁰² These prolonged dry periods are straining already fragile ecosystems, reducing water availability, degrading soil health, and threatening the resilience of native plant and wildlife communities. As climate change drives more frequent and intense drought events, the need for proactive land management strategies, including ecological restoration, is more urgent than ever to sustain the health and productivity of public lands.

E. The BLM must comply with NEPA.

The BLM's reliance on its categorical exclusion at 43 C.F.R. § 46.210(i) to exclude the proposed Rescission Rule from NEPA review is inappropriate. As explained elsewhere in these comments, the proposed Rescission Rule would weaken the management framework outlined in the Public Lands

⁹⁹ Bureau of Land Management, *Eastside Aquatic and Riparian Restoration Programmatic Environmental Assessment*, DOI-BLM-ORWA-0000-2023-0002-EA, November 2024, p. 19-21, https://eplanning.blm.gov/public_projects/2023454/200546768/20123968/251023948/2024_November_FINAL-PEA-EastsideAquatic.pdf (attached).

¹⁰⁰ Bureau of Land Management, *Moab Field Office Low-Tech, Process-Based Restoration Programmatic Environmental Assessment*, DOI-BLM-UT-Y010-2025-0012-EA, August 2025, p. 3-9 to 3-11. https://eplanning.blm.gov/public_projects/2035757/200635561/20141692/251041672/MFO_LTPBR_EA_FONSI_DR%20final%20signed.pdf (attached).

¹⁰¹ 43 C.F.R. § 6101.1.

¹⁰² Bureau of Land Management, *A Critical Call to Restore our Public Lands* (2024) at 8, https://www.blm.gov/sites/default/files/docs/2024-11/Restoration%20Blueprint%20508_0.pdf (attached).

Rule to prioritize the health and resilience of ecosystems across BLM-managed lands and is thus not solely administrative, financial, legal, or procedural in nature. Nor will there be a subsequent NEPA analysis of the proposed Rescission Rule's broad environmental effects. In addition, the presence of one or more extraordinary circumstances identified at 43 C.F.R. § 46.215 precludes the agency's reliance on the categorical exclusion.

F. The BLM must disclose where it uses Artificial Intelligence for any components of this rulemaking.

The BLM must disclose whether it used artificial intelligence (AI) in this rulemaking. If the agency has used AI, the BLM must describe the AI tools it employed and explain how the agency used them.

While AI can be used appropriately to improve agency efficiency, its use must be properly moderated and disclosed. These requirements safeguard against potential errors that can occur during rulemaking by providing the public with an opportunity to identify and correct such errors. Any undisclosed use of AI could render the BLM's proposed Rescission Rule unlawful. Courts have interpreted the arbitrary and capricious language to require reasoned decision-making from the agency. When agencies rely on computer-generated results, like computer models, courts have long held that "ultimate responsibility for the policy decision remains with the agency rather than the computer."¹⁰³ To the extent that the BLM used AI in this proposed rulemaking – or intends to use it in the final rulemaking – without explaining the assumptions and methodology behind that use, the rule is unlawful under the arbitrary and capricious standard.

The APA also requires agencies to consider the relevant matter presented in comments to a proposed rule.¹⁰⁴ Courts have specified that agencies must respond to comments "in a reasoned manner."¹⁰⁵ Using AI without sufficient human oversight to respond to relevant comments may not fulfill an agency's legal duty of consideration because AI does not think in a reasoned manner. And while high volumes of comments certainly could leave an agency searching for efficiency-improving measures, the BLM should be aware that the practice of AI-generated responses to comments erodes the public trust that the notice-and-comment system is designed to cultivate.¹⁰⁶ Thus, if the BLM responds to comments on the proposed Rescission Rule using AI, it is also in violation of the APA.¹⁰⁷

To the extent that the BLM utilizes AI in this rulemaking, it is consequently obligated to document and publicly disclose its use, as well as any relevant inputs and outputs. In addition, given the

¹⁰³ *Sierra Club v. Costle*, 657 F.2d 298, 334-35 (D.C. Cir. 1981).

¹⁰⁴ 5 U.S.C. § 553(c).

¹⁰⁵ *Conf. of State Bank Supervisors v. Off. of Thrift Supervision*, 792 F. Supp. 837, 846 (D.D.C. 1992).

¹⁰⁶ See Office of Mgmt. & Budget, Exec. Office of the President, Memorandum M-25-21, Accelerating Federal Use of AI through Innovation, Governance, and Public Trust (2025), available at <https://www.whitehouse.gov/wp-content/uploads/2025/02/M-25-21-Accelerating-Federal-Use-of-AI-through-Innovation-Governance-and-Public-Trust.pdf>.

¹⁰⁷ Legal scholars note that "less deliberative consideration of individual comments" may, in addition to falling short of procedural requirements, undermine "the democratic legitimacy of agency decisions." Patrick Corcoran, *Preserving Democratic Legitimacy in the Application of A.I. to Notice-and-Comment Rulemaking*, 25 N.Y.U. J. Legis. & Pub. Pol'y 501, 505 (2023).

rapidly evolving use of AI and the importance of the associated obligations concerning its proper use and disclosure, the BLM cannot reasonably remain silent on the use of AI in its rulemakings, even where the agency did not use AI. To ensure public confidence in the BLM's compliance with rulemaking requirements and judicial confidence in its ability to review a complete record, the BLM must confirm whether its proposed and final rulemakings were developed with or without the use of AI tools.

III. Topics explicitly covered in the rescission notice.

As described above in Section II, the proposed Rescission Rule provides arbitrary and incomplete rationales for rescinding three major elements of the Public Lands Rule: restoration and mitigation leases; regulatory direction in meeting FLPMA's explicit requirement to prioritize the designation and protection of ACECs; and broader application of land health standards and evaluations. This Section of our comments addresses these three elements of the Rule in more detail, explaining why they are well-supported in law, policy, science, public opinion, and reliance interests, and why they should be retained and implemented.

A. Restoration and mitigation leasing.

As described in Section II above, many BLM-managed public lands are in a degraded state and in need of restoration to achieve the level of land health and resilience necessary to satisfy the agency's multiple use and sustained yield mission into the future. The BLM lacks the resources to conduct the necessary restoration activities on its own and understands that restoration partnerships are key to conducting on-the-ground restoration projects.¹⁰⁸ Similarly, adverse impacts associated with energy and other forms of development on public lands must be mitigated and offset to satisfy multiple use and sustained yield and to "prevent unnecessary or undue degradation" and "permanent impairment of the productivity of the land and the quality of the environment."¹⁰⁹ Restoration and mitigation are well-established processes for addressing degraded lands and resources, necessary to secure the numerous benefits of healthy and resilient lands, including improved wildlife habitat, enhanced water and air quality, increased soil and plant productivity, and quality recreation opportunities, among others. The BLM has long had authority and discretion to permit qualified third parties (for example, through stewardship contracting, rights-of-way, and other instruments) to conduct restoration and mitigation activities on public lands.¹¹⁰ However, it has lacked regulatory direction to ensure the durability of those activities,

¹⁰⁸ See *A Critical Call to Restore our Public Lands* at 16–17.

¹⁰⁹ See 43 U.S.C. §§ 1702(c) & 1732(b).

¹¹⁰ See *id.* § 1732(b) (providing express direction to "regulate, through easements, permits, leases, licenses, published rules, or other instruments as the Secretary deems appropriate, the use, occupancy, and development of the public lands"); 43 C.F.R. part 2920 (implementing regulations for Title III land use authorizations); *Greater Yellowstone Coal. v. Tidwell*, 572 F.3d 1115, 1127 (10th Cir. 2009) (recognizing that the authority granted in Section 1732(b) is considerably broader than that in subject-specific provisions of FLPMA and would, absent Section 1737(b)'s specific statutory authorization for the type of cooperative agreement at issue, encompass elk management activities).

which has disincentivized investment in restoration and mitigation on public, as opposed to state or private lands.¹¹¹

Following calls for mechanisms to support more durable restoration and mitigation opportunities on public lands, the Public Lands Rule included a regulatory framework for issuing restoration or mitigation leases to qualified third parties for restoration or mitigation activities, while maintaining public access and ensuring protection of valid existing rights.¹¹² In doing so, the BLM recognized that third parties – including private businesses, Tribal governments, conservation districts, state fish and wildlife agencies, and other qualified entities or individuals – have the interest and capacity to make durable investments in public lands restoration. These third parties could be a rancher wishing to restore degraded stream habitat, a group of big game hunters working to improve wildlife habitat, an energy development company looking to offset the impacts of a development project, or a Tribal government desiring to actively manage and steward their traditional lands and natural and cultural resources. Importantly, lease applications must include restoration or mitigation plans, and the BLM must consider factors such as whether the lease outcomes are consistent with restoration principles and management objectives and allowable uses in the governing land use plan (for example, if the area is managed for recreation or prioritized for development), as well as collaboration with local communities.¹¹³ The BLM retains discretion over management decisions for leased lands, including around lease renewals, terminations, or suspensions, and future land use proposals.¹¹⁴

Following the finalization of the Public Lands Rule, the BLM worked diligently for several months to develop detailed implementation guidance and begin discussions with third parties about potential lease applications.¹¹⁵ Then the agency abruptly changed course and announced that the Public Lands Rule leasing provisions are contrary to FLPMA. As detailed in Section II above, the rationale provided to support the change in position is arbitrary and contrary to law in numerous respects.

¹¹¹ See, e.g., Sara Brodnax, *The Need for Clarity and Durability to Promote Restoration and Mitigation on Public Lands*, <https://www.nature.org/content/dam/tnc/nature/en/documents/p/2/P2-Brodnax.pdf> (attached). We highly encourage the BLM to review all the papers compiled by The Nature Conservancy and the University of Wyoming's Ruckelshaus Institute on increasing public and private investment in the conservation of public lands, including through restoration and mitigation leasing. Those reports are available at <https://www.nature.org/en-us/about-us/where-we-work/priority-landscapes/sagebrush-sea/sagebrush-sea-stories/conservation-and-landscape-health-rule/>.

¹¹² 43 C.F.R. § 6102.4

¹¹³ *Id.*

¹¹⁴ *Id.* §§ 6102.4 & 6102.4.1.

¹¹⁵ The draft economics analysis posted on [regulations.gov](https://www.regulations.gov) states on p. 5 (though note the pages are not actually numbered) that “BLM has received two lease applications: one for a restoration lease in Colorado, and a separate application for a mitigation bank in North Dakota. Neither application has made it far enough into the process to be accepted as complete.” Representatives of signatories to this letter reached out to the BLM on October 13, 2025, asking for additional information about these applications, including their locations, the contemplated activities, the applicant, and the status of the application, as well as other potential leases that the agency has discussed with interested applicants but for which applications have not been received. BLM did not provide a response. See attached email from A Flint to K Moorman.

For instance, after a devastating wildfire burned through BLM-managed public lands, a local non-profit invested significant staff time and resources in developing a comprehensive restoration plan and applying for a restoration lease. The fire created perfect conditions for invasive grasses to take over, which not only prevents native species from recovering but also dramatically increases future fire risk. The BLM's sudden halt in reviewing the application and ultimately proposing to rescind the Public Lands Rule threatened not just the post-fire recovery of the lands at issue, but also reliance interests and important funding opportunities for the non-profit. This whiplash has broader implications beyond just one organization or one post-fire restoration plan. Local partners are essential to maintaining the health and resilience of public lands. Restoration leases enable communities to work alongside the agency, investing in rural economies while meeting agency management standards. These partnerships strengthen both the land and the local communities. By rescinding the Rule, the administration signals that BLM partnerships are unreliable, effectively closing the door on communities that want to contribute to public lands stewardship alongside federal land managers, ultimately hurting rural economies.

The BLM's arbitrary rationale for rescinding the leasing provisions is inconsistent with statements in its draft economic analysis. For instance, page 5 of the draft economic analysis claims that rescinding the Rule's provisions on restoration and mitigation leasing "would not prohibit the BLM from authorizing third parties to engage in restoration or mitigation on public lands to the extent consistent with FLPMA." That is a correct statement under the broad discretion the agency enjoys under Title III of FLPMA. It is also inconsistent with the BLM's faulty assertion in the proposed Rescission Rule that a restoration or mitigation lease "permits the BLM to take effectively the same action [as a FLPMA withdrawal pursuant to 43 U.S.C. § 1714] under a different guise without following the statutorily required procedures."¹¹⁶ The draft economic analysis on page 6 also properly recognizes that "restoration and mitigation leases can only be approved if they are compatible with current uses, so they could not displace current uses." The proposed Rescission Rule conflicts with this admission too, incorrectly stating that such leases would "preclude other, productive uses, such as grazing, mining, and energy development" and therefore violate FLPMA.¹¹⁷

B. Areas of Critical Environmental Concern (ACECs).

1. The Public Lands Rule provides necessary and overdue guidance for meeting FLPMA's clear mandate to protect ACECs.

While FLPMA directs the BLM to manage public lands for multiple use and sustained yield, it also contains a singular, clear priority: ACECs. FLPMA explicitly directs the BLM to "give priority to the designation and protection of areas of critical environmental concern" and to maintain a current "inventory of all public lands and their resources and other values (including, but not limited to, outdoor recreation and scenic values), giving priority to areas of critical environmental concern" and reflecting changed conditions and "new and emerging resource and other values."¹¹⁸ In fact, the

¹¹⁶ 90 Fed. Reg. at 43991.

¹¹⁷ *Id.*

¹¹⁸ 43 U.S.C. §§ 1711(a) & 1712(c)(3).

identification of ACECs is the only resource management action that FLPMA explicitly requires to be given priority in the land use planning process.

For decades, the BLM has failed to meet its statutory obligation to prioritize the designation and protection of ACECs. Instead, across the West, the agency has a pattern of treating ACEC designation as a *discretionary* action in the RMP process.¹¹⁹ The Public Lands Rule provides much-needed regulatory direction to achieve compliance with FLPMA.

ACECs are the BLM's principal designation for lands that contain important natural and cultural resources, defined as areas "within public lands where special management attention is required (when such areas are developed or used or where no development is required) to protect and prevent irreparable damage to important historic, cultural or scenic values, fish and wildlife resources or other natural systems or processes, or to protect life and safety from natural hazards."¹²⁰ FLPMA mandates that BLM adopt ACEC regulations. Specifically, Section 102 of FLPMA provides Congress's directive that "regulations and plans for the protection of public land areas of critical environmental concern be promptly developed."¹²¹ The statutory directive to "promptly" adopt ACEC regulations has been unfulfilled since FLPMA was enacted almost 50 years ago. Additionally, as stated above, FLPMA explicitly directs the BLM to "give priority to the designation and protection of areas of critical environmental concern" and to maintain a current "inventory of all public lands and their resources and other values . . . giving priority to areas of critical environmental concern."¹²²

The Public Lands Rule provides the agency with the direction it needs to fulfill these FLPMA requirements, reflecting FLPMA's direction to prioritize areas that have the potential for ACEC designation. The Public Lands Rule directs the BLM to advance only ACEC nominations that it finds meet the required criteria of relevance, importance, and the need for special management attention. Thus, the notice of proposed rulemaking is incorrect to suggest that nominations that are "clearly without merit" could create project delays. Indeed, BLM fails to provide any support for this claim. In fact, the Public Lands Rule's provisions provide much-needed certainty and transparency for state, local, and Tribal governments, stakeholders, and the public regarding the BLM's ACEC

¹¹⁹ Sheldon, & Baldwin, P. *Areas of critical Environmental Concern: FLPMA's Unfulfilled Conservation Mandate*, Co Nat. Res. Energy & Env't Law Rev. 28:1, (attached). The Government Accountability Office in a 1990 report pointed out that the BLM was not complying with FLPMA's direction to prioritize ACECs in its first tranche of RMPs:

Although FLPMA directed that the Bureau give priority to designating and protecting ACECs, GAO found that the Bureau has given its field office managers broad discretion in making decisions on these areas. In turn, Bureau field office managers have used this broad discretion in conjunction with their own philosophical views to make inconsistent ACEC designation decisions. In fact, ACECs were not even singled out as a planning issue in some of the plans GAO reviewed. U.S. Gov't Accountability Off., GAO/RCED-90-225, *Public Lands: Limited Progress in Resource Management Planning* (1990) (attached).

¹²⁰ 43 U.S.C. § 1702(a).

¹²¹ 43 U.S.C. § 1701(a)(11).

¹²² *Id.* § 1711(a) & 1712(c)(3).

designation process and how ACECs proposed by these entities will be considered and managed by the agency.

2. The BLM has consistently failed to meet its legal obligations to designate and protect ACECs under FLPMA.

While the rescission notice claims that the heightened standard for de-designation adds an unnecessary burden to the BLM, it fails to explain how the agency will comply with FLPMA's mandate to prioritize ACECs without these standards. The BLM's implementation of its mandate to prioritize the designation and protection of ACECs has been sporadic and inconsistent. In a comprehensive review of ACEC management, legal scholars Karin Sheldon and Pamela Baldwin concluded that, despite Congress's explicit direction, the BLM has largely neglected to incorporate references to and guidance for ACEC designation and protection into its regulations and administrative materials. The report authors assert that the lack of clear regulatory standards has severely limited the use of this critical conservation tool.¹²³

Recent analyses continue to document this pattern of noncompliance. A report prepared for The Wilderness Society and the National Association of Tribal Historic Preservation Officers found that the BLM has repeatedly failed to prioritize ACEC designation and protection for places of cultural and historic importance to Tribes. That report called for stronger regulatory language to ensure ACECs fulfill their intended role in safeguarding cultural landscapes and to enhance Tribal participation in their identification and management.¹²⁴

In several recent planning efforts, the BLM eliminated existing ACECs or declined to carry forward nominated ACECs based on conclusory statements that they are "no longer needed," without any substantive analysis or evidence to justify those decisions. A 2019 report analysis by the Pew Charitable Trusts evaluated six draft plans that would guide management of more than 20 million acres for the next several decades.¹²⁵ The report found that, in those six draft plans, the BLM proposed removing 94% of the ACEC acreage from the prior plan and designating only 2.1% of lands found to have met the requisite relevance and importance criteria. For example, in 2021, the BLM finalized a plan for the 13 million-acre Bering Sea-Western Interior planning area, in which it declined to protect a single acre with an ACEC designation.¹²⁶ This decision was despite the fact that the previous plan had included nearly two million acres of ACECs, and the BLM itself had

¹²³ Karin P. Sheldon and Pamela Baldwin, *Areas of Critical Environmental Concern: FLPMA's Unfulfilled Conservation Mandate*, 28 COLO. NAT. RES., ENERGY & ENV'T L. REV. 1, 2 (2017) (attached)

¹²⁴ Michael C. Spears et al., *Areas of Critical Environmental Concern and Indian Tribes*, submitted to the National Association of Tribal Historic Preservation Officers and The Wilderness Society (March 14, 2023) (attached).

¹²⁵ The Pew Charitable Trusts, *BLM Ignores Own Findings in Proposed Management Plans* (Jan. 2020), <https://www.pew.org/en/research-and-analysis/fact-sheets/2020/01/blm-ignores-own-findings-in-proposed-management-planmillion-acres> (attached).

¹²⁶ U.S. Department of the Interior, Bureau of Land Management. (January 20, 2021). Bering Sea–Western Interior Record of Decision and Approved Resource Management Plan. Available at [https://eplanning.blm.gov/public_projects/36665/200045911/20033500/250039699/BSWI_ROD_ARMP_BLM-\(508\).pdf](https://eplanning.blm.gov/public_projects/36665/200045911/20033500/250039699/BSWI_ROD_ARMP_BLM-(508).pdf)

determined that over four million acres met the relevance and importance criteria.¹²⁷ The decision in the Bering Sea-Western Interior plan is unfortunately not unique. In its final plan for the 750,000-acre Lewistown Field Office, the BLM designated only 3,600 acres as ACECs¹²⁸ despite the previous plan protecting 22,900 acres as ACECs and the BLM finding that 32,008 acres met the relevance and importance criteria.

These examples of de-designation without justification demonstrate a persistent failure to fully implement FLPMA's clear mandate and underscore the urgent need for stronger policy direction and accountability mechanisms for de-designation in the Public Lands Rule to ensure ACECs are designated, managed, and retained consistent with FLPMA's intent.

3. Temporary management is necessary to effectively prioritize the designation and protection of ACECs.

Although the notice of proposed rulemaking to rescind the Public Lands Rule asserts that the Rule allows for temporary management with “hardly any of the procedures usually required to designate ACECs,” temporary management instructions have been part of the BLM's policy for over three decades. The BLM's ACEC manual, which has been in place since 1988, instructs the agency to:

“Provide Temporary Management of Potential ACEC, if Necessary. If an area is identified for consideration as an ACEC and a planning effort is not underway or imminent, the District Manager or Area Manager must make a preliminary evaluation on a timely basis to determine if the relevance and importance criteria are met. If so, the District Manager must initiate either a plan amendment to further evaluate the potential ACEC, or provide temporary management until an evaluation is completed through resource management planning. Temporary management includes those reasonable measures necessary to protect human life and safety or significant resources values from degradation until the area is fully evaluated through the resource management planning process.”¹²⁹

The Public Lands Rule simply affirms this policy and provides *additional* procedures for the BLM to grant temporary management, further clarifying that temporary management may only be used if the State Director finds that a potential ACEC nomination meets all three criteria in the regulations (that is, that it has relevance and importance and needs special management attention) and the temporary management is consistent with the underlying resource management plan.¹³⁰ In the

¹²⁷ The Pew Charitable Trusts, *BLM Ignores Own Findings in Proposed Management Plans* (Jan. 2020), <https://www.pew.org/en/research-and-analysis/fact-sheets/2020/01/blm-ignores-own-findings-in-proposed-management-plans> (attached).

¹²⁸ U.S. Department of the Interior, Bureau of Land Management. (January 2021). *Record of Decision and Approved Lewistown Resource Management Plan*. Available at https://eplanning.blm.gov/public_projects/38214/200051556/20032239/250038438/Lewistown%20ROD%20ARMP%20January%202021.pdf.

¹²⁹ Dep't of Interior: Bureau of Land Management, Manual Transmittal Sheet, Section 1613.21E (1988) (attached).

¹³⁰ 89 Fed. Reg. 40308, 40326.

event that the BLM grants temporary management to a potential ACEC, the agency must publish a public notice and engage the public in the next planning process before the ACEC designation can take full effect.

The need for temporary management of nominated ACECs is clearly demonstrated by conditions in the BLM's Carlsbad Field Office. This field office oversees approximately 2.1 million surface acres, yet its current RMP dates back to 1988, now over 35 years old. That plan opened roughly 98% of the planning area to oil and gas leasing and designated only five ACECs totaling 12,020 acres. Although the BLM initiated an RMP revision in 2010 and released a draft RMP/EIS in 2018, as of 2025, the agency has not adopted a final plan. In the absence of updated land use decisions, management continues to rely on outdated analyses that do not reflect current resource conditions or the scale of development that has since occurred.

The Carlsbad Field Office encompasses some of the most ecologically significant landscapes in the Chihuahuan Desert, including fragile cave and karst systems, shinnery oak and grassland habitats that support the lesser prairie-chicken and dunes sagebrush lizard, and key migration corridors for mule deer and pronghorn. Four ACEC nominations totaling 556,309 acres submitted during the 2010 RMP scoping process identified these and other critical resource values. However, since that time, oil and gas development within these nominated areas has expanded dramatically, with over 1,600 drilling applications submitted since 2010. Without interim protection measures, some nominated ACECs may no longer meet eligibility criteria due to surface disturbance and habitat fragmentation. This example underscores the necessity for temporary management of nominated ACECs to preserve their qualifying values and prevent irreversible degradation during protracted planning cycles.

The temporary management provisions in the Public Lands Rule ensure that sensitive resource values are preserved in nominated ACECs until the BLM can make a designation decision, while simultaneously leaving the agency ample discretion and maintaining its obligation for public participation in the designation process. Thus, the temporary management instructions in the Rule are necessary to meet FLPMA's mandate to prioritize ACECs.

In addition to incorrectly characterizing the temporary management provisions of the Public Lands Rule as "unnecessary," the proposed Rescission Rule errs in deeming those provisions "unlawful." The proposal cites no language in FLPMA that prohibits the agency from protecting proposed ACECs on a temporary basis while the designation process is ongoing. Nor could it; that choice lies comfortably within Congress' directive to "give priority to" designating and protecting ACECs and develop regulations to implement that mandate.¹³¹ To the extent that the BLM believes that FLPMA *requires* it to rescind the temporary management provisions (or any other provision of the Rule), the agency's misunderstanding of the scope of its statutory discretion would, in and of itself, render the decision to rescind invalid.¹³²

¹³¹ 43 U.S.C. § 1712(c)(3); *see generally Loper Bright*, 603 U.S. at 394–95.

¹³² *See, e.g., Prill v. NLRB*, 755 F.2d 941, 948 (D.C. Cir. 1985).

4. Legacy ACEC regulations are inadequate to comply with FLPMA.

In the notice of proposed rulemaking to rescind the Public Lands Rule, the BLM specifically requests public comment “as to whether those legacy ACEC regulations should be restored verbatim, as is proposed, or revised to allow for more efficient and flexible management of ACECs as part of managing under principles of multiple use and sustained yield. It is the policy of the Secretary that ACEC regulations should be as flexible as possible to allow for productive uses of land consistent with FLPMA.”¹³³

In the preamble to the Public Lands Rule, the BLM emphasized that in the 40 years of applying procedures in the 1988 Manual, “the BLM has identified a need for several revisions that it has now made in this final rule.”¹³⁴ As we documented above, the numerous shortcomings in the legacy regulations resulted in the BLM falling short of its duties under FLPMA to prioritize ACECs. The revisions made to ACEC management in the Public Lands Rule were necessary to provide clear direction and comprehensive guidance on the ACEC designation and management process, as well as to codify some of the BLM’s past procedures in order to comply with FLPMA.

ACEC regulations must only be flexible to the extent that they comply with FLPMA’s directive to *prioritize* the designation and protection of ACECs. In fact, any effort to increase the flexibility of ACEC regulations at the expense of prioritizing ACECs would be illegal. The Public Lands Rule provides sufficient flexibility while also complying with FLPMA’s prioritization mandate.

C. Land health.

The Public Lands Rule applies current scientific understanding to address the declining health of BLM-managed lands by establishing a land health assessment and adaptive management framework that utilizes land health fundamentals and watershed condition assessments. Subpart 6103 of the Rule directs the BLM to develop national health standards that facilitate progress toward achieving particular fundamentals of land health across all ecosystems on lands managed by the BLM.¹³⁵ Data gathered from land health and watershed condition assessments inform decadal land health evaluations and adaptive management, as well as other types of decision-making, including resource extraction, land-use planning, and restoration. The BLM has asserted that undertaking these land health evaluations and watershed condition assessments “promotes efficiency, supports environmental analysis, and streamlines decision-making.”¹³⁶ Through the creation of national standards, the Rule streamlines the process the BLM uses to measure and track land health across the acres it manages. Without developing national land health standards, every state and, in some cases, every field office within a state, has its own set of standards. Developing national standards to achieve the fundamentals of land health would bring clarity and efficiency for land managers.

¹³³ 90 Fed. Reg. at 43991.

¹³⁴ 89 Fed. Reg. at 40308, 40312.

¹³⁵ 43 C.F.R. § 6103.1(a).

¹³⁶ 89 Fed. Reg. at 40347.

The Public Lands Rule adopts the long-established framework for evaluating the health of grazed lands, as established at 43 CFR 4180, and applies it to all lands and programs. In doing so, the BLM established a consistent, system-wide approach for setting land health standards, evaluating lands by watersheds or other relevant units, and, for lands not meeting land health standards, implementing actions to address (or work towards addressing) the failures.

The rescission notice takes umbrage with the Rule's land health provisions, stating, without any justification, that the land health regulations include provisions that often require the BLM to act on a fixed or rapid timetable, which would interfere with previously authorized use of the public lands and the Bureau's ability to balance management of the public lands for multiple use and sustained yield. To the contrary, and as discussed elsewhere in these comments, effective implementation of a land health monitoring, evaluation, and adaptive management framework is necessary to meet the Bureau's multiple use and sustained yield mandate. Without an effective framework, the BLM will not be able to identify land degradation in a systematic fashion nor be able to respond in a reasonable timeframe. Furthermore, while the land health aspects of the Public Lands Rule establishes timetables for implementing corrective actions for lands failing to meet land health standards, so do the existing land health requirements for grazed lands at 43 CFR 4180. Other BLM regulations also set timelines, such as those governing mining, and oil and gas administration. Balancing the management of multiple activities is part and parcel of management in the multiple use and sustained yield framework.

The BLM has demonstrated that, absent a consistent and regularly implemented land health monitoring, evaluation, and adaptive management process, it is unable to prevent land degradation and thus meet its multiple use and sustained yield mandate under FLPMA. As described above, PEER published a 2024 report documenting rangeland health conditions and data for 155 million acres of BLM-managed lands across the American West.¹³⁷ PEER found that the BLM has not conducted rangeland health assessments on 24% (roughly 36.5 million acres) of public lands managed for livestock grazing, despite nearly three decades having passed since the agency adopted the fundamentals of rangeland health and associated standards. This gap is especially pronounced in certain states, with unassessed allotments making up 39% in Nevada, 28% in New Mexico, and 27% in Idaho. Among the areas the Bureau has assessed, many are failing to meet land health standards. A full 50% of the assessed acres were failing to meet the minimum rangeland health requirements under the Fundamentals of Rangeland Health and Standards and Guides. All standards were being met on only 36% of all assessed allotments across the western states. In Idaho and Nevada, all standards were being met on only 22% and 7% of assessed allotments, respectively.

IV. Economic impacts and analysis.

The rescission notice specifically solicits comments on the economic effects associated with the Public Lands Rule and the proposed Rescission Rule, asserting that the agency now believes that the

¹³⁷ *Evaluating Trends in Rangeland Health on Bureau of Land Management Lands: Insights from 2023 Grazing Allotment Data.*

economic impacts may have been “materially underestimated” in 2024.¹³⁸ The framework direction provided in the Public Lands Rule provides and incentivizes potentially significant beneficial market and non-market economic benefits, including supporting critical ecosystem services and fueling robust outdoor recreation, restoration, and mitigation economies on public lands.

A. The draft economic analysis supports retention of the Rule.

Overall, the BLM’s draft economic analysis supports retention of the Public Lands Rule. For instance, the analysis properly acknowledges, among other things:

- That “FLPMA requires the consideration and protection of nonmarket values that would not be considered by a private landowner or industry” and that “[r]egulations that implement the statutory direction that appears in FLPMA have often proved necessary to guide the BLM in managing under the broad principles of multiple use and sustained yield and in addressing potential market failures.” (p. 2)
- That the Public Lands Rule was “expected to result in positive net benefits, though these benefits were uncertain and would only be realized through future implementation decisions. (p. 3 (internal quotations omitted))
- That “rescinding the Rule will reduce the benefits that would have accrued due to increased ecosystem restoration, resilience and land health.” (p. 3)
- That “[r]epealing the 2024 Rule may result in land health that is impaired longer than it would have been” and “in forgone benefits from ecosystem health that would otherwise have been realized.” (p. 8)
- That “[w]ith the rescission of the 2024 Rule there will be fewer lands and mechanisms for developers to achieve required compensatory mitigation.” (p. 12)

To the extent the draft economic analysis articulates rationales that might support rescission, they are arbitrary. For instance, the BLM uses boilerplate language found in other de-regulatory efforts, including the assertion “many public comments submitted during the prior rulemaking . . . expressed concern that the 2024 Rule would have wide-ranging economic impacts” and the suggestion that “the economic impacts of the 2024 Rule were materially underestimated.”¹³⁹ In other instances, the BLM makes assertions that are inconsistent with the rationales articulated in the proposed Rescission Rule (*see* Section III.A above regarding restoration and mitigation leasing). In still other instances, the BLM makes statements that rely on a misunderstanding of the Rule and its relevant context (*see* Section III.B.3 above regarding temporary management for ACECs, which has been part of agency policy for decades). At the same time, page 9 of the draft economic analysis asserts that repeal of those provisions “will have direct cost savings for the BLM by eliminating the requirement to consider ACEC nominations outside a planning process.”

¹³⁸ 90 Fed. Reg. at 43992.

¹³⁹ *Compare* “Economic Analysis for Draft Rescission: Conservation and Landscape Health Rule,” p. 3, *with* “Economic Analysis for the Rescission of the Management and Protection of the National Petroleum Reserve in Alaska Regulations, issued May 7, 2024,” p. 2 (using nearly verbatim language).

Finally, the BLM may not rationally assume that the economic benefits of increased energy or other forms of development will be attributable to rescission of the Public Lands Rule, which does not preclude development or make any decisions about where or under what terms development can or cannot proceed. The BLM agrees in the draft economic analysis, concluding that, “if finalized as proposed, [the proposed Rescission Rule] is expected to not have a significant effect on the Nation’s energy supply” (p. 14).

B. The BLM must fully consider the economic benefits of retaining the Rule, including but not limited to:

1. Ecosystem services.

Ecosystem services — the benefits people obtain from nature — also provide economic benefits to communities. The value of ecosystem services in the Americas is estimated at \$25 trillion per year, roughly equivalent to the region’s entire gross domestic product.¹⁴⁰ In the United States alone, nature’s contributions to society generate approximately \$5.3 trillion in economic value annually.¹⁴¹ These figures underscore that sustaining biodiversity and healthy ecosystems is not just an environmental priority, but also a foundation of economic stability and growth.

Protecting species and ecosystems provides both direct and indirect economic benefits. A 2022 federal report found that 148 million Americans participated in wildlife watching, spending \$250 billion in the process, while hunters and fishers spent an additional \$144 billion combined.¹⁴²

Beyond recreation and tourism, ecosystem services provide critical cost-saving functions. Healthy watersheds naturally filter and store water, offering purification and wastewater treatment services that are far less expensive than human-engineered alternatives.¹⁴³ Additionally, pollinator species, such as bees, contribute tens of billions of dollars annually to U.S. agricultural productivity.¹⁴⁴

The Public Lands Rule acknowledges that ecosystem health is crucial to maintaining these benefits. By elevating conservation and ecosystem resilience alongside other more development-focused

¹⁴⁰ *The regional assessment report on biodiversity and ecosystem services for the Americas*, IPBES (2018), https://files.ipbes.net/ipbes-web-prod-public-files/spm_americas_2018_digital.pdf (attached).

¹⁴¹ *Id.*

¹⁴² *2022 National Survey of Fishing, Hunting, and Wildlife-Associated Recreation*, U.S. Fish and Wildlife Service (Sept. 2023), https://www.fws.gov/sites/default/files/documents/Final_2022-National-Survey_101223-accessible-single-page.pdf (attached).

¹⁴³ *The Economic Benefits of Protecting Healthy Watersheds*, Environmental Protection Agency (Apr. 2012), https://www.epa.gov/sites/default/files/2015-10/documents/economic_benefits_factsheet3.pdf (attached).

¹⁴⁴ *Economic value of insect pollination services in U.S. much higher than thought, study finds*, National Science Foundation (Feb. 18, 2021), <https://beta.nsf.gov/news/economic-value-insect-pollination-services-us-much> (attached); *Why is Pollination Important?*, USDA U.S. Forest Serv., <https://www.fs.usda.gov/wildflowers/pollinators/importance.shtml#:~:text=Globally%2C%20pollination%20services%20are%20likely.all%20fruit%20and%20grain%20crops> (attached).

uses, the Rule ensures that public lands continue to provide the natural goods and services that underpin thriving communities and economies.

2. Outdoor recreation and its dependence on land health.

Both FLPMA and the BLM recognize the connection between providing for recreation and managing lands for conservation uses. FLPMA specifically requires that “the public lands be managed in a manner that . . . will preserve and protect certain public lands in their natural condition . . . provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use.”¹⁴⁵ The BLM has long recognized that providing for outdoor recreation as part of achieving multiple use and sustained yield is dependent, in part, on conserving lands and resources to provide opportunities for quality and sustainable recreation. For instance, over forty years ago, the agency promulgated recreation regulations that promote both visitor safety and natural resources protection on BLM-managed lands, and “ensure that public lands, including recreation areas . . . can be used by the maximum number of people with . . . minimum damage to public lands and resources.”¹⁴⁶ Indeed, FLPMA’s legislative history drew out this point with an earlier Senate bill focused on providing “for the protection, development, and enhancement of the public recreation values of the public lands” and recognizing the need to guarantee sustainably managed recreation and the “integrity of natural resources.”¹⁴⁷ The Public Lands Rule reinforces these principles by equipping the BLM with conservation tools that also support sustainable recreation.¹⁴⁸

While the Public Lands Rule is not a recreation-specific rule, it acknowledges that providing for sustainable recreational uses and restoration and conservation of public lands to achieve ecological resilience are complementary components of the agency’s multiple use and sustained yield mission.¹⁴⁹ Rather than limiting recreation or other uses on BLM-managed lands, the Public Lands Rule reflects a long-held understanding of FLPMA’s multiple use mandate that recognizes conservation as a condition for continued access and responsible public use.¹⁵⁰

¹⁴⁵ 43 U.S.C. § 1701(a)(8). Indeed, recreation is recognized as one of the “principal uses” on public lands. *See* 43 U.S.C. § 1702(l): “The term ‘principal or major uses’ includes, and is limited to, domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, *outdoor recreation*, and timber production.” (emphasis added).

¹⁴⁶ 43 C.F.R. §§ 8365 & 8365.0-2.

¹⁴⁷ S. 3389, 91st Cong., 2d Sess., 116 Cong. Rec. 35401–402, (1970), <https://www.congress.gov/91/crecb/1970/10/07/GPO-CRECB-1970-pt26-5-2.pdf> (attached).

¹⁴⁸ 89 Fed. Reg. at 40331 (“. . . recreation management decisions will incorporate the objectives and principles set forth in the rule to support landscape health and ecosystem resilience.”).

¹⁴⁹ *Id.* at 40309.

¹⁵⁰ *Id.* at 40331 (“The rule is not intended to prevent or decrease outdoor recreation use; rather it ensures that recreation on public lands can be managed and grow sustainably while benefiting from the conservation of healthy lands and water.”).

The Department of the Interior’s recently released draft strategic plan for the next five years acknowledges the connection between conservation and recreation.¹⁵¹ Within the draft, the Department of the Interior shares a plan to expand recreational opportunities while refining management of natural resources for the purposes of conservation and increased enjoyment on public lands.¹⁵² The draft plan explicitly refers to both recreation and conservation as uses under the multiple use mandate, indicating the government’s awareness that the two uses mutually reinforce each other and stimulate economic growth.¹⁵³

The outdoor recreation industry has seen rapid growth in recent years and plays a vital role in promoting public health. In 2023, a record of nearly 176 million people participated in outdoor recreation, representing 57% of all Americans from ages six and up.¹⁵⁴ A significant portion of this recreational activity occurs on BLM-managed public lands. In 2024 alone, the BLM reported eighty-two million recreation visitors.¹⁵⁵ This number represents an increase in visits of over 46% since 2006.¹⁵⁶

Outdoor recreation on federal lands drives substantial economic activity at the local, state, and national levels. Overall, public lands and waters represent a 1.2 trillion dollar recreation economy and account for five million jobs.¹⁵⁷ As of 2023, outdoor recreation represented 2.3% of the GDP (640 billion dollars) and contributed one-and-a-half times more to the U.S. economy than oil, gas, and mining.¹⁵⁸ The value added by outdoor recreation also contributed three-and-a-half times more to the U.S. economy than motor vehicle manufacturing and twice as much as forestry and

¹⁵¹ U.S. DEP’T OF THE INTERIOR, *Stewarding Conservation and Powering Our Future: FY 2026-2030 Strategic Plan Draft for Public Comment* (2025), https://www.bia.gov/sites/default/files/dup/tcinfo/sp_final_for_consultation_and_comment.pdf (attached).

¹⁵² *Id.* at 7.

¹⁵³ *Id.* at 8.

¹⁵⁴ OUTDOOR FOUNDATION, *2024 Outdoor Participation Trends Report: Executive Summary 3* (June 19, 2024), https://outdoorrecreation.wi.gov/Documents/Research%20Library%20Page%20files/US%20-%20Demographics%20%26%20Participation/2024_OutdoorFoundation_Participation_Report%20Exec%20Summary.pdf (attached).

¹⁵⁵ Lisa W. Foderaro, *America Needs More Public Lands, Not Less*, TRUST FOR PUBLIC LAND 3 (Apr. 2025), https://www.tpl.org/wp-content/uploads/2025/04/TPL_Special_Report_We_Need_More_Public_Lands_Not_Less.pdf (attached).

¹⁵⁶ *Id.*; Tania Lown-Hecht, *Outdoor Alliance Data Shows Increasing Visitors to Public Land While Recreation Funding Declines*, OUTDOOR ALLIANCE (May 16, 2024), <https://www.outdooralliance.org/blog/2024/5/16/outdoor-alliance-data-shows-increasing-visitors-to-public-land-while-recreation-funding-declines> (attached).

¹⁵⁷ OUTDOOR RECREATION ROUNDTABLE, *The \$1.2 Trillion Outdoor Recreation Economy Depends on Keeping Public Lands Public and Accessible* (Apr. 4, 2025), <https://recreationroundtable.org/news/the-1-2-trillion-outdoor-recreation-economy-depends-on-keeping-public-lands-public-and-accessible/#:~:text=Outdoor%20Recreation%20Roundtable,-The%20%241.2%20Trillion%20Outdoor%20Recreation%20Economy%20Depends,Public%20Lands%20Public%20and%20Accessible&text=Our%20public%20lands%20and%20waters,and%20small%2C%20rural%20and%20urban/> (attached).

¹⁵⁸ HEADWATERS ECONOMICS, *Outdoor Recreation Economy by State*, (Dec. 6, 2024), <https://headwaterseconomics.org/economic-development/trends-performance/outdoor-recreation-economy-by-state/> (attached).

agriculture.¹⁵⁹ The outdoor recreation economy continues to grow steadily. Compared to 2023, the outdoor recreation economy in the 2021 fiscal year accounted for 1.9% of the GDP (454 billion dollars), showing a significant rise in the value that the outdoor recreation industry provides to the American economy.¹⁶⁰ Outdoor recreation is especially important in rural areas because it provides a significant benefit to local economies by creating jobs and attracting tourists. In fact, rural recreation counties gained 57,500 jobs between 2019 and 2024, while rural counties focused on extraction industries experienced a total loss of 92,700 jobs.¹⁶¹

Conservation on public lands stimulates economic growth by increasing the availability of outdoor recreation opportunities on desirable, healthy lands.¹⁶² The economic benefits derived from public lands are directly tied to their ecological health, as well-managed natural areas attract visitors and support local economies.¹⁶³ Recognizing the important relationship between conservation and sustainable recreation, the BLM included an objective in the Public Lands Rule to “provide for healthy lands and waters that support sustainable outdoor recreation experiences for current and future generations.”¹⁶⁴ Recreation is also mentioned in five additional sections of the Rule.

The Public Lands Rule reflects the BLM’s recognition that conservation supports resilient lands and recreational opportunities. The *Economic Analysis for Draft Rescission* document provided to supplement the 2025 Federal Register proposed rescission notice does not recognize this connection between land health and recreation or mention any of the economic benefits that recreation provides.

3. Restoration economy.

¹⁵⁹ *Id.*

¹⁶⁰ Derrick Henry, *Outdoor adventure seekers on public lands generate economic benefits*, U.S. BUREAU OF LAND MGMT. (Feb. 23, 2023), <https://www.blm.gov/blog/2023-02-23/outdoor-adventure-seekers-public-lands-generate-economic-benefits> (attached).

¹⁶¹ Sarah Melotte, *Rural Tourism-Driven Counties Continue to Lead the Way in Post-Pandemic Job Recovery*, DAILY YONDER (Aug. 20, 2024), <https://dailyyonder.com/rural-tourism-driven-counties-continue-to-lead-the-way-in-post-pandemic-job-recovery/2024/08/20/> (attached); From 2013 to 2023, the mining, quarrying, and oil and gas extraction industry saw a 26% decrease in employment rates. See U.S. Bureau of Labor Statistics, *Employment by major industry sector* (last accessed Nov. 4, 2025), <https://www.bls.gov/emp/tables/employment-by-major-industry-sector.htm> (attached).

¹⁶² NATIONAL RECREATION AND PARK ASSOCIATION, *Role of Parks and Recreation in Conservation* (last accessed Nov. 4, 2025), <https://www.nrpa.org/our-work/Three-Pillars/role-of-parks-and-recreation-in-conservation/> (attached).

¹⁶³ U.S. BUREAU OF LAND MGMT., *Celebrating the power of public lands through tourism and community impact* (May 5, 2025), <https://www.blm.gov/blog/2025-05-05/celebrating-power-public-lands-through-tourism-and-community-impact>; see generally Lee K. Cervený, et. al., *Public Lands, Tourism, and Community Connections in Igniting Research for Outdoor Recreation: Linking Science, Policy, and Action*, U.S. FOREST SERV., PAC. NW. RES. STATION (2020), <https://research.fs.usda.gov/treearch/60066> (attached).

¹⁶⁴ 43 C.F.R. § 6101.2(g).

Restoration work and associated investments are a growing industry that provides significant economic benefits by generating business activity and creating diverse employment opportunities. Studies have found that restoration supports as many as 33 jobs per \$1 million invested with an economic output multiplier of between 1.6–2.6 (multiplier for total economic output from investments), and an employment multiplier of between 1.5 and 3.8 (the number of jobs created for every restoration job).¹⁶⁵ Both of these multipliers are comparable to the ranges of several other industries, including oil and gas, which supports approximately 5.2 jobs per \$1 million invested.¹⁶⁶

V. Other important elements of the Rule should be retained and implemented.

As described in Section II above, the BLM provides no rationale for rescinding many elements of the Public Lands Rule. We highlight several of those elements below and remind the agency that any rationale it provides for rescinding the Public Lands Rule must address what, if anything, has changed regarding the reasoning provided in the original Rule about those elements. The BLM must reasonably explain why it is rescinding these specific provisions of the Rule and the relationship between its decision and facts in the record. It must also address how rescinding elements of the Rule, such as inventorying landscape intactness, conducting watershed condition assessments, and utilizing Indigenous Knowledge – among other provisions – will eliminate information that the BLM and the public rely on to ensure compliance with FLPMA’s mandates.

A. Landscape intactness.

From Wyoming’s iconic pronghorn and big game migration corridors, to Eastern Idaho’s and southwest Montana’s ecologically important “High Divide” region that connects the Greater Yellowstone Ecosystem, central Idaho’s Wilderness complex, New Mexico’s Otero Mesa, and the Crown of the Continent, the West’s remaining intact landscapes serve key ecological functions, allowing wildlife to move freely and supporting critical ecosystem services in the face of climate change. Indeed, scientists have recognized the concept of intactness as an essential and reliable indicator of ecosystem health for decades.¹⁶⁷ Maintaining intact areas is crucial to allowing for species and other ecosystem values to respond to stressors such as climate change. The international scientific community agrees and has recognized the integrity of natural ecosystems

¹⁶⁵ Todd BenDor et. al., *Estimating the Size and Impact of the Ecological Restoration Economy*, PLoS ONE 10(6): e0128339, <https://doi.org/10.1371/journal.pone.0128339> (attached).

¹⁶⁶ *Id.*; Garrett-Peltier H, Pollin R. Job Creation per \$1 Million Investment, *The jobs are in the trees*, Grist (2010), <https://grist.org/article/2010-02-01-the-jobs-are-in-the-trees/>; Price Waterhouse Coopers, *The Economic Impacts of the Oil and Natural Gas Industry on the U.S. Economy in 2009: Employment, Labor Income and Value Added* (2009), <https://www.api.org/~media/files/news/2009/the%20economic%20impacts%20of%20the%20oil%20and%20natural%20gas%20industry%20on%20the%20us%20economy.pdf>; Associates Southwick, *The Conservation Economy in America: Direct Investments and Economic Contributions*, National Fish and Wildlife Foundation (Feb. 2013), <https://www.southwickassociates.com/wp-content/uploads/downloads/2013/05/NFWF-Conservation-Economy-Rpt-Southwick-3-11-2013.pdf> (attached).

¹⁶⁷ *See, e.g.*, Reed F. Noss, Indicators for Monitoring Biodiversity: A Hierarchical Approach, 4 CONSERVATION BIOLOGY 355 (1990), available at <https://www.jstor.org/stable/2385928> (attached); *see also generally* Dietz, Flint, Belote 2025) (providing a detailed discussion of the established science around intactness).

(i.e., intactness) as one of the four primary goals in the post-2020 global biodiversity framework on the Convention on Biological Diversity.¹⁶⁸

In the West, BLM lands play an outsized role in preserving landscape intactness at a regional and national scale; yet many intact BLM lands lack protective management designations or prescriptions and remain highly vulnerable to degradation and fragmentation.¹⁶⁹ The Public Lands Rule rightly recognizes the reality that the agency's "ability to manage for multiple use and sustained yield of public lands depends on the resilience of ecosystems across those lands — that is, the ability of ecosystems to withstand disturbance."¹⁷⁰ Accordingly, the Rule provides direction to the BLM to maintain an inventory of landscape intactness, consider landscape intactness as a resource value, and ultimately manage certain landscapes to protect their intactness.¹⁷¹ Landscape intactness is a multiple use value that directly impacts other uses and values, such as fish and wildlife, recreation, and scenic value. Assessing and reporting on landscape intactness is directly responsive to the mandate in FLPMA to inventory BLM lands and their values, as well as to provide the public with an opportunity to engage in land use planning.

B. Habitat connectivity.

Wildlife habitat connectivity is crucial for enabling wildlife species to adapt to climate change and other stressors. In February 2018, Interior Secretary Ryan Zinke signed Secretarial Order (SO) 3362, "Improving Habitat Quality in Western Big-Game Winter Range and Migration Corridors," focused on 11 Western states to restore migration corridors and winter range for species such as elk, mule deer, and pronghorn antelope on federal lands.¹⁷² Building on SO 3362, in 2022, the BLM released Instructional Memorandum 2023-005 for "Habitat Connectivity on Public Lands" to protect connections between habitats for fish, wildlife, and native plants.¹⁷³ The Public Lands Rule incorporates these existing policies and modern thinking about wildlife to create a framework for habitat connectivity and migration.¹⁷⁴

C. Preventing unnecessary or undue degradation.

FLPMA imposes a broad, substantive duty on the BLM "to prevent unnecessary or undue degradation" (UUD) when taking any or all discretionary actions.¹⁷⁵ Nevertheless, until the Public

¹⁶⁸ <https://www.cbd.int/doc/c/3064/749a/0f65ac7f9def86707f4eaf/post2020-prep-02-01-en.pdf> (attached).

¹⁶⁹ Dietz, Flint, Belote 2025.

¹⁷⁰ 89 Fed. Reg. at 40308.

¹⁷¹ 43 C.F.R. §§ 6102.1 & 6102.2.

¹⁷² S.O. 3362, *Improving Habitat Quality in Western Big-Game Winter Range and Migration Corridors* (Feb. 2018), http://www.doi.gov/sites/doi.gov/files/uploads/so_3362_migration.pdf (attached).

¹⁷³ IM 2023-005, *Habitat Connectivity on Public Lands* (Nov. 18, 2022), <https://www.blm.gov/policy/im-2023-005-change-1> (attached).

¹⁷⁴ 43 C.F.R. § 6102.2.

¹⁷⁵ 43 U.S.C. § 1732(b); *see also Gardner v. BLM*, 638 F.3d 1217, 1222 (9th Cir. 2011) (concluding that § 1732(b) of FLPMA is a congressional directive requiring BLM to "achieve the broad objectives of preventing unnecessary or undue degradation of public lands"); *Ctr. for Biological Diversity v. U.S. Dep't of Interior*, 623

Lands Rule, the BLM defined UUD only in the context of hardrock mining,¹⁷⁶ leaving the agency to apply the standard in an uneven and ad hoc fashion, falling short of its congressional mandate under FLPMA. The BLM remedied this uncertainty in the Public Lands Rule by finally defining UUD outside of the specific hardrock mining context and articulating an objective to prevent UUD as part of ensuring compliance with FLPMA.¹⁷⁷

D. Watershed Condition Assessments.

The Rule requires the BLM to conduct watershed condition assessments to inform land use planning, restoration planning, and other management actions to help meet its sustained yield mandate. By completing watershed condition assessments at least once every 10 years, the BLM can assess and synthesize watershed-scale drivers that impact the condition of soil, water, aquatic and terrestrial habitats, and ecological processes within watersheds consistent with the BLM's land health fundamentals. These assessments will support land health evaluations designed to help the agency manage for healthy, resilient ecosystems. Importantly, they will also result in publicly available inventories of public land resources and other values following FLPMA's directive to prepare and maintain an inventory of all public lands and their resources and values.¹⁷⁸ Other federal agencies, States, Tribes, NGOs, businesses, and all individuals with an interest in BLM-managed lands will benefit from the BLM's assessments of resource conditions, issues, and restoration opportunities within and across watersheds.

Completing watershed analyses on a regular schedule makes planning projects and resource management plan revisions more straightforward and efficient, as the underlying data needed for analysis are already captured through watershed condition assessments and land health evaluations. This also ensures the BLM can make decisions based on the best available science. Additionally, the watershed condition assessment framework established in the Public Lands Rule is similar to the Watershed Condition Framework utilized by the Forest Service and authorized by Congress in 2018, and thus promotes consistency across agencies.¹⁷⁹

E. Tribal consultation, co-stewardship, and Indigenous Knowledge.

The final Public Lands Rule preamble and Rule text references Tribes or Tribal Nations over 90 times, ensuring there is no question of the central role that both conservation and sovereign Tribal Nations have in managing 245 million acres of what are now federal public lands under the BLM jurisdiction. More specifically, the Rule includes an objective to “[i]mprove engagement and co-stewardship of public lands with Tribal entities and promote the use of Indigenous Knowledge in decision-making.”¹⁸⁰ This codifies the BLM's obligation to conduct meaningful

F.3d 633, 644-45 (9th Cir. 2010) (the duty to prevent UUD “supplements requirements imposed by other federal laws”); *Utah Shared Access Alliance v. Carpenter*, 463 F.3d 1125, 1136 (10th Cir. 2006) (noting that BLM has an independent duty to prevent UUD); *Mineral Policy Ctr. v. Norton*, 292 F. Supp. 2d 30, 33 (D.D.C. 2003) (UUD lies at “the heart of FLPMA”).

¹⁷⁶ See 43 C.F.R. §§ 3802.0-5(l) & 3809.5.

¹⁷⁷ 43 C.F.R. § 6101.2(h) & 6101.4(aa).

¹⁷⁸ 43 U.S.C. § 1711(a).

¹⁷⁹ 16 U.S.C. § 6543.

¹⁸⁰ 43 C.F.R. § 6101.2(i).

government-to-government consultation during decision-making processes.¹⁸¹ The Rule includes the BLM's first regulatory definition of Indigenous Knowledge and obligates the agency to respect and incorporate Indigenous Knowledge, as well as opportunities for co-stewardship, into all aspects of decision-making.¹⁸² These overdue updates reflect current understandings of how to best work with sovereign Tribal Nations and recognize the need to contemplate Indigenous Knowledge in decision-making.

The BLM should retain these important provisions. The agency should provide ample opportunity for government-to-government consultation on the proposed rescission. Notably, both the Affiliated Tribes of Northwest Indians and the National Congress of American Indians passed resolutions opposing the Rule's rescission.¹⁸³

F. Mitigation Hierarchy.

Under the Public Lands Rule, the BLM must apply the "mitigation hierarchy" to avoid, minimize, and compensate for any residual impacts across all land management decisions. The agency must apply the mitigation hierarchy with "particular care, with the goal of eliminating, reducing, and/or offsetting impact on the resource, consistent with applicable law."¹⁸⁴ The BLM previously described the mitigation in guidance, directing the agency to proactively design and site proposed projects, but the Public Lands Rule ensured this analysis is completed for all land management decisions.¹⁸⁵

VI. Conclusion

For the reasons above, we strongly oppose the effort to rescind the Public Lands Rule, which provides many benefits. The BLM has not and cannot lawfully justify rescission on the record before

¹⁸¹ *Id.* § 6102.5(b)(4).

¹⁸² *Id.* §§ 6101.2(i), 6101.4(f) & (h), 6102.2(c)(3), 6102.3(d)(6), 6102.5(b)(6). Reliance on Indigenous Knowledge is not new or unique to the Public Lands Rule. For instance, the U.S. Forest Service has been relying on it publicly and publishing reports of its use since at least 2004. *See, e.g.*, Council on Environmental Quality, Memorandum Re Guidance for Federal Departments and Agencies on Indigenous Knowledge" (Nov. 30, 2022), available at <https://bidenwhitehouse.archives.gov/wp-content/uploads/2022/12/OSTP-CEQ-IK-Guidance.pdf> (attached).

¹⁸³ Affiliated Tribes of Northwest Indians, Resolution # 2025-31, "PROTECTING TRIBAL PRIORITIES AND CO-STEWARDSHIP PROVISIONS DURING THE RESCISSION OF THE BUREAU OF LAND MANAGEMENT'S (BLM) CONSERVATION AND LANDSCAPE HEALTH RULE," available at https://atntribes.org/wp-content/uploads/2025/05/20250515_25-31_Protecting_Rescission_BLM_Conservation_Landscape_Rule.pdf; National Congress of American Indians, Resolution CT-25-043, "Protecting Tribal Priorities and Co-Stewardship Provisions During the Rescission of the Bureau of Land Management's (BLM) Conservation and Landscape Health Rule," available at <https://ncai.assetbank-server.com/assetbank-ncai/action/viewAsset?id=5781>; *see also* Joint Statement: Tribal Governments Oppose Rescission of BLM Public Lands Rule, and Call for Protection of Co-Stewardship and Indigenous Priorities (Sept. 11, 2025), available at <https://myemail.constantcontact.com/Defending-Co-Stewardship--Tribal-Leaders-Stand-Against-DOI-Rollback.html?soid=1140041865539&aid=hjGLhAs5TYM> (attached).

¹⁸⁴ 43 C.F.R. §§ 6102.5.1 & 6102.4.

¹⁸⁵ BLM Manual Transmittal Sheet MS-1794 Mitigation 12/22/2016 (attached).

it. The agency's existing rationale is incoherent, inconsistent, contradictory, incomplete, and contrary to law and public opinion. The Rule should be retained in full.

Sincerely,

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