

BLM's proposed Public Lands Rule

Talking Points

(Source: *Western Watershed Project*)

What does the BLM rule mean for livestock grazing?

Areas of Critical Environmental Concern (ACECs)

The proposed rules fall short of the **requirement** of the Federal Land Policy and Management Act (FLPMA) to give priority to the designation and protection of ACECs. Emphasis is on the *consideration* of ACECs over the *prioritization of designating them*. Further replacing the word “protection” with “management” is a significantly weaker standard that may lead to inadequate protection.

The final rule should ensure that if an area meets the criteria for ACEC designation, it is automatically designated and has a management plan implemented that will protect the values identified ***including the preclusion of livestock grazing as appropriate***.

The final rule should include direction for the BLM to designate Research Natural Areas as a type of ACEC to establish a well distributed network of reference areas. This is an essential component of the land health evaluation process. Research Natural Areas should not permit livestock grazing.

Restoration

- The final rule should adopt and adhere to the [Society for Ecological Restoration's International Principles and Standards](#).
- The final rule should clearly indicate that passive restoration, or the removal of the stressors leading to degradation, is the preferred method of achieving recovery. In cases where Rangeland Health Standards are not being met, this should include reducing or eliminating livestock grazing.
- The final rule should include a list of activities that are appropriate for restoration and a list of activities that are inappropriate. Livestock grazing is not an acceptable restoration practice and the altering of grazing management to reduce impacts shall not be considered as a restoration activity.
- The final rule should clearly identify restoration activities that require additional analysis under NEPA including public participation.
- The final rule should specify that only appropriate, locally sourced, native plants are permitted for revegetation and restoration.

Conservation Leasing

- The final rule must clearly identify what activities are allowed under conservation leases.
- Conservation leases must include adequate public participation and thorough environmental analysis under the National Environmental Policy Act (NEPA).
- On lands currently authorized for grazing where land health standards are not being met, actions to bring grazing into compliance should not be considered restoration activities as it is the responsibility of BLM to ensure that authorized grazing meets land health standards through changes to grazing management before the next grazing season.
- The proposed rule and the BLM's explanations of the rule are contradictory and would essentially give ranchers veto power over habitat protection and conservation.
- The BLM claims that permitted grazing is "consistent and complimentary with conservation."
- In the mitigation context, no effort to restore degraded conditions caused by current livestock grazing could be considered mitigation because they are not additional to what the agency is already required to manage for and has regulations in place to do.
- Conservation leases effectively outsource the agency's job of protecting public lands. The public shouldn't have to pay the BLM for the privilege of safeguarding the resources the Bureau itself is supposed to be managing for the common good. Meanwhile, the extractive industries pay a pittance to destroy lands for their own profit.
- The agency must ensure public participation and thorough environmental analysis is an integral part of a proposed restoration action. This must include meaningful engagement at the planning, decision making, implementation, and evaluation stages of conservation leases.

Mitigation Hierarchy

The BLM's proposed mitigation hierarchy is missing several key components to ensure that the health of public lands and biodiversity are not diminished by industrial activities.

These include:

- Irreplaceable Resources - The mitigation hierarchy must incorporate the identification of irreplaceable resources and "no-go" zones for development. There must be a clear statement that irreplaceable resources cannot be compensated for and therefore must be preserved.

- Only restoration actions that are in addition to those for which the agency has existing legal requirements or a program to address should count as compensatory mitigation. For example, adjusting grazing management to comply with Rangeland Health Standards is already required by law and the BLM has both regulations and a grazing program to accomplish that objective.
- Net Benefit or No Net Loss – Compensatory mitigation should provide a net benefit for biodiversity and at a minimum ensure no net loss.
- Up-front conservation - The proposed rule must guarantee that any mitigation credits are based on restoration work that has already been done and is functioning as habitat for the species that are impacted by development. Issuing credits for a future promise of restoration and functional habitat is unacceptable.

Land Health Standards

- The concept of applying rangeland health standards to all BLM activities seems like a step in the right direction. However, the current standards and especially the guidelines are very specific to livestock grazing and are not necessarily appropriate or applicable to other activities. New issue-specific standards and guidelines should be developed.
- The implementation of the Fundamentals of Rangeland Health for livestock grazing has been unsuccessful after nearly 30 years of implementation. The BLM's own rangeland health data indicates that 50 percent of the lands assessed, or 54 million acres, do not meet land health standards and that 41 million acres of the 155 million acres of rangeland have yet to be assessed.
- The current standards allow for lands that are “making significant progress to be counted in the ‘meeting standard’ category. However, the BLM has never defined “significant progress” and very little is actually being done on many of these landscapes to improve conditions in a timely manner. The final rule must define significant progress with quantitative and temporal objectives.
- The final rule should specify a deadline for appropriate action to address failures to meet standards and impose penalties for non-compliance.
- The BLM has recently been moving toward the application of remote sensing data for rangeland health analysis assessments and determinations. While these are promising tools, they must be used in coordination with and not in replacement of on-the-ground assessments and determinations. The final rule should specify that qualified professional ID Teams must physically assess landscapes before determinations can be made and that remote data is only a complimentary tool for that purpose.

Unnecessary and Undue Degradation (UUD)

- The final rule should further define what constitutes UUD for specific uses.
- For livestock grazing we recommend UUD be defined as a level of impact that causes a net loss of habitat capability to support viable populations of threatened, endangered, candidate, or sensitive species, or is a contributing factor for a failure to meet Rangeland Health Standards for two or more evaluations in a row or more than 5 years from an initial determination.

Intact Landscapes

The final rule should:

- Consider domestic livestock a disturbance agent that diminishes the intactness of landscapes.
- Also consider the impacts of livestock management, including lethal management of native carnivores to support livestock grazing.
- Require widespread coexistence measures between livestock and native wildlife to mitigate the disturbance and fragmentation that is caused by livestock and their management.
- Consider the impacts of livestock grazing infrastructure including fencing, water developments, roads, and corrals on the intact landscape.

Connectivity

- The final rule should include specific language for habitat connectivity including coexistence measures.

Accountability

- The proposed rule adds a lot of responsibilities for BLM but unfortunately doesn't address accountability. The final rule should ensure compliance with the direction by including performance measures and evaluation criteria for managers including substantial consequences for non-compliance.
- The final rule should clearly lay out the expectations for local managers in terms of accountability to the public. For example, managers should be required to provide a response to objective documentation by any interested party of a violation of the conservation lease or restoration failure.

- Local managers often have a conflict of interest with the activities they are required to oversee and permit. Rangeland Health evaluations and determinations should be made by Regional or National teams of experts including management prescriptions to be implemented by local managers. Regular audits should be undertaken by independent agencies such as the USGS.

Climate Change and Biodiversity

- The proposed rule does not do enough to ensure that BLM managed lands will be resilient to the impacts of climate change and reverse the trend of biodiversity loss. In fact, public lands management must lean into conservation and restoration to the greatest extent possible to work as a buffer and offset developments on private lands for which the government has far less control.
- The proposed rule should include explicit direction for the BLM to assess the Social Cost of Carbon for all permitted activities including permitted livestock grazing.