



**ROCKY MOUNTAIN
ELK FOUNDATION**

June 15, 2023

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

RE: Bureau of Land Management Proposed Rule: Conservation and Landscape Health, 43 CFR Parts 1600 and 6100

The mission of the Rocky Mountain Elk Foundation (RMEF) is to ensure the future of elk, other wildlife, their habitat and our hunting heritage. We represent more than 225,000 members nationwide, many of whom live and/or recreate in western states. Since its inception in 1984, RMEF has conserved or enhanced more than 8.6 million acres of North America's most vital habitat for elk and other wildlife. In partnership with the Bureau of Land Management (BLM), RMEF has conserved or enhanced more than 2.3 million acres across BLM-administered lands and opened or improved public access to over 370,000 acres since 1987. Together, the combined value of RMEF-BLM cooperative efforts totals more than \$210 million.

The BLM proposes new regulations that aim to 'advance the BLM's mission to manage the public lands for multiple use and sustained yield by prioritizing the health and resilience of ecosystems across those lands.' The BLM proposes to implement this through protecting intact landscapes, restoring degraded habitat, and by making wise management decisions based on science and data.

RMEF's comments below represent a focus on actions in the proposed rule that may benefit or hinder our mission and/or represent our broad stakeholders. The following key topics in our comments resonate with our mission and membership:

- Incorporating appropriate public engagement opportunities
- Ensuring public access to public lands for hunting and other recreation
- Enhancing habitat for elk, mule deer, turkeys, and other wildlife
- Conserving critical migration routes (connectivity)
- Bringing a stronger focus to much needed active land management
- Using sound science in all conservation and management activities

RMEF expresses concern about several processes averted during the proposed rulemaking:

- Given the significant implications of the rule, there is concern about the lack of stakeholder input or advanced notification. An Advanced Notice of Proposed Rulemaking or a Request for Information would have provided a meaningful public engagement opportunity.
- Several components of the proposed rule should be required to go through a full NEPA process; the proposed overarching categorical exclusion is not sufficient. As is, multiple decisions (including conservation leases) would not go through any NEPA assessment (environmental assessment, environmental impact statement, or otherwise) and would provide no opportunity for public engagement. The proposed rule provides unlimited authority to make impactful conservation decisions through review and approval by an authorized officer.
- BLM Resource Management Plans (RMP) serve as the backbone to guide management of BLM-administered lands, yet few of the proposed rule components would flow through the RMP process. To maintain transparency and ensure quality public engagement, each action in the proposed rule should be incorporated, formally, into RMPs.

Specific to the rule content, RMEF generally supports the six broad objectives (Sec. 6101.2) of the proposed rule but has concerns with the lack of detail in the proposed rule. RMEF offers the following comments:

General Comments

- The proposed rule would fundamentally change the BLM's multiple use mandate under the Federal Land Policy and Management Act (FLPMA) by adding 'conservation' as a recognized use and newly defined, specifically for this rule. RMEF asks for clarification on how this definition conflicts with previous versions of the definition of 'conservation' used in BLM manuals or handbooks.
- In adding 'conservation' as one of the multiple uses in FLPMA, RMEF requests additional administrative review to clarify whether additions/changes can be made to FLPMA without the necessary input from Congress, state and county governments, private industry, recreationists, and other impacted stakeholders.
- RMEF requests clarity on who within BLM constitutes an 'authorized officer' who, through this rule, is granted authority to make impactful decisions. For example, these individuals would have authority to prioritize protection of intact landscapes (Sec. 6102.19b), identify priority landscapes for restoration (Sec 6102.3-1), or approve terms and conditions of conservation leases (Sec. 6102.4).
- The section on protection of intact landscapes (6102.1) also lacks clarity. As with most practices outlined in the proposed rule, protection of intact landscapes should follow priorities set in RMPs and utilize existing tools through the National Conservation System.

Landscape Health

- RMEF recognizes the need to assess land health conditions across all BLM-managed lands and supports the direction for land restoration activities to improve wildlife habitat and to help public lands recover from wildfire, invasive species, and other threats.
- RMEF supports the proposed adaptive management strategy (Sec. 6101.2) to guide BLM land management through evaluation, treatment, and monitoring.
- RMEF supports continued recognition of important big game migration corridors and encourages BLM to use existing progress and programs (through SO3362) to implement objectives in this rule concerning habitat connectivity.
- Managed livestock grazing can improve the health of rangelands and forest meadows if the system is designed with habitat values for elk and other wildlife in mind. An effective range management program between the agency and permittees is essential to maintaining the economic base and lifestyle that have helped keep private lands across elk country as working ranches. RMEF encourages continued use of grazing management systems and techniques compatible with maintaining desired levels of elk and other wildlife.
- Throughout the proposed rule, BLM recognizes the need for various ‘conservation’ practices, including land protection. As an avid supporter of active land management, RMEF has concerns that land protection (preservation), as defined in the proposed rule, would treat lands as a functional wilderness, impeding critical land management and restoration activities needed across BLM-administered land.
- The use of conservation throughout the proposed rule includes a focus on ‘restoration.’ As defined, this action means ‘assisting the recovery of an ecosystem that has been degraded, damaged or destroyed.’ What is lacking is any focus on active land management to *maintain* lands that are currently meeting land health standards. The proposed rule defines ‘land enhancement,’ with reference to its potential use in conservation leases. However, the proposed rule lacks specific guidance on the importance of ‘land enhancement’ in preventing degradation and supporting ecosystem resilience and should be a key component of ACECs, conservation leases, and other tools.
- BLM proposes to use the fundamentals of land health (in Sec. 6103.1-6103.2) from the existing fundamentals of rangeland health (at 43 CFR 4180.1 (2005)) for all resource management. This was previously applied to public-lands grazing programs. RMEF requests development of updated and expanded landscape health fundamentals that are based on more recent science and are applicable across more diverse landscapes (not just rangelands). Applying outdated land health fundamentals developed for a single landscape type and program (grazing), is not appropriate. As part of the 2005 land health update, fundamentals of rangeland health should be expanded to include species beyond those Federally listed, including species of state biological and social importance.

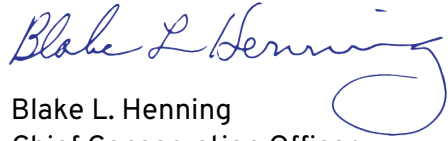
Conservation Leases

BLM proposes to use conservation leases as a new tool to ensure ‘ecosystem resilience through protecting, managing, or restoring natural environments, cultural or historic resources, and ecological communities, including species and their habitats.’

- RMEF has significant concerns about the lack of detail on how conservation leases would be prioritized and implemented through this rule. BLM is requesting public comment on several critical components of the conservation lease proposal, highlighting the need to answer many unknowns prior to any final rule being signed. Key details should be fleshed out by the BLM and reopened for public comment, including:
 - the appropriate default lease duration
 - acreage limits for conservation leases
 - constraints on which lands are available for conservation leasing
 - clarification on what actions conservation leases may allow
 - eligibility of a lease holder
 - requirement for conservation lease priorities to be set within RMPs with public engagement
- The authorities granted under conservation leases (and associated definition of ‘conservation’) creates confusion among other tools available for ‘protection and restoration’ including the National Conservation System, ACECs, leases authorized for mitigation, and other tools. As written, conservation leases appear to encompass authorities under several existing tools. Protection (and preservation) and restoration are authorities already established through the National Conservation System, ACECs, etc. Given this redundancy, ‘conservation leases’ should be focused on land enhancement or restoration with a primary goal of maintaining or restoring prioritized landscapes.
- A key concern in this proposed rule is the lack of clarity in whether/how public access to BLM-managed land could be limited under conservation leases. The proposed rule states that a conservation lease, alone, is not intended to preclude access to public lands; ‘although the purposes of a lease may require that limitations to public access be put in place in a given instance (Sec. 6102.4(a)(4) and 6102.4(a)(5)).’ This ambiguous language opens up significant uncertainty about public land access, particularly given that conservation leases would be approved solely through an authorized officer. Public use for hunting, fishing, and other recreation should clearly be defined as a ‘casual use’ and not subject to authorization on lands covered by a conservation lease (6102.4(a)(5). Again, this highlights the need to integrate this proposed program into a local public engagement process. The preferred route would be to identify areas eligible for conservation leases through the RMP process and assess the potential effects of each lease through NEPA, as is completed with other BLM leases/permits. This would allow for proper analysis of the effects the proposed actions may have on the environment, and the related social and economic effects.

RMEF appreciates this opportunity to comment on the BLM Proposed Rule: Conservation and Landscape Health, 43 CFR Parts 1600 and 6100, and looks forward to seeing future clarifications and details.

Sincerely,

A handwritten signature in blue ink that reads "Blake L. Henning". The signature is fluid and cursive, with a large loop at the end of the last name.

Blake L. Henning
Chief Conservation Officer