

June 20, 2023

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

Dear Director Stone-Manning,

On behalf of the PeopleForBikes Coalition, we are writing to provide feedback on the proposed Public Lands Rule with the Bureau of Land Management (BLM).

The PeopleForBikes Coalition is the sole trade association for U.S. manufacturers, suppliers, and distributors of bicycle products, including electric bicycles. Our 335 members represent companies that produce goods in every segment of the bicycle market, from high-end competition bicycles to affordable kids' bikes. Our members produce the full range of components, parts, and accessories used for bicycling, as well as bicycles and electric bicycles. We also house a nonprofit foundation that speaks for 1.5 million grassroots bicycle advocates and enthusiasts across the United States.

PeopleForBikes' overall mission is to make America the best place in the world to ride a bike by advancing good policy, safe products, improved infrastructure, wider participation, and rider education. We work with both the industry and local, state, regional, and federal partners to meet the growing demand for safe and accessible trail networks across the United States.

PeopleForBikes supports the adoption of regulations that put watersheds, cultural resources and landscapes, wildlife habitat, and outdoor recreation interests on equal footing with other land use priorities to safeguard our public lands from the consequences of climate change while ensuring their health and accessibility for future generations. Out of an abundance of caution, we urge the BLM to address several uncertainties in the proposal to ensure the potential for recreation on our public lands is not limited by an imbalanced rule.

Recreation and tourism on BLM lands contribute \$11.4 billion to local, often rural communities and the overall national economy.¹ On the 245 million acres that BLM oversees, year-round recreational opportunities, including biking, hiking, snowshoeing, skiing, and wildlife viewing, entice more than 80 million recreation visits annually.

According to the Bureau of Economic Analysis (BEA), outdoor recreation overall is one of the fastest-growing sectors of the economy, contributing \$862 billion (1.9%) to the United States' gross domestic product (GDP) in 2021. In addition, the BEA estimates that bicycling added \$3.28 billion to

¹ Bureau of Land Management, "[Outdoor adventure seekers on public lands generate economic benefits](#)" (Feb. 23, 2023)

the GDP in 2021, and even more telling is that from 2020 to 2021, the outdoor recreation economy grew more than three times (nearly 19%) faster than the overall U.S. economy.²

As defined in the Federal Land Policy and Management Act (FLPMA) of 1976 (43 U.S.C. §§1701 et seq.), BLM responsibilities include recreation, grazing, timber, watershed, wildlife and fish habitat, and conservation. The newly proposed Public Lands Rule would add "conservation" to the agency's mandate of multiple uses of public lands, which is defined as maintaining resilient, functioning ecosystems by protecting or restoring natural habitats and ecological functions.

PeopleForBikes supports the conservation efforts needed to slow the effects of climate change, which could alter or prohibit current and future generations from enjoying the benefits of mountain biking and other forms of outdoor recreation on public lands.

With climate change increasingly affecting the nation's public lands and the growing importance of these spaces for recreation and ecosystem health, we believe the proposed rule would help protect abundant and well-connected wildlife habitat, expansive recreational access, as well as tourism- and recreation-related revenue for local economies. PeopleForBikes believes conservation and outdoor recreation are intricately linked and are compatible with conservation use for several reasons.

- Recreation paired with conservation supports the health and vitality of outdoor spaces and contributes to ecosystem services such as clean air and water as well as long-term access to beautiful spaces for everyone to enjoy.
- Recreation is conservation, as well-built and maintained outdoor recreation infrastructure, such as mountain bike trails, is perhaps our best conservation tool because it helps to protect sensitive ecosystems and conserve the surrounding land.
- Recreation allows more people to enjoy the outdoors, which in turn promotes sustainable behavior for a lifetime. We know from medical science that being outdoors is good for your physical and mental health,³ but research has also increasingly found that it can be good for the outdoors as well.⁴ In fact, increasing emotional affinity towards nature motivates behaviors that protect nature. So, as more people enjoy the outdoors, the more we are building a community of people committed to protecting public lands.
- Recreation in tandem with conservation preserves the spaces in which we love to recreate, as outdoor recreation requires public lands and space for trails and outdoor amenities for people and wildlife to enjoy together.

In addition to our support of conservation and recreation, PeopleForBikes also has several concerns with some of the language in the proposed rule, as there are several uncertainties on how the new rule would affect recreation access on BLM-managed lands, now and in the future. Please find below

² Headwaters Economics, "[The Outdoor Recreation Economy by State](#)" (March 2023)

³ Appalachian Mountain Club, "[How Being Outdoors can Relieve Stress and Anxiety](#)" (March 10 2021)

⁴ Larson, Usher, and Chapmom, "[Surfers as Environmental Stewards: Understanding Place-protecting Behavior at Cape Hatteras National Seashore](#)" (Apr 10, 2017)

PeopleForBike's comments and concerns regarding the specific language in the proposed Public Land Rule.

- **Section 6103.1-1—Land Health Standards and Guidelines**

Proposed § 6103.1-1 would instruct authorized officers to implement land health standards and guidelines that conform to the fundamentals of land health across all lands and program areas. This includes reviewing land health standards and guidelines during the land use planning process and developing new or revising existing land health standards and guidelines as necessary, and periodically reviewing land health standards and guidelines in conjunction with regular land use plan evaluations. Until the authorized officer has an opportunity to review and update land health standards and guidelines through land use planning processes, § 6103.1-1(a)(1) of the proposed rule would direct authorized officers to apply existing land health standards and guidelines, including those previously established under subpart 4180 of the agency's grazing regulations (fundamentals of rangeland health), across all lands and program areas.

- To achieve this goal, the proposed rule would extend land health standards and guidelines—currently limited to only federal livestock grazing allotments—to the more than 245 million acres of public lands managed by BLM. These same land-health standards have never been applied to non-grazing uses of public lands, and they would now apply to recreation lands and trails under this rule. PeopleForBikes is concerned that these land health standards will create access issues for current trails where mountain bikes, electric bicycles, and bike riders are already allowed and will cause significant hurdles or even bans on new recreation infrastructure to meet guidelines that have never been used on recreation lands. The current BLM Travel Management Process (TMP), which abides by the laws defined in the National Environmental Protection Act, is currently sufficient for protecting ecosystem health when authorizing or redesignating recreational areas, including mountain bike and electric mountain bike trails. The TMP already poses a significant hurdle for local mountain bike and trail advocate groups to navigate, even when there is a clear community need for new trails to be built or upgrades to be completed. Therefore we are concerned these new standards will only create more gridlock and lock out reasonable recreation requests without meaningfully contributing to the health of the landscape or helping to meet climate change mitigation goals.

- **Section 6102.4—Conservation Leasing**

Section 302(b) of FLPMA, 43 U.S.C. 1732(b), grants the Secretary authority to regulate through appropriate instruments the use, occupancy, and development of the public lands. As the U.S. Court of Appeals for the Tenth Circuit has recognized, the authority granted in section 302(b) is considerably broader than the authority granted in subject-specific provisions of FLPMA. Greater Yellowstone Coal. v. Tidwell, 572 F.3d 1115, 1126-27 (10th Cir. 2009). Under that broad authority, the proposed rule would provide a framework for the

BLM to issue conservation leases on public lands for the purpose of pursuing ecosystem resilience through mitigation and restoration. The BLM will determine whether a conservation lease is an appropriate mechanism based on the context of each proposed conservation use and application, not necessarily as a specific allocation in a land use plan. Conservation leases could be issued to any qualified individual, business, non-governmental organization, or Tribal government.

- The proposed rule clarifies that “conservation” is a separate, designated land use under the FLPMA, effectively putting conservation on par but not above other uses, such as recreation and grazing. As part of the proposed rule, the current language establishes a framework for the BLM to issue conservation leases on public lands for the purpose of pursuing ecosystem resilience through “restoration or land enhancement” or “mitigation.” Under this framework, conservation leases would be time-limited and allow groups or companies to purchase conservation leases to mitigate project impacts or conduct restoration on public lands. PeopleForBikes is concerned that these “conservation leases” could effectively lock out other land uses for an unknown amount of time, especially recreation which is both complementary and intricately linked to conservation. Recreation could be excluded from future conservation leases under the guise of “land enhancement” for several years, as the proposed rule gives no direction on how conservation would interact with the other uses. Additionally, the current language does not state whether the BLM could temporarily close sections of land for some types of recreational users and not others (for example, trails being closed to electric mountain bikes but not hikers after bikes have been authorized due to a new conservation lease). Currently, the process for how these decisions would be made and the process behind balancing these equally weighted land uses is unclear.

How such decisions will be made, by whom, and what criteria will be used to gauge land use allowance under conservation leases should be specifically addressed.

PeopleForBikes supports having better definitions for what is compatible with conservation use under these leases, what actions conservation leases would allow, and a transparent process for allowing current and future recreation access under conservation leases. We would support conservation leases that would not override valid existing rights, privileges, or preclude other subsequent authorizations that are compatible with conservation use.

- **Section 6102.4—Conservation Leasing**

Proposed § 6102.4(b) and (c) would set forth the application process for acquiring a conservation lease. Applicants would be required to submit detailed information regarding the proposed conservation use, anticipated impacts and costs, conformance with BLM plans, programs and policies, and the schedule for any restoration activities. The authorized officer

would be able to require additional information such as environmental data and proof that the applicant has the technical and financial capability to perform the conservation activities. Once a conservation lease is issued, § 6102.4(a)(4) would preclude the BLM, subject to valid existing rights and applicable law, from authorizing other uses of the leased lands that are inconsistent with the authorized conservation use. Section 6102.4(a)(5) clarifies that the rule itself should not be interpreted to exclude public access to leased lands for casual use of such lands, although the purposes of a lease may require that limitations to public access be put in place in a given instance (for example, temporarily limiting public access to newly restored areas).

- The proposed rule states that “it should not be interpreted” to exclude the public from accessing leased public lands for recreation. However, the next sentence states that BLM lands could be closed to noncommercial recreational activities within the conservation lease area.

Within conversation leases, more details and clarity are needed on the criteria and public process for noncommercial activity closures, especially the duration of such closures. Additionally, more transparency is needed on what activities, including recreation, would not be permitted under conservation leases for habitat improvements and restoration, and under what specific conditions those limitations would be imposed. Without these additional details, there are too many unknowns for us to comment on and it is hard to know how this proposed ruling will affect recreation access, including new projects and projects that have been granted through a prior public process.

- **Subpart 1610—Resource Management Planning**

- Section 1610.7-2—Designation of Areas of Critical Environmental Concern**

The proposed rule includes changes to the land use planning regulations to emphasize the role of ACECs as the principal designation for public lands where special management attention is required to protect important natural, cultural, and scenic resources, and to protect against natural hazards. It would also emphasize the requirement that the BLM give priority to the identification, evaluation, and designation of ACECs during the planning process as required by FLPMA and would provide additional clarity and direction for complying with this statutory requirement. The proposed rule would codify in regulation procedures for considering and designating potential ACECs that are currently only partially described in regulation and partially described in agency policy.

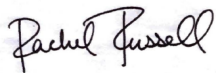
- ACECs are the primary designation for public lands that require special management activities to conserve an ecological or cultural resource. Special management provisions are developed during the preparation of, or amendments to, long-term, multi-stakeholder Resource Management Plans. The proposed framework includes provisions that prioritize the identification, evaluation, and designation of ACECs.

Unfortunately, although other recreation uses such as hiking and equestrians are found to be compatible with ACECs designation, mountain biking and electric bicycles have been excluded from this designation. Therefore we would not support expanding ACECs to remove access for mountain bikers and cyclists on existing trails where access is already permitted. Regarding the revision of existing ACECs regulations and how different administrations would apply this rule, we are concerned that the possibility of varying interpretations depending on Administrations would create inconsistencies for local communities and trail organizations.

PeopleForBikes supports the adoption of regulations that put watersheds, cultural resources and landscapes, wildlife habitat, and outdoor recreation interests on equal footing with other land use priorities, to help safeguard our public lands from the impacts of climate change for future generations. However, there are uncertainties that should be addressed before moving forward with a final rule, specifically to ensure all recreational uses which are compatible with conservation efforts, including mountain biking and electric mountain bikes, are placed on equal footing and not excluded as a valid and beneficial use of public lands.

Thank you for your consideration of our comments. We welcome the opportunity to provide further information on our comments and concerns, including support for continued access for recreation, cyclists, and mountain bikers on BLM public lands. We appreciate the chance to share our resources and knowledge.

Sincerely,



Rachel Fussell
eMTB Policy & Program Manager
PeopleForBikes Coalition
rachel@peopleforbikes.org