



The Honorable Bruce Westerman, Chairman

House Committee on Natural Resources

1324 Longworth House Office Building

Washington, D.C. 20515-6201

Re: H.R. 3397; A bill requiring the withdrawal of a proposed rule relating to conservation and public health

Dear Chairman Westerman,

The Arizona Cattle Growers' Association fully supports H.R. 3397, introduced by Subcommittee Chairman Curtis, which requires the Bureau of Land Management to withdraw its proposed rule relating to conservation and public health. We thank the Committee for holding a hearing on this important issue on June 15.

Every special designation of public land leads to the elimination or undue restriction of grazing. As drafted, the BLM proposed rule will have the same effect. Ranchers and their communities throughout the west are rightly concerned about the agency's proposal. Real conservation of public land requires the presence of people who care about the land. Simply tying up land with no responsibility for management will foment more of the conditions like out-of-control wildfires and invasive species that are the scourge of healthy landscapes.

Attached are ACGA's detailed comments on the rule submitted to the agency. Do not hesitate to contact Jeff Eisenberg of my staff if you have any questions about the comments or the rule. He can be reached at jeffeisenberg@msn.com, and at 571-355-3073.

Sincerely,

A handwritten signature in dark ink, appearing to read "mg", followed by a long horizontal line.

Mike Gannuscio

President

Arizona Cattle Growers' Association

Cc: Representative Curtis

May 24, 2023

U.S. Department of the Interior
Director (630), Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240
Attention: 1004-AE92

Dear Sir or Madam:

The Arizona Cattle Growers is the largest and oldest association representing ranchers. Ranching is central to the history and development of our great state. As the federal and state governments own over 80% of the land in the state, public land is an integral part of agriculture in the state. For this reason, BLM decisions have an important effect on our members' operations. The BLM's proposed rule on "Conservation and Landscape Health", issued on April 3, 2023, is of great concern to us. We appreciate the opportunity to submit comments on this important proposal.

Grazing has a large footprint on BLM lands. Of the 245 million acres administered by the BLM, 155 million acres are dedicated to grazing. The Taylor Grazing Act of 1934 first recognized the importance of grazing for protecting public lands. Similarly, a guiding principle in the current proposal is to ensure the resilience of BLM lands by "preserving and protecting certain public lands in their natural condition." Proposed 43 C.F.R. § 6101.5. A critical tool for accomplishing this goal is by protecting "intact" landscapes. Proposed 43 C.F.R. § 6102.1(a). As explained below, BLM land dedicated to grazing is "intact", "resilient" land. Because the proposal leaves very vague the boundaries between the overlapping relationship of "intact" and grazing land, our comments are aimed at clarifying the distinction by suggesting language to protect grazing operations that are meeting applicable management goals.

Grazing on BLM land is currently administered under the fundamentals of land health at 43 C.F.R. § 4180.1. The proposal characterizes these fundamentals as the "science for management decisions to build resilient public lands." 88 Fed. Reg. 19583, 19586. Land dedicated to grazing is expected to achieve the applicable standards and the management practices are expected to conform to the guidelines. 43 C.F.R. § 4180.2. Should the grazing land fall short, the authorized officer is required to take remedial action. The proposed rule applies the fundamentals of land health (taken verbatim from the existing fundamentals of rangeland health at 43 CFR 4180.1 (2005)) and related standards and guidelines to all renewable-resource management, instead of just to public-lands grazing. 88 Fed. Reg. 19583, 19586.

The preamble explains that conservation leases authorized under section 6102.4(a)(3) are “not intended to provide a mechanism for precluding other uses, such as grazing, . . . ” 88 Fed. Reg. 19591. Nevertheless, a potential conflict arises between conservation leases and grazing arises when grazing leases are up for renewal. If a potential conflict is foreseeable in the proposed rule, it should be addressed and resolved in the final.

The regulations adopted in this proposal contain the process for ensuring that grazing BLM lands takes place on resilient lands. Under 43 C.F.R. § 4180.2(c)(1), the authorized officer is required to use monitoring to determine compliance with land health standards. See also proposed rule 43 C.F.R. § 6103.2(b). Should the grazing not meet the standards, the officer is to propose “appropriate action to address the failure to meet standards or to conform to the guidelines.” *Id.* In other words, current regulations require grazing to be on resilient lands and prescribe the measures to ensure this happens. This framework for managing grazing is consistent with the proposed rule to maintain or restore resilient intact ecosystems. Proposed rule 43 C.F.R. § 6102.1(a).

The potential for conflict arises under proposed rule 43 C.F.R. § 6102.2(a), which requires authorized officers to “identify intact landscapes on public lands that will be protected from activities that would . . . significantly disrupt, impair, or degrade the structure or functionality of intact landscapes.” Furthermore, authorized officers must determine during the planning process which tracts of public land will be put to conservation use. Proposed rule § 6102.2(b).

We recognize that there are any number of environmental groups that want to eliminate public land grazing and of course would assert that the grazing disrupts, impairs, and degrades the structure and functionality of intact landscapes. Under proposed rule 43 C.F.R. § 6102.5(b)(8), authorized officers are required to “consider a precautionary approach for resource use when the impact on ecosystem is unknown or cannot be quantified”. This section opens the door for interminable fighting about the effects of grazing and whether existing monitoring data provides an accurate characterization of the resources of the land in question.

Fortunately, the foundations for land health point the way for resolving this uncertainty. As indicated above, the foundations require monitoring to measure compliance with the standards and guidelines. The need for quantitative data collection permeates the management prescribed in this proposed rule. The BLM should make management decisions based on facts, not the biases of individual stakeholders or even individual authorized officers. The federal government owes the public a duty of fairness in its administration of its legal responsibilities. The only fair way to administer grazing is to base decisions on empirical data.

There is wide-spread agreement among the range science community about range monitoring. The BLM has been a key participant in these discussions through the years and has the necessary access to this consensus to implement it effectively on its lands. There is no reason for grazing land management not to be based on facts. The “precautionary principle” has no place in the grazing arena where there are well-known systems for rangeland data collection. See proposed rule 43 C.F.R. § 6102.5(b)(8).

It may be that data collection is not possible with other resource uses of BLM lands, and therefore the impact of the use on ecosystem resilience is “unknown or cannot be quantified.” This uncertainty may be due to the difficulty of measurement in a particular case, or because BLM does not have the staff to carry out its duties under the law. However, individual ranchers should not be punished with the loss of their livelihoods because the federal government is unable to perform its duties in managing rangelands.

For the foregoing reasons, we propose amending proposed rule 43 C.F.R. § 6102.5(b)(8) as follows (the changes are in red):

(8) **Other than for grazing authorizations**, consider a precautionary approach for resource use when the impact

In our view, the provisions of this rule should not affect continued grazing use of BLM lands that is in compliance with the fundamentals of land health and other applicable legal requirements. See 43 C.F.R. § 4130.1-1(b)(1). In a similar vein, the area of land in a grazing allotment that is meeting the fundamentals of land health standards and guidelines should not be reduced due to a reallocation of the land to a conservation use or to create “intact” land under the proposed rule. Changes in the existing rule and the proposal are necessary to effectuate this goal:

1. 43 C.F.R. § 4110.4-2, Decrease in land acreage, add a new paragraph (a) and reletter the subsequent paragraphs:
 - (a) **There may be no decrease in public land acreage available for livestock grazing with an allotment due to conservation use as provided under proposed rule 43 C.F.R. § 6102.2 for allotments that meet the fundamentals of land health standards and guidelines.**
2. Under proposed rule 43 C.F.R. § 6102.2, add a new sentence at the end of existing section (a) as follows:
 - (a) **Provided that land allocated to grazing that is meeting the fundamentals of land health standards and guidelines shall not be identified for protection under this paragraph nor put to conservation use under paragraph (b).**

As discussed above, grazing lands are intact that are resilient when managed properly. Moreover, most often ranchers have the most contact with the land and the resources and are in the best position to manage it. We would think the BLM should be reluctant to give up these valuable benefits by replacing grazing leases with conservation uses when grazing leases that are meeting land health standards come up for renewal.

Moreover, people, families, and communities depend on the economic benefits generated by grazing on BLM land. If the BLM can recognize that some of its authorizations, such as infrastructure and energy projects or mining, will cause “permanent impairment of ecosystem resilience”¹, then it should certainly honor its longstanding relationship with the many people who make “resilient” use of the land.

Thank you for your consideration of our views.

Sincerely,

/s/

Mike Gannuscio
President
Arizona Cattle Growers

¹ 88 Fed. Reg. 19592