



June 27, 2023

Bureau of Land Management (BLM)  
U.S. Department of Interior  
Tracy Stone-Manning, Director  
1849 C Street, NW  
Washington, DC 20240

**re: Conservation and Landscape Health – Proposed Rule. RIN 1004-AE92**  
**Document ID: BLM-2023-0001-0001**

Dear Director Stone-Manning,

The International Mountain Bicycling Association (IMBA) appreciates the opportunity to submit comments concerning the Bureau of Land Management (BLM) Proposed Rule- Conservation and Landscape Health RIN 1004-AE92. We appreciate the valuable and thorough public meetings held both virtually and in person. We attended both formats as did numerous IMBA members and leaders of affiliate organizations in their respective locations around the country. We also appreciated having direct conversations with BLM Leadership and via a webinar format with the Outdoor Alliance where we could ask detailed questions and express concerns and hear BLM leadership feedback. Lastly, we appreciate the extended deadline.

Since our founding in 1988, the issue of conservation and landscape health has mattered deeply to IMBA and our 40,000 members as the quality of mountain biking experiences on BLM lands is predicated on well-managed healthy natural landscapes that are available for public access and experiences. In all the above conversations, the common theme was that this Rule is complimentary with recreation and that recreation will not be directly curtailed. One BLM staff member explained Conservation Leases as, “*Conservation Leases would generally preserve public access for casual uses like recreation*”. We are encouraged by these reassurances but much more detail is needed to ensure this through implementation.

The BLM is to be commended for taking a creative approach to addressing resource concerns and aiming to restore degraded landscapes. It’s also commendable to seek ways to protect those landscapes that are currently in good health. IMBA supports these high-level goals and

wishes to work with the BLM and others to help achieve them within the appropriate scope of our mission. Our mission is predicated on public land access for recreation.

Our comments below are organized by issue themes within the Proposed Rule and contain recommendations for the Final Rule.

### **Recreation = Conservation**

Unlike other principal uses under the Federal Land Policy and Management Act (FLPMA), sustainable outdoor recreation— like mountain biking— is non-consumptive and uniquely compatible with conservation. Trail-based activities like mountain biking are driven by, and dependent upon, the opportunity to interact with the unique features of well-protected and managed natural landscapes.

Demand for recreational access is the greatest resource we have for conservation.

The BLM is the largest land management agency in the U.S., managing 1/10th of America's land base (or some 245 million acres) and the BLM is host to hundreds of miles of [some of the best mountain biking trails in the world](#) from [Virginia](#) to [Colorado](#), [Utah](#), [Oregon](#) and [California](#), and numerous other western states. The BLM is also host to a large and growing number of [eMTB trails](#) which is providing continued and new outdoor recreation opportunities for millions of Americans. E-bikes are getting people out of sedentary automobiles and onto bicycles allowing them much needed physical activity to experience natural wonders of public lands around the country. Recently enacted “Vehicle Free Days” within certain national parks are a hit as bicyclists take to the parks in a totally different manner. [SmokyMountainNews.com](#) reports that 84% of visitors provided supportive comments of this day-long vehicular closure, with 42% requesting more vehicle-free opportunities. Now Cades Cove has vehicle-free Wednesdays, and litter has been reduced by more than 50%. This is just one simple example that demonstrates the value of bicycling as an appropriate alternative to visiting and truly experiencing our public lands while also having tangible environmental benefits.

For many years IMBA has worked closely with the BLM. The BLM have been champions of mountain bike access in rural communities throughout the west, which can transform the economies of the towns for the better. For example, together the BLM and IMBA are [“Connecting with Communities”](#) through a national partnership, and IMBA helped the BLM develop the [Guide to Quality Trail Opportunities \(GQTE\)](#) used by managers for trail development across the country. From a relationship and mission perspective, the BLM is a highly important land management agency for mountain bikers to support and engage with. Commenting on this Proposed Rule is no exception. We hope the BLM will accept these comments in the constructive spirit they are intended.

Public trail systems like those provided for by BLM field offices have a direct correlation with public health and wealth. [“It pays for small towns to invest in trail systems”](#) is a recent article title on UtahBusiness.com that speaks to this. This article delves into the value of accessible lands

and how human health and wealth is connected to public access to trails. Trails bring value to public lands and the communities they serve. The economic value this generates translates directly to conservation value.

While minimizing human impact and restoring damaged landscapes are important aspects of environmental protection, it is equally important to recognize how responsible and sustainable recreational use can also support the conservation efforts the BLM seeks. See the text box below for more insight into this.

**Specifically, recreational access, such as mountain biking trails, can contribute to the BLMs goals for elevating conservation across BLM landscapes in several ways:**

- **Stewardship and Education:** Mountain biking trails can serve as educational tools, providing opportunities for interpretive signage, guided tours, and organized events. These initiatives can raise awareness about the importance of environmental conservation, promote responsible outdoor practices, and educate visitors about the ecosystems and wildlife they encounter. By fostering a sense of stewardship, public access encourages individuals to actively contribute to the protection of the environment.
- **Conservation Awareness:** Public access to mountain biking trails increases people's exposure to natural landscapes, fostering a sense of appreciation and connection to the environment. This is passed along generation to generation by experiencing the beauty and diversity of these areas firsthand. From this, individuals are more likely to develop a desire to protect and preserve them.
- **Resource Allocation and Management:** Developing designated mountain biking trails can help concentrate recreational activity in specific and appropriate areas, reducing the potential for environmental damage caused by uncontrolled access and preserving intact landscapes and species or resources of concern. By carefully planning and managing these trails, land managers can direct visitor traffic away from sensitive habitats, water sources, and cultural sites, minimizing the ecological impact making management of ACECs more effective.
- **Economic Value:** Mountain biking trails and public access to BLM lands can have significant and sustained economic benefits (yield) for local communities. Visitors who come to enjoy these recreational activities contribute to the local economy by spending money on accommodations, dining, equipment rentals, and other related services. This economic value can incentivize communities and governments to invest in greater environmental protection measures and sustainable land management practices and/or helps provide an economy based on more sustainable uses and less reliant on boom and bust prone models that are intensive and resource consumptive.
- **Collaboration and Partnerships:** Public access to mountain biking trails can foster collaboration between land managers, IMBA local mountain bike user groups, and conservation organizations that better meet the goals of the Proposed Rule. By working together, these stakeholders can develop and implement the sustainable land use practices, conduct the research, and engage in the habitat restoration efforts set forth by the Proposed Rule. The involvement of diverse groups can lead to more effective and supported management strategies and an overall better balance that meets the environmental needs of the field office. We share in the vision of the BLM articulated in the BLM's "[Connecting with Communities](#)" strategy which states:  
*"Vision: By increasing and improving collaboration with community service providers, the BLM will help communities produce greater well-being and socioeconomic health and will **deliver outstanding recreation experiences to visitors while sustaining the distinctive character of public lands recreation settings.**"*  
*(emphasis added)*

Well-managed recreation becomes a means to wise management, stewardship and landscape conservation. These actions must be purposeful to help promote responsible recreation and

teach balance, which leads to better stewardship of our natural resources. The BLM is at its best when balanced management meets many goals. This Rule could help achieve that balance and return it in places where balance has been lost. 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.

However, there are powerful opinions and influences that may seek to leverage the details of this Rule in the belief the BLM must limit diversity of use to achieve balance. This could jeopardize the outcomes and it is where our concerns lie. IMBA is concerned with ensuring the accessibility of sustainable recreation activities. We do not want to see public access to public lands constrained beyond, or in the absence of, conservation necessity (or what is needed to protect the recreation experience).

With population growth, development, and increasing demand (including recreation) causing challenges and unsustainable resource impacts, it is IMBA's desire that the Proposed Rule will lead to a finer filter to feed land management decisions through without blocking appropriate access for the American public. This finer filter must screen out impacts of overuse, damaging activities and poorly located activities; while continuing to meet the economic and public health needs of local communities who are reliant on public land access. This is no easy task. More specialized tools in the toolbox can help this fine-tuning if crafted carefully and used appropriately. We look forward to continuing to work with the BLM throughout this journey. Without recreational access, public lands have no value to the majority of Americans. Access is also devalued if natural resources are in poor condition during visitation. A balance is needed.

**Recommendation:**

The Final Rule must do a better job integrating and clarifying that trail-based recreation is and continues to be compatible with conservation. Trail-based recreation can be specifically included within and as a complementary component to intact landscapes, conservation leases, and Areas of Critical Environmental Concern (ACEC) where appropriate, as a tool to better protect resource values and achieve desired future conditions. There needs to be clear intent in the Rule regarding the role and compatibility of sustainable recreation, and specifically mountain biking, due to the BLM defining the activity as mechanized.

**Overall Rulemaking Process**

The Proposed Rule is far too vague and undefined in its current form. If the BLM is asking general questions such as how to name new programs, what program duration and terms should be, what areas should be eligible, what actions should be allowed, and many more questions; this indicates the BLM has not fully developed the proposed rule. What the BLM ultimately incorporates in the final rule, after considering public comments, will be completely unknown to the public. This is an inappropriate process. This reiterates the need for the BLM to take these public comments into consideration and develop a final draft proposed rule or

supplemental draft for comment. While we understand that timing is important and delay is not ideal, the BLM has stated that this is a once-in-a-generation conservation rulemaking opportunity. Therefore the BLM should ensure it gets this right. Oppositional lawsuits and legislative blocking will delay it to a greater extent and if the public does not support the outcome, that will erode public trust.

The proposed rule should have clarified the full range of actions being presented under the proposed rule so that the public can comment on them rather than answer the questions the BLM has posed. Having the next iteration of the rule be a final rule is an improper way to handle this comment period. The public will not have the opportunity to view and provide feedback on what others may have presented and how the BLM incorporated it, which could lead to unnecessary lawsuits and a poorly considered Rule. The clarification of a supplemental Draft Rule would ensure transparency and predictability for the public and help avoid misunderstandings or misinterpretations of the framework.

**Recommendation:**

1. The BLM should provide the public with the next iteration of a proposed rule—a supplemental draft or final draft—which incorporates the public comment from this period.
2. We recommend the BLM err on the side of extra public involvement.

**Current BLM tools**

**Question:**

How could the BLM better employ current tools and regulations to achieve much the same desired outcomes without this additional bureaucratic rulemaking process and the programs it establishes?

According to the BLM, the BLM is responsible for 263 Wilderness areas and 487 wilderness study areas (WSA) in the western states and Alaska, which equates to over 10 million Wilderness acres across 10 states and more than 11 million more acres under WSA management. WSAs were created as a result of direction from Congress in 1976 for the BLM to evaluate all of its land at that time for the presence of wilderness characteristics, and the identified areas became today's WSAs. It's important to note that these WSAs were studied more than 40 years ago and have been placed under a high level of protection since, or they have been released back to multiple use after congressional evaluation, or have been designated Wilderness by Congress. This inventory was performed well before BLM became the recreational destination of today, and before the dramatic increase in resource extraction of the last three decades. Therefore, arguably, lands were less impacted and more pristine at the time of review and those qualities were appropriately protected through those efforts. Other special designations like Wilderness, National Monuments, and Wilderness Study Areas along with other massive protective designation like the 17 National Conservation Areas (NCAs) encompassing 3.8 million acres, serve as protective designations determined in National Environmental Policy Act (NEPA) planning and/or by Congress and the President. The three

aforementioned designations are the most protective designations for BLM lands available. ACECs provide administrative protections for specifically targeted resource values. A host of other prescriptive management allocations like Special Recreation Management Areas and Extensive Recreation Management Areas help the BLM tailor management actions to protect the values and desired character of the lands. More granular site-specific actions responsive to conditions or resource needs such as seasonal closures; temporary and emergency closure orders; travel management access designations; mode-of-travel allocations and restrictions; permittee lease stipulations; landscape character inventories; and many other nuanced options, all serve to provide the BLM a variety of diverse tools to manage the land to ensure resource protection and sustainability. Balancing all this is a tall order but the BLM has no shortage of tools to employ.

Consequently, the BLM has, as it states in the Rule, “[ample authority and direction](#)” through FLPMA to protect natural resources and achieve ecosystem goals on BLM public lands. Section 102(a)(8) of FLPMA states that it is the policy of the United States that “*public lands be managed in a manner that will protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values; that, where appropriate, will preserve and protect certain public lands in their natural condition; that will provide food and habitat for fish and wildlife and domestic animals; and that will provide for outdoor recreation and human occupancy and use*” ([43 U.S.C. 1701\(a\)\(8\)](#)).” Furthermore, while the BLM might not have existing regulations that promote conservation across all resources, existing BLM policy and guidance already encourage agency managers to implement conservation and ecosystem management across its programs (*BLM Manual* § 6500, 6840, 5000, and 1740). No new rule is necessary to do that.

According to the BLM’s “Economic and Threshold Analysis For Proposed Conservation and Landscape Health Rule,” the “proposed rule is not Economically Significant” because it does not meet any of the four listed Economically Significant criteria. While we will take the BLM’s word for the expertise that goes into determining this, economically significant costs are not the only metric to judge the rule upon when it comes to the feasibility of the new Rule. The historic staffing shortages continue for the BLM and will likely not be solved soon. There is a burden on staff to implement new requirements in planning that this Rule creates. Those burdens must be weighed against current demands.

IMBA would like to see these existing tools used more effectively if needed, and budgets more thoughtfully and efficiently applied, before new programs are created that will require more staff time and resources to enact and implement.

**Recommendation:**

1. According to the Federal Register Rulemaking process, the BLM must demonstrate the need for the Rulemaking and that the Rule will garner the intended outcomes or the Rule is invalid. The Proposed Rule needs to be more clear why this rulemaking is the necessary solution and more importantly why

current regulations are not sufficient in achieving this despite the “ample authority and direction”.

2. What barriers stand in the way of using the existing tools? How will the new framework proposed in the Rule resolve barrier, considering current staff and budget shortfalls.
3. Please provide greater detail on why existing tools are failing the BLM.

### **Protection as a Land “Use” under Conservation**

Conservation, as a management practice, is a critical and necessary component of multiple use and sustained yield. We agree with the BLM that the Proposed Rule “promotes” conservation and it should. Conservation practices applied to conserve resources should be weaved throughout all management decisions. Recreationists, like mountain bikers, rely on resource conservation to provide the world-class experiences that public lands can offer. Without quality recreational experiences, enabled by wise management decisions, access is effectively lost as no one would return to the location and would cease caring for it.

However, the proposed rule seeks to broaden the term conservation and “defines that term to include both protection and restoration activities.” We do not agree that protection should be included as a “use” on par with other uses, as it’s inherently defined by and focused on limiting activities in most instances. We believe that conservation, in the context of the Rule, should be action-based in the way that the BLM includes the actions of restoration activities being defined under conservation. We question the appropriateness of broadening the term to specifically include “protection” and by way of it to make it a “use” on par with other uses. Generally, the definitions and uses of the term ‘conservation’ in the Proposed Rule are management-based actions employed to achieve a landscape or resource goal and desired outcome as exemplified below, and we believe it should be limited to that.

- “Conservation means maintaining” [maintaining here is an action verb]
- “BLM policy and guidance ...encourage programs to implement conservation” [action]
- The proposed rule would “identify the practices that ensure conservation actions are effective in building resilient public lands.” [action]

As shown above, the term "conservation," in the context of the Proposed Rule, refers to physical actions taken by the BLM to safeguard natural resources, ecosystems, and the overall well-being of the environment. It is associated with activities aimed at restoring the environment and ensuring its resilience and sustainability for future generations. We support that.

The Proposed Rule seeks to justify that FLPMA reveals conservation is a use by drawing a connection to the idea that conservation “is the use of some land for less than all its resources.” We assume this to mean that the use, in this context, is intended to be a “lack of use.” We find it hard to support the inclusion of protection being considered a use but employed as a lack of use. This multiple use mandate was not intended to have a lack of use be considered a use in and of itself. T It may seem like semantics, but using less is different than not using at all.



Inherent to the concept of “protection” is the idea that certain areas or characteristics of the environment should be preserved in their natural state, free from significant human intervention or impact. Protection emphasizes the “lack of use” in the context of this Proposed Rule and therefore is not appropriately a physical “use on par with all other uses.” The process of “protecting” the environment often involves limiting or minimizing activities and therefore is counter to the notion that protection, as defined under the term conservation, is a use. This is what has given the public significant consternation as to the intent of this Proposed Rule. This is why IMBA is concerned the Rule could be misinterpreted and used as a preemptive tool to close off access and instead establish the “use” as protection of, and/or in its current state, from use. IMBA believes this could be applied to conservation leases, to intact landscapes, and to ACECs all under the guise of conservation. While the BLM has made claims this would generally not be the intended outcome for casual uses like recreation, the Proposed Rule could lead to unfounded closures or restrictions based on oversimplification and interpretation, or through litigious challenges or special interest political pressure.

When society speaks of land protection, it implies a conscious decision to avoid or limit certain uses of land or natural resources. Generally, land protection involves designating protected areas, establishing conservation zones, implementing regulations to limit pollution, or promoting practices that minimize environmental harm. These are not “uses” but rather restrictions put in place to limit use. Therefore, the BLM should not consider land protection as a “use” but rather as a management decision applied to various uses as tools to ensure a certain outcome. The use of conservation in the context of the rule should be restorative action-based.

The Proposed Rule makes it clear in the [following section](#) that lack of use will be utilized as the primary protection tool:

***“Protection” is a critical component of conservation, alongside restoration, and describes acts or processes to preserve resources and keep them safe from degradation, damage, or destruction. The proposed rule (§ 6101.2) would include a stated objective to promote the protection of intact landscapes on public lands, as a critical means to achieve ecosystem resilience. (emphasis added)***

### **Why does this matter for IMBA?**

IMBA supports conservation and land protection. Our comments here do not oppose land protection. We work to integrate protection in everything we do and our mission relies upon it. IMBA supports a variety of appropriate land protection measures, laws, legislation, and designations. That said, we are acutely aware that some other entities see mountain biking as incompatible with conservation and land protection and wildlife habitat. Therefore, a regulatory framework such as what’s contained in the Proposed Rule must not lead to greater access restrictions or increased access hurdles simply based on misinterpretation or misapplication of the terms and framework established. Our objection, instead, is the inclusion of the term “protection” under the definition of conservation as a “use,” not an objection of resource protection in general. Newly defining a “use” under FLPMA in part by terms that embody an inherent “lack of use” becomes a threat to access because while human activities and land use are undoubtedly intertwined with environmental impacts and must be both mitigated and



minimized, the term "protection" implies a deliberate effort to limit or avoid certain uses of land and resources. Having the inaction of protection on par with all other uses will lead not to the balancing of uses but rather to efforts to unbalance them by over-limiting use or specific uses in order to artificially protect from harm. The use will then be to prevent use. This will place use prevention into direct competition with other legitimate and appropriate uses.

**Our recommendation:**

1. Instead, the Final Rule should seek to ensure that conservation is an actionable management practice to weave throughout all management decisions via mitigation and restorative activities, and the outcome of these actions is land and important resource protection. Conservation as a use in the context of the rule should be about restoration and improvement activities that can often coexist alongside other uses as intended by FLPMA and the multiple use mandate. Effective protection is inherently less capable of coexisting with other uses. Protection relies upon lack of use.
2. **Mountain biking is an appropriate use of public lands. It does not need to be allowed everywhere to achieve that, but under FLPMA's multiple use mandate, mountain biking use can be compatible with resource conservation and intact landscapes.**

**Areas of Critical Environmental Concern (ACECs)**

The Proposed Rule intends to prioritize ACECs and intends to increase the designation of them. In November of 2022, the BLM issued **IM 2023-013** titled "*Clarification and Interim Guidance for Consideration of Areas of Critical Environmental Concern Designations in Resource Management Plans and Amendments.*" In this document, the BLM mentions its ongoing revision to the ACEC Manual 1613. However, the recent revision efforts appear to be incomplete and in fact [the status of these revisions to Manual Section 1613 are unclear as the Proposed Rule states that the BLM may also revise the manual and develop a handbook](#). We understand the regulatory hierarchy is Law/Rule/Manual/Handbook/Guidance and we understand that the ACEC manual 1613 was created in 1988. However, since the IM "*revises and clarifies existing policy and procedures for the designation of ACECs*" why has the BLM not afforded this IM the time necessary for those processes to bear fruit? Why does this Proposed Rule seek to codify similar procedures into regulation before analyzing the effectiveness of the IM in achieving the same intended outcome?

**Why is IMBA concerned with ACECs?**

In their current rate of designation and the relative small size of ACECs, IMBA has not been overly concerned by ACECs to date. However, most ACECs typically do not allow access for mountain biking and generally mountain biking access is considered to be off-the-table during planning for ACEC management. While IMBA supports justifiable restrictions on access when necessary to address a particular environmental, cultural, or species concern in a specific area, we do not support that restriction being applied as a default setting to mountain biking only or as

a result of institutional inertia applied to all or the majority of ACECs in order to simplify management complexities. We don't believe that is the BLM's desire in accordance with the rule's intention, but we ask that particular clarifications be made in the final Rule (see below) to ensure understanding is shared with BLM local staff who will be tasked with implementing the rule. The public should also be clear on the intent throughout the Rule so future nominations and comments are in sync.

We can find only minimal ACEC overlap with mountain biking trails.

For example, [based on our analysis of the 83 ACECs in Colorado](#), we can identify only two ACECs with mountain biking:

1. the Glenwood Springs Debris Hazard Flow ACEC which has trail access but has also hampered trail planning in locations not in immediate threat of debris.
2. the expansive Gunnison Sage Grouse ACEC which contains segments of trail.

In each of these ACECs, our local mountain bike advocates have experienced increasing difficulty with securing trail access even when avoiding resource concerns or hazards. The institutional inertia to prohibit bike access to ACECs has been readily apparent and often an unnecessary obstacle. There is no known mountain bike trail access in the rest of the 81 ACECs in Colorado. Other states are likely similar.

If the BLM seeks to expand ACECs via this Rule, we must see that ACECs regulations and guidance clarify that trail-based recreation is appropriate and can be a positive management tool employed specifically to achieve the goals of various ACECs by focusing use onto planned zones and linear features.

**Our recommendation:**

1. The BLM has a proven process to identify and designate ACECs that includes the fail-safe option of public nomination. The BLM should better allow for and evaluate the increased emphasis on ACECs via the IM and provide handbook and guidance tools for staff before creating new regulatory burdens.
2. The BLM should evaluate the outcomes and intent of the IM to achieve better outcomes for ACECs before embarking upon a process to reform the program. We believe the evaluation of the lesser administrative changes would aid in informing what is flawed or needed first before proposing this Rulemaking on ACECs.
3. Regardless, the BLM should issue clarification that ACECs can be compatible with sustainable recreation and that BLM field offices should consider what recreational offerings can be managed appropriately within its specific ACECs and any future ACECs. Planned and authorized access will likely yield better results at protecting critical resources. ACEC regulations and guidance must clarify that trail-based recreation is appropriate and can be a positive management tool to achieve the goals of various ACECs by focusing use onto planned zones and linear features.

## **Conservation Leases**

The Bureau of Land Management's new Conservation Lease program is a novel concept for protecting our natural resources. By incentivizing private entities to help restore landscapes or mitigate further degradation, the BLM could ensure the long-term health of our ecosystems and wildlife. Steering restoration and mitigation dollars onto public lands (instead of off them) will serve to help address resource concerns on BLM lands. However, the Conservation Lease program is too vague and undefined in the current proposal. This reiterates the need for the BLM to take these public comments into consideration and develop a final draft proposed rule or provide a supplemental draft for public comment.

Below are **our recommendations** on the [BLM questions posed in the Proposed Rule](#).

**Note:** The inclusion of [these questions](#) is indicative of the prescoping nature of this proposed rule. This rule needs a supplemental draft to follow this prescoping version before a final is issued.

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

IMBA believes the Lease program should be renamed the “Restoration Lease” program and focus its efforts on restorative actions. Leases should not be used to prevent action or prevent use (see comments above). Leases should only be issued to entities for projects that result in direct improved conditions. Leases should not be issued to entities who plan only to protect existing conditions by preventing action/use. That is a slippery slope to privatization.

### **What is the appropriate default duration for conservation leases?**

The Lease program should strike a balance between providing sufficient time for effective durable conservation actions and allowing flexibility for adaptive management based on changing conditions. With our recommendation of a “Restoration Lease,” we believe restorative actions vary in length and should be flexible to meet those needs. [A longer-term lease might be suitable for certain types of restoration initiatives that require more extended timeframes, such as habitat restoration projects that need time to take durable hold.](#) However, shorter-term leases may be more appropriate for other purposes, allowing for periodic reassessment and adaptive management. [The proposed rule offers up a maximum duration of 10 years.](#)

We believe it is better to follow the 5-year term that other BLM orders and IMs follow. This initial term could be coupled with a one-time authorized extension of a second 5-year term if circumstances warrant and applicant meets acceptable evaluation and accountability. This would force a mid-term evaluation. The default duration should be as short as possible (1-5 years) to accommodate mitigation terms that are minimal and short-lived. The shortest default duration will afford quick turnaround when possible returning the land to full productive use as necessary and appropriate. Lastly, a default preference for shorter terms will minimize public impact.

### **Should the rule constrain which lands are available for conservation leasing?**

There can be benefits to constraining restoration leases to specific areas identified as eligible for leasing, and to priority areas for ecosystem restoration and wildlife habitat. There are economic and environmental benefits to inventorying the lands to inform this approach. This approach helps focus resources and efforts on areas where the greatest restoration value or need exists. However, it is crucial to strike a balance between concentrating efforts in priority areas and ensuring restoration opportunities are available in other suitable locations to meet a diversity of benefits. The identification and selection of lands for leasing should involve scientific assessments, stakeholder engagement, and consideration of ecological, cultural, and economic factors as well as assess the overall impact to public access, if any. Generally, it may be best for leases to be prioritized first for lands that have been previously impacted and/or that are already under a focused conservation designation, especially if those designations have not yielded the intended outcomes or their restrictive designations have actually led to undesired outcomes.

### **Should the rule clarify what actions conservation leases may allow?**

The proposed rule regarding conservation leases should have clarified the range of actions permitted under such leases so that the public can comment accordingly. This clarification would ensure transparency and predictability for lessees and helps avoid misunderstandings or misinterpretations of the lease terms. Having the next iteration of the Rule be a final Rule is an improper way to handle this comment period. The public will not have the opportunity to see what others may have presented and how the BLM incorporated them, and that could lead to unnecessary lawsuits. The appropriate permitted actions could include wildlife habitat or other sensitive resource restoration, and targeted recreational infrastructure improvements. The permitted actions in “restoration” leases should also study how compatible recreational trail development, as a conservation restoration tool, can help focus access in appropriate places or replace access lost elsewhere as a restorative action.

### **Should the rule expressly authorize the use of conservation leases to generate carbon offset credits?**

Authorizing the use of leases to generate carbon offset credits can be an effective incentive for public and private industry to engage in restoration activities that contribute to carbon sequestration and climate mitigation. Carbon offset credits can provide additional financial resources for restoration initiatives while helping to address necessary emissions. However, pursuant to [FLPMA Section 302\(b\)](#)/43 U.S.C. §1732(b), the BLM must refrain from authorizing any activity that causes unnecessary or undue degradation (UUD). A carbon credit program must not allow for inappropriate authorization of impactful activities on adjacent or other public lands due to the availability or applicability to compensatory mitigation.

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

Leases should be used to actively restore specific resources such as wildlife habitat and ESA species, public water supply watersheds, biologically important flora species, or cultural resources. **Leases should not be used as a preemptive protection tool.** By targeting specific resources, restoration leases can help address critical restoration needs and rehabilitate

important ecological or cultural values. We understand that the proposed lease program would have a monetary value associated. The purpose of a monetary value should be to have the appropriate funds to perform the necessary restoration. If only protection were the goal, then the funds would not have a valid purpose and would go to the treasury. This is not an ideal mechanism for conservation as it would be exceedingly difficult to track these funds to ensure they are applied to the appropriate outcomes they were collected and intended for.

### **Compensatory Mitigation (CM)**

Compensatory Mitigation (CM) has been a complicated topic in recent years. [The current BLM Mitigation Policy](#) lays out the history of the political game of ping pong on this subject in the *background section of IM 2021-046*. We are not experts in this subject matter but we offer the following feedback to the BLM in consideration of this topic as it pertains to mountain biking and IMBA's mission.

IMBA is hearing more regularly from BLM managers outside of the Proposed Rulemaking that recreational trail access proposals may soon require compensatory mitigation. IMBA does not support these claims. IMBA acknowledges that all public land uses, including recreation, have impacts. IMBA seeks first and foremost to avoid and minimize resource impacts in our conceptual planning and trail designs so that trails are located appropriately and in a sustainable manner. IMBA takes the impacts of recreation seriously and seeks numerous ways to mitigate them through stewardship, policy, legislation, funding, and regulations. Numerous examples exist where IMBA has led the charge to increase federal funding for public lands, expand land protection designations locally and nationally, streamline stewardship opportunities, and defend conservation regulations. The trail systems IMBA and other professional trail builders design and build are public trail systems on public lands. As a 501c3 non-profit organization, we do not profit from these systems. We do not manage these trail systems after they are built and opened to the public. IMBA is merely an advocacy and education organization that partners with federal agencies to help them meet their goals. BLM trail systems are managed by BLM staff. Public volunteers often steward the trails with BLM permission and help make adjustments but the trails remain in the public domain under federal agency management.

For this purpose, planning and managing recreational trail systems can be broken down into three phases. 1. Trail Design and Construction, and 2. Rehabilitation and Restoration, and 3. Trail Management/Maintenance. These separate phases matter when it comes to the idea of compensatory mitigation.

1. Trail Design and Construction- The construction phase is where the temporary landscape impacts are most evident. Excavation, grading, and installation of trail materials like gravel or non native soils are necessary to create a sustainable and functional trail. Heavy machinery might be used to clear vegetation, shape the trail, and create proper drainage. Professional machine-built trails are the cost effective method of building sustainable trails. This stage can and does cause intentional disturbances to the land through vegetation removal and alteration of the terrain. This is a temporary construction process when an approved trail system is being built. Additional mitigation

of impacts, such as CM, is generally not necessary as these are anticipated and planned for in the approval process and are already addressed.

2. Once the trail construction is complete, rehabilitation and restoration efforts are undertaken to mitigate the temporary impacts. This may involve reseeding disturbed areas, planting native vegetation, brushing, and stabilizing slopes to prevent erosion. Rehabilitation aims to restore the landscape as closely as possible to its pre-construction condition, allowing it to recover and adapt over time. This is not compensatory. This is simply best practices in the trail building profession.
3. Trail Management and Long-term Maintenance: Trails require ongoing maintenance to ensure their safety, functionality, and ecological integrity. Once a trail or trail system is open to the public it receives public use. Often new professionally and purpose built trails are popular and receive ample use. The use has tread impacts that naturally must be maintained. This maintenance includes activities like regular trail inspections, erosion control, vegetation management, and addressing any issues that arise. Proper initial design, construction, and maintenance practices contribute to minimizing long-term landscape impacts and preserving the natural character of the trail. This becomes the responsibility of the land manager but is often achieved in collaboration with local partners and volunteers. Local, state and federal grants help the agency and its partners achieve this.

The original contractor for trail building is generally responsible for phase 1 and 2 and the land manager becomes responsible for phase 3.

While the trail planning and design process can cause temporary landscape impacts as described above, it is essential to recognize that these impacts are usually localized and can be mitigated through proper planning, design, and post-construction rehabilitation efforts. The goal is to strike a balance between providing recreational opportunities and minimizing the long-term ecological impacts, ensuring that the trail integrates harmoniously with the surrounding landscape.

The Proposed Rule states that [“Any conservation lease issued for the purposes of providing compensatory mitigation would require a term commensurate with the impact it is offsetting.”](#)

[“Similarly, the BLM may require compensatory mitigation for residual impacts that cannot be avoided. A conservation lease could be used to put compensatory mitigation dollars to work restoring compromised landscapes.”](#)

In light of these statements and the unrelated staff statements to IMBA about future compensatory mitigation for trail building in general, the idea that compensatory mitigation could be required for a term commensurate with the impacts is concerning to IMBA for a number of reasons. A term commensurate with the impacts could be in perpetuity. Could a non-profit be held responsible for this?

We have serious unanswered questions as it pertains to the CM concept in the Proposed Rule.



1. Does the BLM intend to potentially require or compel CM for trail projects?
2. If so, what phase would such a CM be addressing? The Construction phase or the public use phase?
3. Could a non-profit be held responsible for this?
4. How would the impacts be assessed? Is it the temporary construction phase or the ongoing impacts associated with the public use?
5. What term could realistically and appropriately be applied to the ongoing public use?

Again, IMBA is a 501c3 organization and does not profit directly from trail use on public lands. Our work is funded by donations and our professional trail building teams are often commissioned by agencies with federal, state, and local funding and grants. The cost of CMs can be significant if terms are for ongoing impacts. Our grant and funding mechanisms already often include a mitigation component.

As stated above, impacts from phase one are generally planned for and mitigated immediately after and are part of the temporary trail construction process. The long term impacts of use are not under the responsibility of IMBA or the trail builder as these are trails in the public domain and managed by the agency with legal jurisdiction. They are addressed in the planning process and are in compliance with the management plan.

Therefore, we are confused and concerned about these recent claims that IMBA or other mountain bike advocacy organizations would have to bear the burden of CM for future trail projects. We do not support this concept and we hope that this was stated in error.

What we do support is the use of CMs for recreational benefit or offsetting off-site impacts to recreational assets. We believe CMs can and should be utilized as an opportunity *for* outdoor recreation to serve as compensation for any place where there are or have been direct or indirect impacts to recreation from other industrial uses like solar, oil and gas, mining, etc. Examples would be both physical impacts such as closures, as well as experiential impacts, viewsheds, auditory, air quality, etc. It is here where CMs might serve an important purpose in properly addressing any unavoidable impacts to recreational assets, systems and experiences.

**Our recommendations:**

1. The BLM Rule must be clear that CMs are not intended to be a required stipulation for non-profit organizations or trail builders constructing planned and approved public trail systems and networks, as these measures are already being accounted for in the planning and construction process.
2. The BLM Rule must be clear that CMs are not intended to be a required stipulation to address the ongoing use of trails and trail systems or other authorized recreational uses.
3. The BLM Rule should add language and clarification to the Rule that allows for CM to be utilized to benefit and replace recreational opportunities that are lost or impacted elsewhere.

## **Intact Landscapes**

In theory, better management of natural resources and the focus on preserving intact landscapes should improve land health and sustainability, affording the BLM flexibility in allowing continued diversity in public use including recreation like trail-based mountain biking. Quality mountain biking experiences rely heavily on scenic value for that quality experience. It is for this reason that IMBA supports the concept of protecting intact landscapes. However, we have concerns for how this will be employed.

What acreage size range is the appropriate scale for managing an Intact Landscape? Not adequately defining this detail could lead to unnecessary restrictions.

The proposed Rule gives us a clue on the lower limits in size, "[large enough to maintain native biological diversity](#)." But what is the maximum size of an intact landscape? If restrictions on intact landscapes are applied at a massive scale, it could lead to unnecessary restrictions to other uses across large percentages of some field offices. Leaving this open to interpretations will lead to extreme application. IMBA's recommendation would be to define the upper limits of what an intact landscape should be as no larger than is needed to allow for effective management without undue restrictions or access. IMBA also believes that the characteristics that define or determine a landscape to be intact must be concise and consistent. Otherwise what is considered intact will be loosely applied and the size will balloon to extreme acreages. The BLM must define some sideboards for maximum size in the final Rule, because the larger a potential "intact landscape" is identified to be will likely demonstrate that current management is actually more than effective and it would not warrant greater protocols or restrictions.

The Proposed Rule defines "Intact Landscape" as meaning

*["an unfragmented ecosystem that is free of local conditions that could permanently or significantly disrupt, impair, or degrade the landscape's structure or ecosystem resilience, and that is large enough to maintain native biological diversity, including viable populations of wide-ranging species. Intact landscapes have high conservation value, provide critical ecosystem functions, and support ecosystem resilience."](#)*

This definition is extremely open to interpretation.

For instance:

What are local conditions? Are these anthropogenic (human caused/influenced) conditions or could they be natural conditions taking place at a local level that may be temporal and/or cyclic for whatever reason?

What will determine the baseline for identifying and evaluating these intact landscape conditions?

What purpose does a specific Intact Landscape need to serve? If the purpose and need of an intact landscape is ill-defined, landscape features and characteristics that may be locally, regionally or globally common and unthreatened could be overly identified as needing protection when they may not warrant it.

Can intact landscapes be considered critical for providing high value recreational experiences? Intact landscapes are important for the recreation community as they serve to provide the ideal backdrop or the ideal nature experience that many people seek.

We pose these questions because oftentimes BLM lands are inventoried or assessed for their character (such as Wilderness Character) during the Recreation Management planning (RMP) process. The identified character (let's use lands with wilderness character for example) often exists alongside or despite human influence and presence that would not otherwise be allowed in Designated Wilderness. This cohabitation of landscape character with various levels of human presence suggests that with wise management (as Proposed Rule purports), they can coexist. But oftentimes, managers and the public approach the issue myopically with the belief that to retain the identified character (especially lands with wilderness character), the pre-existing human presence must be restricted, limited or eliminated. This is a false narrative.

The BLM, as a multiple-use mandated agency, must look at not just the desired conditions and how to protect them in a silo, but also at what uses have coexisted successfully alongside these desired conditions and what management actions (active or passive) have made this possible. We also believe the BLM needs to balance these assessments with a recreational audit for what else the land parcel in question may offer or support that would be an important asset to the public, like recreational access. This can help answer the question of what uses can continue in order to continue to maintain the existing character. As simple as this sounds, it is often made far more complicated by overreacting and overarching advocacy proposals. Because of this, this Proposed Rule gives us significant trepidation as to how it will be implemented. IMBA believes firmly that with wise management, trail-based mountain biking can coexist and help foster the conservation of natural resources and can in fact help aid and manage intact landscapes to maintain their ecosystem health and resilience by corralling the public. See the text box below for more insight into this.

**Recreational trails play a significant role in helping to corral people in intact landscapes and other ecologically appropriate places by providing designated corridors and pathways for human movement and minimizing the impact on surrounding natural areas.**

1. **Defined Routes:** Trails establish clearly marked paths that guide people through ecologically sensitive areas, ensuring that visitors stay on designated routes. Trails can discourage people from wandering off and potentially damaging fragile ecosystems or disturbing wildlife habitats.
2. **Concentrated Traffic:** Trails concentrate human foot traffic preventing the spread of impact across a wider region. This concentration helps protect sensitive vegetation and prevents erosion caused by uncontrolled and random travel.
3. **Erosion Control:** Trails are designed with erosion control measures, such as proper grading, drainage systems, and the use of durable surfacing materials. These features minimize soil erosion and sedimentation, protecting waterways and maintaining the ecological balance of the surrounding area.
4. **Habitat preservation:** By keeping visitors on designated trails, natural habitats and wildlife can be preserved. Preventing people from venturing into undesignated areas reduces the disturbance to animals, protects nesting sites, and minimizes the trampling of sensitive vegetation.
5. **Education and interpretation:** Trails often include educational signage, interpretive materials, and guided tours to inform visitors about the ecological significance of the area. This helps raise awareness and encourages responsible behavior, fostering a greater understanding and appreciation for the natural environment.
6. **Resource allocation:** By concentrating human activity along trails, land managers can allocate resources more effectively. They can focus on maintaining and monitoring specific areas, ensuring that limited resources are concentrated where they are most needed.

#### **Recommendation:**

1. The Rule must better define the sideboards for what defines an Intact Landscapes' size, scale, and purpose.
2. IMBA's recommendation would be to define the upper limits of what an intact landscape should be as no larger than is needed to allow for effective management without undue restrictions or access.
3. The rule must require that the inventory of Intact Landscapes include a recreation audit to help factor in and determine the value proposition and risks of managing Intact Landscapes differently or the same. Merely identifying these landscapes is not enough in determining their fate.
4. The Rule should be clear that Intact Landscapes need to serve a purpose and need that warrants special management considerations.
5. The Rule needs to clarify that recreation can be compatible within intact landscapes and can in fact serve an important role and contribute to retaining desired values through wise, adaptive management practices.

#### **Conclusion**

The BLM Proposed Rule is a commendable effort to help ensure our natural resources are managed for the ecological benefit of today's and future generations. As always, it's the details of how that is defined and carried out that matters. More must be done to better define the Rule and its sideboards. Another supplemental draft is needed to review how the BLM incorporates public feedback. IMBA supports conservation and the BLM and we hope the comments we have

provided offer valuable insight and considerations for how the recreation public is viewing this important rule.

Please let us know if we can provide any additional insight. Thank you for the opportunity to comment.

Sincerely,

International Mountain Bicycling Association