



July 5, 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

Re: Comments to Proposed Rule, Bureau of Land Management, 43 CFR Parts 1600 and 6100 re Conservation and Landscape Health (RIN 1004-AE92)

Dear Director Stone-Manning:

Outdoor Alliance, The Conservation Alliance, and Outdoor Industry Association welcome this opportunity to comment on the Bureau of Land Management's proposed Conservation and Landscape Health Rule and appreciate much needed updates to regulations that implement the intent of the Federal Land Policy and Management Act of 1976. Our organizations strongly support BLM's efforts through the proposed rule to ensure the health of our country's public lands, which are the essential settings for the outdoor recreation activities that support our organizations' constituencies. In particular, we support the BLM's intention to take necessary steps to address impacts from climate change such as unprecedented drought, increasingly intense fires, a loss of wildlife, and an influx of invasive species, all which uniquely affect outdoor recreation experiences and related economies. However, it is important that BLM integrate the role of outdoor recreation into the proposed rule when developing standards for protecting and restoring our public lands and waters.

Outdoor recreation is a "principal or major use" under FLPMA, alongside domestic livestock grazing, fish and wildlife development and utilization, mineral exploration and production, rights-of-way, and timber production.¹ In distinction from other principal uses, however, sustainable outdoor recreation is predominately non-consumptive and uniquely compatible with conservation. Indeed, activities like camping, hiking, paddling, climbing, mountain biking, skiing, and more are driven

¹ 43 U.S.C. 1702(l).

by—and dependent upon—the opportunity to interact with the unique features of well-protected and managed natural landscapes.

Our organizations support sustainable recreational use of public lands and waters, and ensuring sustainability of use often depends upon thoughtful management. At times, recreational use may extend beyond what is sustainable, affecting both the landscape and the quality of the recreation experience itself, and we support management actions to restore recreational activities to a state that ensures they can be enjoyed for generations to come.

At the same time, our organizations are concerned with ensuring the accessibility of sustainable recreation activities and do not want to see public access to public lands and waters constrained beyond—or in the absence of—conservation necessity.² We firmly believe that desire comports with the intention of the proposed rule; however, in our comments below, a common theme is the need to ensure that management prescriptions that potentially constrain recreational use are closely tailored to conservation necessities and not applied in an imprecise or overbroad fashion. For example, Areas of Critical Environmental Concern typically do not allow access for mountain biking, and while we support restrictions on access when necessary to address a specific environmental concern in a particular area, we do not support that restriction being applied as a default setting or as a result of institutional inertia. We believe this position aligns with the rule's intention, but ask for particular clarifications below to ensure this understanding is shared with BLM local staff who will be tasked with implementing the rule. That shared understanding is particularly urgent given BLM's capacity constraints, which may create pressure to move expeditiously or paint with a broad brush.

A second theme of our comments is to elucidate the opportunities we see through the proposed rule to directly benefit outdoor recreation, for example through required mitigation activities and conservation leasing. Again, we see the rule's

² We recognize, as well, that access constraints like limited-entry permit systems are necessary in some instances to protect the quality of the recreation experience from the effects of overcrowding, but believe those decisions, absent particular impacts to the resource, are beyond the scope of this rulemaking.

intent as embracing these opportunities, but believe it could be strengthened through a clearer articulation.

Finally, we are concerned to ensure that meaningful opportunities for public engagement are enshrined in the final rule. The outdoor recreation community is often the best source of information regarding recreational use—where people go, why they go there, when they go, and in pursuit of what values—and that information is essential for informed decision-making by the agency. Opportunities for engagement by all relevant stakeholders are essential for reducing conflict and increasing confidence in agency decisions.

As an outdoor recreation community passionate about the lands and waters where we pursue our avocations, we strongly support BLM’s efforts to manage multiple-use lands more sustainably. By integrating recreation more thoroughly and clearly into the rule, BLM will be able to protect more places, including those of particular importance for recreational use; alleviate unnecessary tension between recreation and conservation; and build public support for strong conservation action. Outdoor recreation is the most common way that Americans experience their public lands, and positive outdoor recreation outcomes are the most tangible way that many people will experience the benefits of BLM’s proposed rule. By ensuring that recreation access and sustainable opportunities to enjoy public lands and waters are clearly integrated into the rulemaking, BLM will deliver positive results that Americans see and feel in a direct and personal way.

Our specific comments, organized by section of the proposed rule, follow. Most importantly, we specifically request that BLM:

- Ensure management prescriptions for ACECs do not unduly infringe on recreational activities (p.4).
- Avoid the term “casual use” to encompass recreation in favor of more precise language, and account for facilitated access uses that may be commercial in nature (p.6).
- Ensure that conservation use to achieve ecosystem resilience incorporates opportunities related to outdoor recreation (p.7).
- Amend restoration prioritization to include consideration of recreation values (p.8).

- Incorporate recreation into restoration planning (p.9).
- Ensure public engagement opportunities, and support outdoor recreation and outdoor recreation improvements through conservation leasing (p.9).
- Articulate clearly the requirement of mitigation for impacts to recreation resources and recreation values (p.13).

§ 1610.7-2 Designation of areas of critical environmental concern

As noted in its prefatory statement, the rule aims to clarify and expand upon existing ACEC regulations. The outdoor recreation community supports the identification of Areas of Critical Environmental Concern and the application of special management prescriptions to protect identified needs and values. While outdoor recreation is not among the identified values stated in the draft rule, many if not all of the identified values are significant from the perspective of outdoor recreation, and some—scenery, in particular—implicitly recognize the presence of people on the landscape and the importance of conservation for the recreation experience.

Despite the importance of the protections of ACECs, the outdoor recreation community's experience with their application has been mixed. For example, ACECs generally apply a non-mechanized-use prescription, prohibiting the use of mountain bikes, and the use of fixed climbing anchors (an essential safety tool for climbers) is similarly generally prohibited. In addition, resource management plan stipulations for ACECs often prevent any surface disturbance, even for foot trails where that foot trail restriction may have nothing to do with the purpose for the ACEC—and in some cases such a foot trail may enhance or support the purpose for the ACEC (such as to condense dispersed foot traffic).

These types of restrictions on sustainable outdoor recreation activities should be applied rarely and limited to addressing site-specific concerns that reflect the purpose of the ACEC and not as a matter of default management practice. In general, our community supports access restrictions where they are:

1. Based on sound science;
2. Supported by public process;

3. Closely tailored to the purpose and need for a restriction (spatially, temporally, and with regard to uses); and
4. Equitably applied across user groups.

Sustainable outdoor recreation is compatible with a high degree of resource protection, and sustainable outdoor recreation is directly contemplated by the listed values to be protected by ACECs. To ensure that ACEC designation does not interfere with recreational use beyond what is necessary and appropriate, § 1610.7-2 should include a requirement that management prescriptions, particularly where applied to contemplated, compatible, and “primary” uses like outdoor recreation, be closely tailored to that which is necessary to protect resources identified through “relevance” and “importance” criteria.

One way to accomplish this would be to *amend* § 1610.7-2(h) as follows:

(h) The approved plan shall list all designated ACECs, identify their relevant and important resources, values, systems, processes, or hazards, and include the special management attention, including mitigating measures, identified for each designated ACEC. *Special management attention shall be tailored to minimize restrictions on recreational activity and subject to public input during the planning process.*

Subpart 6101—General Information

§§ 6101.1 Purpose; 6101.2 Objectives.

Our organizations strongly concur with BLM’s assertion that “management of public lands on the basis of multiple use and sustained yield relies on healthy landscapes and resilient ecosystems.” Outdoor recreation, a “principal or major” use under FLPMA, is wholly reliant on the conservation of our public lands and waters to support recreational experiences. Too often, despite FLPMA’s instruction to promote “harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment,” resource extraction, grazing, and other activities have led to the

impairment of environmental values and the recreational experiences they sustainably support.

§ 6101.4 Definitions.

Casual use. Our organizations are concerned by the proposed rule's reliance on the term "casual use" to encompass recreational activity on conservation leases contemplated by this proposed rule. While it may be desirable to employ a term broader than "recreational use," we would like to see definitions explicitly consider recreational use and access in order to facilitate precise management.

Additionally, we are concerned that the term "casual use" as currently drafted excludes commercial use, presumably including outfitters and guides and other providers of facilitated access to public lands and waters. In addition to the economic importance of facilitated access for businesses, employees, and local communities, the availability of facilitated access experiences is often crucial for introducing new participants to the outdoors. These experiences allow new participants to build comfort, develop skills, and learn Leave No Trace-style best practices in a safe and welcoming setting. While these activities will not be appropriate in all settings, we ask BLM to ensure that decisions to limit these activities are taken purposefully and not based on default definitions.

High quality information. We commend and support the recognition of Indigenous knowledge as a source of high quality information.

Intact Landscapes. Connected and intact landscapes and watersheds also provide high quality recreational opportunities. For example, undeveloped rivers and streams provide for extended and continuous paddling opportunities. These opportunities give the public unparalleled engagement with vibrant and functioning ecosystems. These sorts of experiences are what ignite a conservation ethic in those enjoying public lands for recreational purposes.

§ 6101.5 Principles for ecosystem resilience.

Our organizations strongly support the principles for ecosystem resilience as described in the proposed rule. As noted above, outdoor recreation experiences

derive a tremendous amount of their value, meaning, and quality from the setting where they occur and the opportunity to interact with and experience healthy landscapes and waters. We strongly support the goal of ensuring that public lands and waters are managed to ensure their ability to provide sustainable benefits in perpetuity.

Subpart 6102—Conservation Use to Achieve Ecosystem Resilience

The outdoor recreation community broadly supports the goals and actions set out in subpart 6102 aimed at advancing restoration activities on BLM lands. We see significant potential to incorporate recreation into contemplated restoration work.

Incorporating recreation more fully into this section would have multiple benefits. First, incorporating recreation into the prioritization and conceptualization of restoration projects will help enhance the sustainability of recreation use at a time of rapidly growing recreation demand. Proactively looking for opportunities to incorporate sustainable recreation infrastructure into restoration projects will help ensure that growing recreation demand is met sustainably and does not work at cross purposes to restoration goals. Second, by conscientiously and actively looking for opportunities to include recreation project components where appropriate, the agency will be able to achieve efficiencies in project design, environmental analysis, implementation, and monitoring. Given BLM capacity constraints, looking for opportunities to implement complementary projects simultaneously should be a priority. Third, advancing opportunities for sustainable outdoor recreation is an important economic consideration for public lands communities, and ensuring that recreation goals are considered and supported as appropriate will help to offset real or perceived concerns regarding economic losses from changed or reduced extractive development. Finally, outdoor recreation is the way in which most Americans experience their public lands and waters, and incorporating recreation opportunities into restoration projects will help more people see and experience the benefits of restoration activities on public lands, increasing community support for agency action.

§ 6102.1 Protection of intact landscapes.

Our organizations support the goal of prioritizing protection for intact landscapes. We particularly commend the direction in § 6102.1(a)(2) to manage lands strategically for “compatible uses,” which we understand to include sustainable recreation opportunities. We appreciate the direction in the proposed rule to coordinate across BLM jurisdictions and programs, which can often be a hurdle to contiguous landscape and watershed protections. To better ensure that coordination takes place and ensure the protection of intact landscapes, we request that BLM maintain an inventory of intact landscapes and watersheds.

§ 6102.2 Management of Intact Landscapes.

The proposed rule cites the use of watershed condition classification to be used to help BLM officers identify intact lands and waters for protection from activities that could degrade their functionality. BLM should develop classification guidelines to holistically evaluate watershed health, identify restoration opportunities and recovery potential, prioritize recreation as well as conservation and restoration, and measure progress towards achieving resilience and land health across lands and waters.

§ 6102.3–1 Restoration prioritization.

Our organizations strongly support the direction in § 6102.3 to prioritize restoration. § 6102.3–1 is an important opportunity to look for projects with potential synergy between recreation and conservation goals, improve the sustainability of recreation, and support the recreation experience by advancing conservation in settings where recreation occurs. To achieve this, BLM should add an additional consideration to § 6102.3–1(a) between existing parts (3) and (4):

(4) The potential to advance recreation goals and sustainable and equitable outdoor recreation access as project components;

§ 6102.3–2 Restoration planning.

Our organizations strongly support the requirement to include restoration plans in resource management plans. In particular, we support the requirement in § 6102.3–2(a)(3) to include “[c]oordination and implementation of actions across BLM programs and with partners to develop landscape restoration objectives,” and the requirement in § 6102.3–2(b)(3) to “coordinate and implement actions across BLM programs and with partners to develop holistic restoration actions.” As noted, we see significant potential for cross-program coordination with recreation activities, as well as with partner organizations. BLM should follow up on this requirement in subsequent guidance to help ensure consistent consideration of recreation objectives and partnership opportunities. Additionally, we strongly support amending the language of § 6102.3–2(b)(3) to read:

(3) Coordinate and implement actions across BLM programs and with partners to develop holistic restoration actions, *including, where appropriate, opportunities for sustainable recreation.*

§ 6102.4 Conservation leasing.

The outdoor recreation community is enthusiastic about the potential of conservation leases for conservation benefits and to facilitate mitigation for impacts to recreation on public lands.

Under the proposed rule, § 6102.4(a)(1), conservation leases may be authorized for two activities: “[c]onservation use that involves restoration or land enhancement,” and “[c]onservation use that involves mitigation.” As noted above, we see significant potential for projects that involve both restoration and recreation infrastructure components. While the proposed rule appears to contemplate recreation-related improvements in the context of mitigation, the rule would benefit from increased clarity in this regard. Additionally, outside of the context of mitigation, we still see potential for dual-purpose projects to be advanced through conservation leasing. This could be accomplished by including recreation improvements (in addition to recreation infrastructure alterations directly related to improving landscape conditions) in the definition for “land enhancement” in § 6101.4, or by amending § 6102.4(a)(1)(i) to read:

(i) Conservation use that involves restoration or land enhancement, *including recreation infrastructure improvements*; and

Additionally, we believe BLM must clarify the intention that conservation leases not conflict with public access. We appreciate the stipulation in § 6102.4(a)(5) that “[n]o land use authorization is required under the regulations in this part for casual use of the public lands covered by a conservation lease.” As noted previously, we are concerned by the reliance on the term “casual use” to cover recreational activity. In particular, areas subject to conservation leases should be available for facilitated access, including outfitting and guiding, as appropriate. Additionally, we believe that this section should go further in articulating that holders of conservation leases do not have authority to enact restrictions on public access to leases. Where restrictions may be necessary to facilitate work and landscape recovery, these closures must come directly from BLM, be supported by public process, and be limited spatially and temporally to the purpose and need of the conservation lease. Conservation lease holders should be required in lease applications to describe any access restrictions they foresee requesting from the agency.

Finally, it is essential that decisions to issue conservation leases be subject to public notice and comment. The public must have an opportunity to review proposed actions on public lands and comment on their appropriateness. While much of this work is likely to be subject to public process through NEPA, it is conceivable that some of this work would proceed under categorical exclusions, and it is essential that the rule enshrine the obligation for public participation in leasing decisions.

BLM also requests public comment on certain aspects of the conservation lease proposal. Our answers are interposed below:

Is the term “conservation lease” the best term for this tool?

Given the rule’s broad definition of conservation, the importance of active restoration efforts, and the potential for recreation access and improvements in leased areas, a broader term may be desirable.

What is the appropriate default duration for conservation leases?

While we do not express an opinion on the appropriate default term, leases should be constrained temporally to reflect the purposes of the lease and its contemplated activities.

What is the appropriate valuation process for the rent of the conservation lease?

The BLM asks for comment regarding the calculation/determination of rent for conservation leases which are regulated by 43 C.F.R. 2920.6 and 2920.8. Under those regulations, the BLM must charge a rent of at least fair market value. The BLM asks specifically, “Would existing methods for land valuation provide valid results? Would lands with valuable alternative land uses be prohibitively expensive for conservation use? Should the BLM incorporate a public benefit component into the rent calculation to account for the benefits of ecosystem services?”

The BLM should incorporate a “public benefit” component into the rent calculation of a conservation lease. Proper valuation of recreational use activities as a public benefit would appropriately “offset” the rent of a CL. Other agencies, such as the USDA, have considered this issue within the context of preservation or restoration of lands. Soil conservation/restoration projects, farmland protection easements, and wetland easements have acknowledged a “social value” as a dimension that must be considered in relation to partial interests in land. Similarly, BLM should consider a “public benefit” component when considering conservation lease rents as a factor in determining the fair market value of the property. Public recreational use of the conservation lease, whether through trail use (hiking, biking, bird watching, for example), land feature use (such as river running or rock climbing), or scenic value should be considered as valuable use activities. Understanding that these nonmarket or social uses may be more difficult to value as compared to the value of something such as grazing, the BLM could consider a wide range of values associated with specific recreational activities to more accurately portray the recreational value of the lease. When the public can enjoy recreational activities on a conservation lease property, the public recreational value can offset the underlying cost of that conservation lease.

Should the rule constrain which lands are available for conservation leasing? For example, should conservation leases be issued only in areas identified as eligible for conservation leasing in an RMP or areas the BLM has identified (either in an RMP or otherwise) as priority areas for ecosystem restoration or wildlife habitat?

Yes. Given the importance of public process around conservation leasing, it is important that, in addition to specific public notice and comment opportunities for specific leases, BLM consider the appropriateness of conservation leasing during the RMP development process or through RMP amendments.

Should the rule clarify what actions conservation leases may allow?

The rule should state that actions on the landscape performed by the conservation lessee must be in accordance with lease terms and limited to actions advancing the purpose and need for the conservation lease and opportunities for sustainable recreation activity within the lease area.

Should conservation leases be limited to protecting or restoring specific resources, such as wildlife habitat, public water supply watersheds, or cultural resources?

Conservation leases should also be permissible for protecting and enhancing recreation and supporting values, particularly where they are intended to function as mitigation for damage to recreation values or resources.

§ 6102.5 Management actions for ecosystem resilience.

The outdoor recreation community strongly supports the steps outlined in § 6102.5 to promote ecosystem resilience. We particularly support the direction to respect and incorporate Indigenous knowledge into management actions. Additionally, we appreciate the direction to collect high-quality available relevant data. The outdoor recreation community is often, if not always, the best source of information regarding recreational use of public lands. Outdoor Alliance maintains the most comprehensive geospatial dataset related to recreational resources on public lands, and our organizations and broader community are eager to partner with BLM to support the use of high-quality data in agency decision-making.

§ 6102.5–1 Mitigation.

The outdoor recreation community supports BLM’s intention to adhere to the mitigation hierarchy and require mitigation for resource impacts. We understand it to be BLM’s intention to apply compensatory mitigation requirements to unavoidable impacts to recreation resources—including undeveloped landscapes open to recreation—but believe the rule could be improved by making that understanding more explicit, both in the rule and in subsequent guidance. To that end, we support amending § 6102.5–1(b) to state:

(b) Authorized officers shall, to the maximum extent possible, require mitigation to address adverse impacts to important, scarce, or sensitive resources, *including values associated with recreation opportunities.*

Where compensatory mitigation is required for impacts to recreation resources, we also believe it essential that the details of that mitigation be subject to public process. High-quality outdoor recreation opportunities are each fundamentally unique; a given resource, once lost, is impossible to fully re-create, and the public has an important role in weighing what might provide an acceptable offset for a given loss. Additionally, local communities and other stakeholders are particularly situated to articulate community desires and needs related to recreation improvements. BLM should clarify that mitigation project details must be included with particularity in decision documents.

Subpart 6103—Tools for Achieving Ecosystem Resilience

§ 6103.1 Fundamentals of land health; § 6103.1–1 Land health standards and guidelines.

Our organizations strongly support the requirement that land use plan components support maintenance of or improvement towards land health standards. In particular, we greatly appreciate and support the emphasis on water quality and water quantity and flow considerations. Water quality and the timing and extent of runoff are of critical importance for water-based recreation. BLM manages some of the most outstanding paddling opportunities in the country and the world,

including roughly 8 percent of the nation’s streams and rivers and 81 designated Wild and Scenic rivers totaling nearly 2,700 miles. Ensuring the protection of these resources is of paramount importance to our community.

BLM should require the Wild and Scenic eligible river determinations be current and complete, identifying recreational values where applicable. The rule should clarify BLM’s long-standing authority under section 202 of FLPMA and Section 5(d)(1) of the Wild and Scenic Rivers Act to establish new eligible Wild and Scenic rivers through land management planning, provide protective management for streams found eligible, and clarify the limited scope of conducting suitability determinations.

§ 6103.2 Inventory, assessment, and monitoring

Our organizations strongly support requirements to inventory, assess, and monitor the condition of public lands and waters. As noted above, Outdoor Alliance maintains a robust data set of recreation resources on public lands, and our organizations are motivated to assist in providing information to support informed decision-making.

* * *

Our organizations are premised on the principle that outdoor recreation and conservation can be complementary. Recreationists come to know and appreciate the outdoors and, through that experience, grow in understanding of the natural world and become advocates for its protection and stewardship. We greatly appreciate and strongly support BLM’s efforts to more sustainably manage our public lands and waters. We believe that by more holistically integrating recreation into the proposed rule, BLM can improve the lives of Americans and deliver sustainable and durable results for the environment on which we all depend. We look forward to working with you towards the rule’s finalization and implementation.



Best regards,

A handwritten signature in black ink, appearing to read "Louis Geltman".

Louis Geltman
Policy Director
Outdoor Alliance

A handwritten signature in black ink, appearing to read "Shoren Brown".

Shoren Brown
Vice President, Public Affairs
The Conservation Alliance

A handwritten signature in black ink, appearing to read "Rich Harper".

Rich Harper
Director of Government Affairs
Outdoor Industry Association



Our Organizations

Outdoor Alliance is a coalition of ten member-based organizations representing the human powered outdoor recreation community. The coalition includes Access Fund, American Canoe Association, American Whitewater, International Mountain Bicycling Association, Winter Wildlands Alliance, The Mountaineers, the American Alpine Club, the Mazamas, Colorado Mountain Club, and Surfrider Foundation and represents the interests of the millions of Americans who climb, paddle, mountain bike, backcountry ski and snowshoe, and enjoy coastal recreation on our nation's public lands, waters, and snowscapes.

The Conservation Alliance is an organization of like-minded businesses whose collective contributions support grassroots environmental organizations and their efforts to protect wild places where outdoor enthusiasts recreate. Alliance funds have played a key role in protecting rivers, trails, wildlands and climbing areas. Membership in the Alliance is open to all companies who care about protecting our most threatened wild places for habitat and outdoor recreation. Since its inception in 1989, The Conservation Alliance has contributed more than \$21 million, helped to protect more than 51 million acres of wildlands; protect 3,107 miles of rivers; stop or remove 34 dams; designate five marine reserves; and purchase 14 climbing areas. For complete information on The Conservation Alliance, see www.conservationalliance.com.

Outdoor Industry Association (OIA) is the national trade association for the outdoor industry and is the title sponsor of Outdoor Retailer, the largest outdoor products tradeshow in North America. OIA serves over 1,300 manufacturers, suppliers, and retailers through a focus on international trade and public lands and recreation policy, sustainable business innovation and outdoor participation.