

November 10, 2025

Principal Deputy Director Bill Groffy
U.S. Department of the Interior
Director (630), Bureau of Land Management
1849 C St. NW, Room 5646
Washington, DC 20240

Submitted via the Federal eRulemaking Portal: <https://www.regulations.gov>

Re: Rescission of Conservation and Landscape Health Rule, RIN 1004-AF03 (90 Fed. Reg. 43990)

Dear Principal Deputy Director Groffy:

Clean Air Task Force (“CATF”) respectfully submits this letter in response to the Bureau of Land Management’s (“BLM”) proposed Rescission of the Conservation and Landscape Health Rule (“proposed rescission” or “proposal”), 90 Fed. Reg. 43990 (Sept. 11, 2025).

CATF is a nonprofit organization dedicated to advancing the policy and technology changes necessary to achieve a zero-emissions high-energy planet at an affordable cost. With more than 25 years of internationally recognized expertise on environmental policy and law, and a commitment to exploring all potential solutions, CATF is a pragmatic, non-ideological advocacy group with the bold ideas needed to address climate change and air pollution. CATF has offices in Boston, Washington, D.C., and Brussels, with staff working remotely around the world.

BLM should withdraw the proposed rescission. As CATF expressed in comments in support of the original proposal, the Conservation and Landscape Health Rule would improve management of public lands, including through approaches that will promote ecosystem resilience, provide carbon storage opportunities, and facilitate energy development and electric transmission on public lands.¹ Rescinding this rule would weaken BLM’s ability to carry out its statutory mandates to manage for multiple use, sustained yield, and degradation prevention.

As in CATF’s original comments, this letter focuses on the restoration and mitigation leases and the fundamentals of landscape health aspects of the rule.² Restoration and mitigation leases provide a clear framework and a valuable mechanism to restore landscapes, satisfy mitigation requirements, and promote ecosystem resilience on public lands. On landscape health, applying the fundamentals of land health to land outside of that allocated to grazing will ensure that non-renewable resources are developed on the land best suited for such development and that lands with conservation value that outweighs resource development value will be used according to fair market principles. The proposed rescission, however, misinterprets BLM’s

¹ See Comments of Clean Air Task Force, Conservation and Landscape Health, Docket ID BLM-2023-0001-153646, <https://www.regulations.gov/comment/BLM-2023-0001-153646>.

² See *id.*

statutory authority, fails to meet the requirements for an agency change-of-position, and ignores how the rule creates efficiencies for energy permitting. It should be withdrawn.

I. The Proposed Rescission misinterprets BLM’s statutory mandates.

Contrary to the statements in the proposed rescission, the Conservation and Landscape Health Rule is consistent with and furthers BLM’s statutory mandates in the Federal Land Policy and Management Act (“FLPMA”).³ FLPMA’s mandates are forward-looking and require consideration of future needs, renewable resources, and prevention of degradation. The Conservation and Landscape Health Rule, and specifically its provisions on mitigation leases and fundamentals of land health, implement these statutory mandates by creating a clear framework and providing valuable tools for management of public lands consistent with historical BLM practice. The proposal’s misinterpretation of these statutory mandates therefore does not provide a valid reason to rescind the rule.

FLPMA directs BLM to manage federal public lands and resources under principles of multiple use and sustained yield.⁴ Multiple use is defined in FLPMA as “management of the public lands and their various resource values so that they are utilized in the combination that will best meet the present and future needs of the American people.”⁵ This mandate includes “the use of some land for less than all of the resources” and “a combination of balanced and diverse resource uses that takes into account the long-term needs of future generations for renewable and nonrenewable resources, including, but not limited to, recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific and historical values.”⁶ Sustained yield is defined as “the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public lands consistent with multiple use.”⁷ FLPMA also requires BLM, in “managing the public lands,” to “by regulation or otherwise, take any action necessary to prevent unnecessary or undue degradation of the lands.”⁸

The Department of the Interior has long recognized that conservation is a part of FLPMA’s multiple use and sustained yield framework. BLM’s authority is rooted in Congress’s plenary authority over public lands, the expansive nature of which the Supreme Court confirmed over a century ago.⁹ Congress has properly delegated general management power over public lands to BLM through multiple statutes, including FLPMA, that the Supreme Court has upheld.¹⁰ Of particular relevance here, courts have explained that managing for multiple uses and sustained yield can also “often, if not always, fulfill FLPMA’s requirement that [BLM] prevent environmental degradation because the former principles already require the Bureau to balance potentially degrading uses—e.g., mineral extraction, grazing, or timber harvesting—with the

³ See 90 Fed. Reg. at 43991 (mischaracterizing rule as undermining FLPMA).

⁴ 43 U.S.C. §§ 1701(a)(7), 1732(a).

⁵ *Id.* § 1702(c).

⁶ *Id.*

⁷ *Id.* § 1702(h).

⁸ *Id.* § 1732(b).

⁹ See *Camfield v. United States*, 167 U.S. 518, 526 (1897).

¹⁰ See, e.g., *Kleppe v. New Mexico*, 426 U.S. 529 (1976); *Boesche v. Udall*, 373 U.S. 472 (1963).

conservation of the natural environment.”¹¹ This statutory requirement to manage public lands to prevent unnecessary or undue degradation has been called the “heart of FLPMA.”¹²

Together, FLPMA’s three mandates for multiple use, sustained yield, and anti-degradation of public lands embody a conservation purpose for BLM’s management of public lands and provide authority for requiring mitigation for public lands projects. Although FLPMA’s “obligations are distinct, they are interrelated and highly correlated.”¹³ Indeed, BLM has long required mitigation or exercised its authority under FLPMA to manage public lands for conservation purposes. Several departmental and agency-level policies and procedures have implemented this approach. For instance, BLM’s interim mitigation policy issued in 2005 cited the “unnecessary or undue degradation” mandate in FLPMA as providing “authority to require mitigation in the oil, gas, geothermal and energy right-of-way programs.”¹⁴

Examples abound of mitigation measures for specific BLM-authorized projects, including in the years immediately after the enactment of FLPMA. By one agency estimate, BLM incorporated compensatory mitigation into at least 16 decisions authorizing projects between 1980 and 2000, and another 52 times between 2000 and 2008.¹⁵ For example, soon after FLPMA’s enactment, the 1980 California Desert Conservation Area plan connected mitigation measures to the unnecessary or undue degradation standard,¹⁶ as did BLM’s mining regulations issued that same year.¹⁷ As one legal commentator has observed, compensatory mitigation “comfortably fits within the authority that FLPMA delegates to the BLM.”¹⁸ Indeed, mitigation is a critical tool that allows BLM to permit energy and infrastructure projects while maintaining its anti-degradation mandate under FLPMA.

Contrary to the proposed rescission’s discussion of the statute, the best reading of FLPMA includes conservation and compensatory mitigation in the statutory mission and authority of the BLM. It is the province of the courts to “exercise independent judgment in determining the meaning of statutory provisions.”¹⁹ In doing so, agency “interpretations issued

¹¹ *Theodore Roosevelt Conservation P’ship v. Salazar*, 661 F.3d 66, 76 (D.C. Cir. 2011).

¹² *S. Fork Band v. Dep’t of the Interior*, No. 08-cv-616, 2010 WL 3419181, at *8 (D. Nev. Aug. 25, 2010); *Min. Pol’y Ctr. v. Norton*, 292 F. Supp. 2d 30, 33 (D.D.C. 2003).

¹³ *Theodore Roosevelt Conservation P’ship v. Salazar*, 661 F.3d 66, 76 (D.C. Cir. 2011).

¹⁴ BLM, IM 2005-069, Interim Offsite Compensatory Mitigation for Oil, Gas, Geothermal and Energy Rights-of-Way Authorizations at A-18-3 (Feb. 1, 2005),

https://eplanning.blm.gov/public_projects/lup/63197/78289/88534/Appendix18_Compensation_Mitigation.pdf. This policy was superseded in 2008. See BLM, IM 2008-204, Offsite Mitigation (Oct. 3, 2008), <https://www.blm.gov/policy/im-2008-204>.

¹⁵ Justin R. Pidot, *Compensatory Mitigation and Public Lands*, 61 B.C. L. Rev. 1045, 1062 (2020) (citing Memorandum from Michael D. Nedd, Acting Director of the Bureau of Land Mgmt., Re: BLM Authorized Projects with Compensatory Mitigation, at Attachment 1 (Aug. 25, 2017)).

¹⁶ See BLM, The California Desert Conservation Area Plan 1980 as amended at 11, https://eplanning.blm.gov/public_projects/lup/66949/82080/96344/CDCA_Plan.pdf.

¹⁷ Surface Management of Public Lands Under U.S. Mining Laws, 45 Fed. Reg. 78902, 78910 (Nov. 26, 1980) (to be codified at 43 C.F.R. pt. 3800). In 2001, the Department of the Interior Solicitor explained in an opinion that the “definition of ‘unnecessary or undue degradation’ in the 1980 regulations most closely approximates a contemporaneous interpretation of FLPMA.” Department of the Interior, Solicitor, M-37007, Surface Management Provisions for Hardrock Mining (Oct. 23, 2001),

<https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/M-37007.pdf>.

¹⁸ Justin R. Pidot, *Compensatory Mitigation and Public Lands*, 61 B.C. L. Rev. 1045, 1109 (2020).

¹⁹ *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 394 (2024).

contemporaneously with the statute at issue, and which have remained consistent over time, may be especially useful in determining the statute’s meaning.”²⁰ Here, the proposed repeal’s reinterpretation of FLPMA to make conservation, including compensatory mitigation, a purported a “non-use” is contrary to the statutory text and to BLM’s contemporaneous and consistent interpretation of the statute.²¹

By contrast, the mitigation lease provisions of the Conservation and Landscape Health Rule are the best reading of the statutory text. First, the rule proposed for rescission defines conservation as “the management of natural resources to promote protection and restoration.”²² “Protection,” in turn, is defined as “the act or process of conservation by maintaining the existence of resources while *preventing degradation, damage, or destruction*,” while also clarifying that it “is not synonymous with preservation and *allows for active management or other uses* consistent with multiple use and sustained yield principles.”²³ These terms are consistent with, and implement, the statutory definition of multiple use, which includes “recreation . . . , wildlife and fish, and natural scenic, scientific and historical values.”²⁴ And the statutory requirement to “take any action necessary to prevent unnecessary or undue degradation of the lands”²⁵ clearly supports both the rule’s definition of protection (and therefore of conservation) and its definition of mitigation as avoiding, minimizing, rectifying, and reducing or eliminating over time the impacts of actions.²⁶ Mitigation leases also crystalize the use of compensatory mitigation, as BLM has contemporaneously interpreted FLPMA shortly after its enactment and on numerous occasions since then to require it.

Because the Conservation and Landscape Health Rule is consistent with the best reading of FLPMA’s three mandates for multiple use, sustained yield, and anti-degradation of public lands, the novel and unsupported interpretation of the statute in the rescission is not a valid reason for rescinding the rule.

II. BLM has failed to provide a sufficient justification for its policy change.

None of the other reasons given in the proposed rescission to eliminate the mitigation lease provisions have any merit, and the proposal does not provide any valid reason to eliminate the fundamentals of landscape health provisions. When an agency is changing a policy, as here, it must—at a minimum—demonstrate awareness that it is changing position, show that there are good reasons for the new policy, and that the new policy is permissible under the statute.²⁷ Where the new policy contradicts factual findings that underlay the prior policy, the agency must provide a more detailed justification.²⁸ The proposed rescission fails to satisfy this standard and is therefore arbitrary and capricious.

²⁰ *Id.*

²¹ *Contra* 90 Fed. Reg. at 43991.

²² 43 C.F.R. § 6101.4(b).

²³ *Id.* § 6101.4(t) (emphasis added).

²⁴ 43 U.S.C. § 1702(c).

²⁵ *Id.* § 1732(b).

²⁶ 43 C.F.R. § 6101.4(n) (defining “mitigation”).

²⁷ *See F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515-16 (2009).

²⁸ *See id.*

A. None of the proposal’s reasons to rescind the mitigation lease provisions have any merit.

As supposed support for the reversal of policy on mitigation leases, BLM gives four reasons, but none provide a rational justification to eliminate the policy.

First, the proposed rescission relies on unnamed commenters for the equivocal conclusion that these leases “may preclude other uses,” which would supposedly be “contrary to the notion of multiple use.”²⁹ But as BLM previously explained, “a restoration or mitigation lease will not preclude access to or across leased areas for casual use, recreation use, research use, or other use taken pursuant to a land use authorization that is compatible with the approved restoration or mitigation use.”³⁰ The proposal does not display awareness of this prior position, much less explain why unspecified commenters on the rule had a better understanding of what uses the agency would allow than BLM itself had when it issued the final rule. Furthermore, “the use of some land for less than all of the resources” is not counter to the notion of multiple use—it is the statutory definition of multiple use.³¹

Second, the proposal alleges the leasing provisions vest “too much discretion to individual authorizing officers.”³² BLM’s skepticism of its own line officers here is both perplexing and unexplained. The mitigation leasing provisions in the Conservation and Landscape Health rule cabin the discretion of individual authorized officers, such as by requiring a sufficiently detailed plan from lease applicants “to enable authorized officers to evaluate feasibility, impacts, benefits, costs, threats to public health and safety, collaborative efforts, and conformance with BLM plans, programs, and policies, including compatibility with other uses”; and listing additional factors for authorized officers to consider when reviewing lease applications.³³ Judicial review of actions for the exercise of discretion by BLM line officers would also be presumably available under the Administrative Procedure Act.³⁴ Furthermore, the Department of the Interior has shown no difficulty in requiring additional layers of review of line officer decisions.³⁵ As a result, concerns about line officer discretion do not provide a reason to eliminate the mitigation leasing provisions.

Third, the proposal asserts that BLM has other tools, such as its statutory authority to withdraw land from certain purposes under FLPMA, to manage public lands without the involvement of third parties,³⁶ but the existence of other authorities is beside the point. Mitigation leases and withdrawals serve distinct purposes and have different implications for how parcels of public lands are managed. As BLM previously explained, “[r]estoration and

²⁹ 90 Fed. Reg. at 43991.

³⁰ Conservation Landscape Health, 89 Fed. Reg. 40308, 40322 (May 9, 2024).

³¹ See 43 U.S.C. § 1702(c).

³² 90 Fed. Reg. at 43991.

³³ See 43 C.F.R. § 6102.4(c)(1), (d).

³⁴ See 5 U.S.C. 706(2)(A).

³⁵ See, e.g., Memorandum, Deputy Chief of Staff – Policy Gregory Wischer, Department of the Interior, Departmental Review Procedures for Decisions, Actions, Consultations, and Other Undertakings Related to Wind and Solar Energy Facilities (July 15, 2025), <https://www.doi.gov/media/document/departmental-review-procedures-decisions-actions-consultations-and-other>.

³⁶ 90 Fed. Reg. at 43991 (citing 43 U.S.C. § 1714).

mitigation leases are a narrow tool which may only be issued to restore degraded landscapes or to offset impacts of other land use authorizations; they may not be used to ‘block’ development of mineral resources on lands allocated to such use in the governing Resource Management Plan.”³⁷ These leases satisfy mitigation requirements for project developers and allow for other compatible uses. In contrast, FLPMA’s withdrawal authority allows the Secretary of the Interior—not a project developer—to initiate a withdrawal—not for mitigation purposes—that explicitly prohibits certain uses.³⁸ These two land management tools have different purposes, actors, and outcomes. Furthermore, Congress explicitly authorized BLM in “managing the public lands” to “regulate, through ... leases ... the use, occupancy, and development of the public lands,”³⁹ directed that the agency “shall, by regulation ... take any action necessary to prevent unnecessary or undue degradation of the lands,”⁴⁰ and more generally directs Interior to “promulgate rules and regulations to carry out the purposes of” FLPMA.⁴¹ Congress thus intended for BLM to use its rulemaking authority as part of its land management mission, including for purposes such as those in the Conservation and Landscape Health Rule. The mitigation lease provisions complement those other authorities and carry out the congressional directive to use rulemakings to manage public lands. That Interior has other tools under FLPMA for land management is of no moment, and this portion of the proposal does not provide a good reason to eliminate those programs.

Fourth, the proposal points to another red herring when it alludes to the major questions doctrine when noting, incorrectly, that Congress “*permits* agencies to set aside land and to prevent development for preservation purposes, such as when Congress designates a Wilderness Area or a National Park.”⁴² As an initial matter, congressional designation of a wilderness area or a national park does not “permit[]” an agency to set aside land; it is instead an exercise of Congress’s constitutional authority to manage federal land⁴³ and to do so in a way that explicitly determines what management actions are allowed and prohibited.⁴⁴ But beyond that, the fact that Congress can (or has) taken a certain action is insufficient to invoke the major questions doctrine. As the Supreme Court has explained, this doctrine is limited to situations where both the “history and the breadth” of the authority asserted and the “economic and political significance” of the authority provide reason to hesitate before assuming Congress intended to bestow it.⁴⁵ Neither condition is satisfied here, nor does the proposal even argue that these conditions are present. The major questions doctrine therefore does not apply here, and the ability of Congress to protect land through its constitutional authority in other ways says nothing to limit how BLM exercises its properly delegated rulemaking authority for the exact purposes Congress directed the agency to use it for.

³⁷ 89 Fed. Reg. at 40337.

³⁸ See 43 U.S.C. § 1714.

³⁹ 43 U.S.C. § 1732(b).

⁴⁰ *Id.*

⁴¹ *Id.* § 1740.

⁴² 90 Fed. Reg. at 43991 (emphasis added).

⁴³ See *supra* Part I (discussing Congress’s authority).

⁴⁴ See, e.g., 16 U.S.C. § 1131(a) (directing administration of wilderness areas for certain purposes); 54 U.S.C. § 100101 (creating dual mandate for management of National Park System).

⁴⁵ See *West Virginia v. EPA*, 597 U.S. 697, 721 (2022) (quoting *FDA v. Brown & Williamson Tobacco Corp.*, 529 U.S. 120, 159-160 (2000)).

BLM has not provided any good reasons for rescinding the policy on mitigation leases. The proposal is therefore arbitrary and capricious and must be withdrawn.

B. The proposal fails to provide a reason to rescind the fundamentals of landscape health.

The proposal's purported reason to rescind provisions on the fundamentals of landscape health rings even more hollow. The only explanation given for rescinding the landscape health provision in its entirety is that it "often require[s] the BLM to act on a fixed or rapid timetable, interfering with previously authorized use of the public lands,"⁴⁶ but 43 C.F.R. subpart 6103 does no such thing. The timelines in those regulations include a ten-year interval for conducting land health evaluations, which are an assessment and not a management plan, and a one-year timeline after an evaluation for a documented causal factor determination if resource conditions are not achieving or making significant progress toward achieving land health standards.⁴⁷ It also requires watershed condition assessments to inform planning on a ten-year interval⁴⁸ and review of rangeland health standards for sufficiency on a ten-year interval.⁴⁹ Not only are these requirements for evaluations or assessments that do not themselves alter the uses of public lands, but the ten-year intervals are in no way "rapid" timelines. Because the proposed repeal misunderstands the very policy it would rescind, BLM has not shown an awareness that it is changing position.

Furthermore, if BLM's only concern is with the timetables for the fundamentals of landscape health provisions, it had an obligation to consider if an alternative lesser than repeal, such as a longer timetable, would be appropriate. Under basic administrative law principles, "when an agency rescinds a prior policy its reasoned analysis must consider the 'alternatives' that are 'within the ambit of the existing policy.'"⁵⁰ Here, BLM failed to consider if longer intervals or open-ended timelines that retained the landscape health goals, procedures, and assessments were viable alternatives to rescinding the regulations.

It is noteworthy that the proposal nowhere bases the proposed rescission of the fundamentals of landscape health provisions on the substance of that policy or its procedures. Nor could it. The fundamentals of landscape health were "adopted, verbatim, from the fundamentals of rangeland health" that BLM has used for decades.⁵¹ Without any substantive issue with the policy, the proposed rescission of this policy instead rests entirely on an exaggerated description of the timetables and requirements included in it. As that argument does not track the actual provisions identified for repeal, BLM has failed to provide a good reason to rescind this policy, and the proposal must be withdrawn.

⁴⁶ 90 Fed. Reg. at 43991.

⁴⁷ See 43 C.F.R. § 6103.1.2(a), (f).

⁴⁸ See *id.* § 6103.2(a).

⁴⁹ *Id.* § 6103.1(e). These standards are to be initially reviewed by 2027. See *id.*

⁵⁰ *Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 30 (2020) (quoting *Motor Vehicle Mfrs. Ass'n of the U.S. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 51 (1983)) (cleaned up).

⁵¹ 89 Fed. Reg. at 40323.

III. Mitigation leases make energy permitting more efficient.

As BLM previously explained, mitigation leases in many cases “will facilitate the development of energy on public lands by providing an avenue for developers to satisfy obligations to offset the impacts of energy development through compensatory mitigation.”⁵² This program can provide an efficient means for project proponents for energy generation or electric transmission projects to satisfy mitigation requirements. That goal is consistent with congressional and administration direction. Rescinding the mitigation lease program would, however, unnecessarily eliminate this valuable tool for energy infrastructure deployment on public lands.

BLM additionally previously explained that “new high-voltage transmission lines are vital to enhancing the western electric grid.”⁵³ And Interior has signed an interagency memorandum of understanding on electric transmission that seeks to “expedit[e] the siting, permitting, and construction of electric transmission infrastructure.”⁵⁴ BLM has also recognized the “appropriate and important use of BLM-managed lands [for] the development and operation of electrical transmission and distribution lines, gas pipelines, and other energy transmission infrastructure,” including through the designation of 117 rights-of-way energy corridors traversing over 5,000 miles to implement section 368 of the Energy Policy Act of 2005.⁵⁵ That law also directed federal agencies, including BLM, to “streamline review and permitting of transmission within corridors designated under section 503” of FLPMA as part of the section on national interest electric transmission corridors.⁵⁶ The administration has also directed Interior to eliminate delays in permitting processes for energy projects.⁵⁷

CATF’s evidence-based research on transmission has shown both the challenges facing linear infrastructure projects and the importance of efficient and clear permitting frameworks for permitting and building.⁵⁸ In particular, satisfying mitigation measures has been a problem for federally permitted transmission lines that has delayed projects, including those crossing BLM lands.⁵⁹ Mitigation leases, as well as the options of an in-lieu fee program and mitigation

⁵² 89 Fed. Reg. at 40337.

⁵³ BLM, Public Land Renewable Energy – Fiscal Year 2021 Report to Congress at 6 (Mar. 2022), [https://www.blm.gov/sites/blm.gov/files/docs/2022-04/BLM Public Land Renewable Energy FY21 Report to Congress v4 508_0.pdf](https://www.blm.gov/sites/blm.gov/files/docs/2022-04/BLM%20Public%20Land%20Renewable%20Energy%20FY21%20Report%20to%20Congress%20v4%20508%200.pdf).

⁵⁴ U.S. Dep’t of Agric. et al., Memorandum of Understanding Among the U.S. Dep’t of Agric., Dep’t of Commerce, Dep’t of Def., Dep’t of Energy, Env’t Prot. Agency, Council on Env’t Quality, Fed. Permitting Improvement Steering Council, Dep’t of the Interior, Office of Management & Budget Regarding Facilitating Federal Authorizations For Electric Transmission Facilities, at 1, 16 (2023), <https://www.energy.gov/sites/default/files/2023-05/5-04-2023%20216h%20Transmission%20MOU.pdf>.

⁵⁵ BLM, West-Wide Energy Corridor Guidebook at 3 (2020), [https://www.blm.gov/sites/default/files/docs/2020-12/BLM WestWideEnergyCorridor Guidebook.pdf](https://www.blm.gov/sites/default/files/docs/2020-12/BLM%20WestWideEnergyCorridor%20Guidebook.pdf); see also Energy Policy Act of 2005, Pub. L. No. 109-58, § 368, 119 Stat. 727 (codified at 42 U.S.C. § 15926).

⁵⁶ *Id.* § 1221, 119 Stat. 949 (codified as amended at 16 U.S.C. § 824p).

⁵⁷ See Exec. Order 14154, Unleashing American Energy, § 5(d), 90 Fed. Reg. 8353, 8355-56 (Jan. 29, 2025).

⁵⁸ See CATF & Niskanen Center, Evidence-Based Recommendations for Overcoming Barriers to Federal Transmission Permitting (Apr. 2024), <https://www.catf.us/wp-content/uploads/2024/04/evidence-based-recommendations-overcoming-barriers-federal-transmission-permitting.pdf>.

⁵⁹ See, e.g., *id.* at 22, 49-50, 69-71, 77.

banking, in the Conservation and Landscape Health Rule provide efficient and clear avenues for developers of linear infrastructure to compensate for project impacts.⁶⁰

In addition, BLM and the administration have recognized the importance of an effective and efficient permitting process for geothermal energy on public lands. As BLM has recently noted, geothermal projects “strengthen America’s energy supply and create jobs in local communities.”⁶¹ The administration has also acknowledged that geothermal energy is a priority resource for affordability and reliability.⁶² CATF’s own research has shown that permitting geothermal projects can be a “lengthy and complex process that poses a major barrier to deployment.”⁶³ Furthermore, the technical potential of geothermal energy on federal lands is substantial; according to modeling by the National Renewable Energy Laboratory, there is 130 GW of hydrothermal potential and 975 GW of enhanced geothermal systems potential on federal lands, much of it administered by the BLM.⁶⁴ Mitigation leases are a useful tool for enabling geothermal developers to efficiently move through the permitting process and therefore help realize this energy potential.

Rescinding BLM’s mitigation leasing program, including the options of in-lieu fee programs and mitigation banks, unnecessarily eliminates a tool to streamline energy permitting on public lands. BLM should therefore withdraw the proposal to rescind this program.

Conclusion

The Conservation and Landscape Health Rule provides BLM with valuable management tools to permit and deploy energy infrastructure and to manage public lands under the agency’s congressional mandate. Eliminating policies such as mitigation leasing and the fundamentals of landscape health reverses progress on effectively and efficiently permitting energy projects. In addition to this substantive policy problem, the proposal does not reflect the best reading of FLPMA or meet fundamental administrative law requirements. CATF therefore asks BLM to withdraw the proposal and instead evaluate other options to reduce barriers to energy infrastructure permitting consistent with the agency’s statutory mission.

⁶⁰ See 43 C.F.R. § 6101.4(i), (o) (defining “in-lieu fee program” and “mitigation bank”).

⁶¹ BLM, BLM greenlights geothermal and pipeline projects to bolster U.S. energy independence (Jun. 27 2025), <https://www.blm.gov/press-release/blm-greenlights-geothermal-and-pipeline-projects-bolster-us-energy-independence>.

⁶² See Exec. Order 14156, Declaring a National Energy Emergency, § 8(a), 90 Fed. Reg. 8433, 8436 (January 29, 2025).

⁶³ CATF, Unlocking California’s Geothermal Potential: A Strategic Opportunity for Clean, Firm Power, at 6 (2025), <https://www.catf.us/resource/unlocking-californias-geothermal-potential>.

⁶⁴ NREL, Land of Opportunity: Potential for Renewable Energy on Federal Lands at v (2025), <https://docs.nrel.gov/docs/fy25osti/91848.pdf>.

Respectfully submitted,

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