U.S. Department of the Interior
Director (630), Bureau of Land Management
1849 C St., N.W., Room 5646
Washington, DC 20240

Submitted via Federal eRulemaking Portal at regulations.gov in Docket ID No. BLM-2023-0001-0001

Re: Comments on BLM Proposed Federal Land Policy and Management Act of 1976 (FLPMA) Regulations on Conservation and Landscape Health, Docket ID No. BLM-2023-0001-0001

Director Stone-Manning:

The following comments are submitted by **[Name of tribe or organization]** on the Bureau of Land Management (“BLM”) Proposed Federal Land Policy and Management Act of 1976 (“FLPMA”) Regulations on Conservation and Landscape Health (“Proposed Rule”). 88 Fed. Reg. 19583-19604 (April 3, 2023). Protecting public lands by prioritizing the health and resilience of ecosystems across those lands is consistent with our fundamental values. We strongly support BLM’s efforts to ensure protection and restoration of public lands and cultural resources, sacred sites, treaty-reserved rights and other reserved rights of Indian Tribes and Indigenous Peoples. We offer the following comments for further consideration to help ensure effectiveness of the final rule.

**I. Introduction**

**[Insert name of tribe or organization here, describe interest in proposed rule.]**

**II. Background Information**

As an initial matter, we agree that BLM is authorized to promulgate this rule under FLPMA, which directs that the public lands should 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 USC § 1701(a)(8).

Federal agencies with land management responsibilities are bound by the terms of treaties with Indian tribes to protect rights and resources reserved to tribes and their members as well as protect the rights of other Indigenous Peoples such as Native Hawaiians. Under the U.S. Constitution, treaties are part of the supreme law of the land, with the same legal force and effect as federal statutes. Pursuant to this principle, and its trust relationship with federally recognized tribes, the United States has an obligation to honor the rights reserved through treaties, including rights to both on-reservation and, where applicable, off-reservation resources, and to ensure that its actions are consistent with those rights and their attendant protections.

In addition, Executive Order 13175, *Consultation and Coordination With Indian Tribal Governments*, 65 Fed. Reg. 67249 (Nov. 6, 2000), requires federal agencies to consult with potentially impacted Tribes and Native Hawaiian organizations when decisions may impact their rights and resources. Executive Order 13007, *Indian Sacred Sites*, 61 Fed. Reg. 26771 (May 24, 1996), requires each executive branch agency with statutory or administrative responsibility for the management of Federal lands to accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners and to avoid adversely affecting the physical integrity of such sacred sites. Where appropriate, agencies shall maintain the confidentiality of sacred sites.

The United Nations Declaration on the Rights of Indigenous Peoples (“UNDRIP”), to which the United States is a signatory, was adopted in 2007. UNDRIP Article 32 mandates that states consult and cooperate in good faith with Indigenous Peoples “in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.” In accordance with UNDRIP, free, prior and informed consent of Indigenous Peoples should be a requirement for project or permit decisions that would impact their resources.

Secretarial Order No. 3403, Joint Secretarial Order on Fulfilling the Trust Responsibility to Indian Tribes in the Stewardship of Federal Lands and Waters, issued by the Secretaries of Interior and Agriculture in 2021, recognizes the obligations of both agencies to manage Federal lands and waters in a manner that protects the treaty, religious, subsistence, and cultural interests of federally recognized Indian Tribes and the Native Hawaiian Community. The Order also recognizes that those agencies will benefit by incorporating Indigenous Knowledge and tribal co-management and co-stewardship into Federal land and resources management where possible.

Also in 2021, the Department of the Interior entered into the Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Tribal Treaty Rights (“Treaty Rights MOU”) and Reserved Rights and the Memorandum of Understanding Regarding Interagency Coordination and Collaboration for the Protection of Indigenous Sacred Sites (“Sacred Sites MOU”).

The Treaty Rights MOU affirms the commitment of the participating agencies to protect tribal treaty rights, reserved rights, and similar tribal rights to natural and cultural resources through early consideration of treaty and reserved rights in agency decision-making and regulatory processes, and to protect such treaty and reserved rights and to fully implement federal government treaty obligations. The Treaty Rights MOU also acknowledges that Tribes, Alaska Natives, and Native Hawaiians that do not have formal treaties may also have rights that should be considered in federal decision-making and regulatory processes.

The Sacred Sites MOU acknowledges that connection to place is essential to the spiritual practice and existence of Indigenous Peoples and that Federal land agencies are responsible for assessing and considering the potential impacts of their decisions on sacred sites and historic properties of traditional cultural and religious importance. The participating agencies recognized that consistency in policies and processes related to the protection of sacred sites, as well as collaboration and a forward-thinking approach, would be essential to ensure good stewardship of public lands and should be applied to allow rightful access and use to certain areas through Tribal co-management and co-stewardship agreements where possible (*See* Bureau of Land Management, *Co-Stewardship with Federally Recognized Indian and Alaska Native Tribes Pursuant to Secretary’s Order 3403*, PIM No. 2022-011, September 13, 2022).

The Sacred Sites MOU also acknowledges that sacred sites often occur within a larger landform or are connected through physical features or ceremonies to other sites or a larger sacred landscape, and that consideration of these broader areas and connections is necessary to better understand the context and significance of sacred sites. Sacred sites may include, but are not limited to, geological features, bodies of water, archaeological sites, burial locations, traditional cultural properties, plant communities, and stone and earth structures and may be present on tribal, public, and private lands.

In light of the obligations of Federal agencies to protect treaty rights and tribal reserved rights, the Federal trust responsibility owed to Indian Tribes, their citizens and Native Hawaiian organizations and Native Hawaiians, and the commitments made by the Department of the Interior and other participating agencies through these Orders and MOUs, we submit the following comments and seek that tribal consultation and protection of, access to, and co-management and co-stewardship of treaty rights, reserved rights and sacred sites be more fully integrated into the proposed rule.

**III. Comments on the Proposed Rule**

**A. Definitions**

i. The proposed rule defines *Intact Landscape* as “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.” As written, this definition does not consider cultural associations with landscape as part of the evaluation of a landscape’s intactness. In recognition that traditional cultural practices and uses of ecosystems by Indigenous Peoples do not disrupt, impair, or degrade a landscape’s structure or ecosystem resilience, the definition should state explicitly that an ecosystem’s support of the retention and transmission of the Indigenous Knowledge and practices of traditional communities qualifies that ecosystem as an intact landscape with high conservation value that is providing critical ecosystem functions and is supporting ecosystem resilience. BLM also could consider incorporating language from the National Register Bulletin 38 on evaluating cultural landscapes or traditional cultural places: “a geographic area, including both cultural and natural resources and the wildlife or domestic animals therein, associated with a historic event, activity, or person, or exhibiting other cultural or aesthetic values.”

ii. In order to clarify that the definition of *High-Quality Information* includes Indigenous Knowledge that should be considered alongside other information that meets the standards objectivity, utility, integrity, and quality set forth in Federal law and policy, we suggest changing the definition as follows: “Indigenous knowledge can be relevant to and may qualify as high-quality information.” ~~when that knowledge is authoritative, consensually obtained, and meets the standards for high-quality information~~.

iii. We suggest that the definition of *Indigenous Knowledge* should be modified so that it is consistent with prior Executive Orders and Proclamations and recent guidance which seek to define this term. (*See* Office of Science and Technology Policy-Council on Environmental Quality, *Memorandum on Indigenous Traditional Ecological Knowledge and Federal Decision Making*, November 15, 2021). OSTP and CEQ convened an interagency working group of more than 25 federal departments and agencies and sought and received input from Tribal Nations and Indigenous Peoples through Tribal consultation and listening sessions, and engaged with more than 1,000 individuals, organizations, and Tribal Nations (*See* Office of Science and Technology Policy-Council on Environmental Quality, *Memorandum on Guidance for Federal Departments and Agencies on Indigenous Knowledge*, November 30, 2022*.*) Thus the definition we propose below is consistent with CEQ’s understanding and application of Indigenous Knowledge and has been well-vetted.

We suggest the following definition:

“Indigenous Knowledge is a body of observations, oral and written knowledge, innovations, practices, and beliefs developed by Tribes and Indigenous Peoples through interaction and experience with the environment. It is applied to phenomena across biological, physical, social, cultural, and spiritual systems. Indigenous knowledge can be developed over millennia, continues to develop, and includes understanding based on evidence acquired through direct contact with the environment and long-term experiences, as well as extensive observations, lessons, and skills passed from generation to generation. Indigenous Knowledge is developed by Indigenous Peoples, including but not limited to, Tribal Nations, Native Americans, Alaska Natives, and Native Hawaiians. Each Tribe or Indigenous community has its own place-based body of knowledge that may overlap with that of other Tribes.

Indigenous Knowledge is based in ethical foundations often grounded in social, spiritual, cultural, and natural systems that are frequently intertwined and inseparable, offering a holistic perspective. Indigenous Knowledge is inherently heterogeneous due to the cultural, geographic, and socioeconomic differences from which it is derived, and is shaped by the Indigenous Peoples’ understanding of their history and the surrounding environment. Indigenous Knowledge is unique to each group of Indigenous Peoples and each may elect to utilize different terminology or express it in different ways. Indigenous knowledge is deeply connected to the Indigenous Peoples holding that knowledge.”

iv. We propose that BLM also include a definition of *Reserved Rights* as follows: “any rights to resources reserved or held by tribes or Indigenous Peoples, either expressly or implicitly, through treaties, statutes, executive orders, or other sources of Federal law.”

 **B.** **Areas of Critical Environmental Concern**

We support that the proposed rule seeks to clarify some aspects of the ACEC identification and management process. ACECs, if effectively implemented as FLPMA intended, have the potential to provide special management consideration for a wide array of places of tribal and cultural importance on BLM managed lands. These rules are an important step towards making ACECs an effective tool for providing special management consideration on BLM managed lands, however, we believe that these clarifications can only be effectively implemented with the creation of a nationwide ACEC program within the BLM. This program could provide support to BLM field offices that are tasked with the identification, designation, and management of ACECs while providing a nationwide perspective that could promote consistency in these practices.

In response to BLM’s request for comments regarding management provisions (pages 19593-19594, Subpart 1610), we recommend the following: (1) Management prescriptions should be developed in consultation with consulting parties including Indian tribes; (2) The RMP should fully identify and describe the minimum management practices needed to protect ACECs; (3) RMPs should use binding language when describing special management prescriptions for ACECs, rather than using conditional or future tense terms; (4) Allowed uses within ACECs should be systematically reviewed against special management prescriptions to ensure that there are no contradictions between the management prescriptions and allowed uses; (5) Special management practices should be monitored for effectiveness and reevaluated at regular intervals; (6) Consulting parties should maintain an active role in evaluating and reviewing the effectiveness of special management prescriptions on protecting ACECs.

To further support our recommendations listed above, we suggest the following specific language changes to several subsections under § 1610.7–2:

§ 1610.7–2(a) states: “An Area of Critical Environmental Concern (ACEC) designation is the principal BLM designation for public lands where special management is required to protect important natural, cultural, and scenic resources, systems, or processes, or to protect life and safety from natural hazards.” The term “values” should be added to this list as per the BLM’s expanded definition to fully capture the scope of an ACEC designation.

§ 1610.7–2(a) states: “An Area of Critical Environmental Concern (ACEC) designation is the principal BLM designation for public lands where special management is required to protect important natural, cultural, and scenic resources, systems, or processes, or to protect life and safety from natural hazards.” We are encouraged by the Department of Interior’s proposal for ACEC to be the principal designation for public lands where special management is required, particularly given the wide applicability of ACECs. However, ACEC identification, designation, and management has not consistently provided special management consideration for resources, systems, values or processes. This proposed rulemaking needs to be coupled with a revision of the section 1613 manual and a standardization of practices related to the identification, designation, and management of ACECs.

§ 1610.7–2(c)(3) states: “If nominations are received outside the planning process, interim management may be evaluated, considered, and implemented ...” This wording should be changed from “may be evaluated” to “must be evaluated.” Strengthening this language will ensure that ACECs nominated outside the RMP process are timely considered. Land use planning at the BLM is a long process. The development of RMPs is a multi-year process for individual field offices that typically occur at 15-to-20 year intervals. If the evaluation of nominated ACECs only takes place during this planning process, there may be many years or even decades when no nominated ACECs would be considered.

§ 1610.7–2(f) states: “The Field Manager must identify the boundaries of proposed ACECs to encompass the relevant and important resources, values, systems, processes, or hazards, and any areas required for the special management attention needed to provide protection for the relevant and important resources, values, systems, processes, or hazards.” This rulemaking should clarify that “the Field Manager must identify the boundaries of proposed ACECs with tribal cultural significance in consultation with Indian tribes, and tribes must be given the opportunity to identify boundaries of culturally significant ACECs through their own methodological framework.” Further, this statement should clarify that ACEC boundaries are not restricted to administrative boundaries. Given the potential of ACECs to be at a landscape-scale, this rulemaking should instruct Field Managers to determine if identified ACECs cross administrative boundaries, and if so, instruct Field Managers to coordinate the management of resources, systems, or processes that require special management consideration with adjacent land managers, including Indian tribes.

§ 1610.7–2(3) states: “The Field Manager must seek nominations for ACECs, during public scoping, from the public, State and local governments, Indian tribes, and other Federal agencies (see § 1610.2(c)) when developing new plans or revising existing plans, or when designations of ACECs are within the scope of a plan amendment.” The federal government has a trust responsibility to Indian tribes, which include the proper management of public lands. In keeping with Executive Order 13175, § 1610.7–2(3) should separately require the Field Manager to engage in government-to-government consultation with associated federally recognized tribes, “when developing new plans or revising existing plans, or when designations of ACECs are within the scope of a plan amendment.”

§ 1610.7–2(3) should also state that external ACEC nominations can be provided in any form, including being verbally transmitted during government-to-government consultation. The traditional ACEC nomination process requires extensive documentation and many tribes do not have the capacity to nominate ACECs as the process currently stands. Allowing tribes to transmit information about resources, systems, and processes that require special management consideration on BLM managed lands through multiple means will help ensure places of tribal importance located on BLM managed lands are taken into consideration during the land use planning process and may support the co-management and co-stewardship of BLM managed lands.

§ 1610.7–2(3)(i)(1) states: “Monitoring shall be performed, and inventories shall be updated at intervals appropriate to the sensitivity of the relevant and important resources, values, systems, processes, or hazards, to ensure that data are available to identify trends and emerging issues during plan evaluations.” The rule should explicitly state that monitoring of ACECs designated for their tribal cultural importance should be done in close consultation and collaboration with associated Indian tribes.

§ 1610.7–2(d)(1) states: “The area contains resources with significant historic, cultural, or scenic value; a fish or wildlife resource; a natural system or process; or a natural hazard potentially impacting life and safety.” The rule should state that resources, values, systems, and processes significant to Indian tribes have relevance as potential ACECs. The rule should also state that ACECs may be of any scope or geographic scale.

§ 1610.7–2(d)(2) states: “The resources, values, systems, processes, or hazards have substantial importance, which generally requires that they have qualities of special worth, consequence, meaning, distinctiveness, or cause for concern. Authorized officers may consider the national or local importance, subsistence value, or regional contribution of a resource, value, system, or process. Resources, values, systems, or processes may have substantial importance if they contribute to ecosystem resilience, including by protecting intact landscapes and habitat connectivity. A natural hazard can be important if it is a significant threat to human life and safety.” The rule should state that “resources, values, systems, or processes may have substantial importance if they have tribal cultural significance to Indian tribes.” The rule should note that Indian tribes are uniquely qualified to identify if resources, systems, values, or processes meet the Importance criteria, and their evaluations should hold equal standing to the evaluations of other experts.

§ 1610.7–2(d)(3)(h) states: “The approved plan shall list all designated ACECs, identify their relevant and important resources, values, systems, processes, or hazards, and include the special management attention, including mitigating measures, identified for each designated ACEC.” The identification of ACECs by Indian tribes may require the sharing of culturally sensitive information. The rule should protect this type of sensitive information about ACECs from public disclosure when such disclosure could result in a significant invasion of privacy, damage to the ACEC, or impede the use of an ACEC as a place of traditional use. This should include restricting the information provided about such ACECs within RMPs.

§ 1610.7–2(j)(1) states that an ACEC designation may be removed if: “The State Director finds that special management attention is not needed because another legally enforceable mechanism provides an equal or greater level of protection.” This section should be removed. It undermines the effectiveness of an ACEC designation if the State Director can unilaterally remove an ACEC designation if they consider there is another legally enforceable mechanism that provides an equal or greater level of protection. If this section is not removed, government-to-government consultation should be mandated as part of the removal of ACEC designation process.

**C. Intact Landscapes**

Sections 6102.2(b)(3) and (4) state: “(3)The BLM can work with communities to identify geographic areas important for their strategic growth and development in order to allow for better identification of the most suitable areas to protect intact landscapes; (4) The BLM can identify opportunities for co-stewardship with Tribes.” We appreciate that the proposed rule provides Indian tribes an opportunity to identify intact landscapes, including ACECs. We propose that this language be strengthened to state “(3) The BLM must work with communities, including Tribes, to identify geographic areas important for their strategic growth and development in order to allow for better identification of the most suitable areas to protect intact landscapes;”. In keeping with the federal government’s trust responsibilities to Indian tribes, these identification efforts should include meaningful and consistent government-to-government consultation with Indian tribes and opportunities for tribally led identification efforts that use their own ontological and epistemological frameworks. In addition, as proposed, the tribal identification opportunities are un-funded. The BLM should commit funds to support tribally-led identification efforts, tribal monitoring, and consultation regarding the identification and management of intact landscapes.

We support the use of tribal co-management and co-stewardship agreements with tribes for the management, protection, and restoration of public lands. As currently proposed, § 6102.2(b)(4) requires authorized BLM officers to consider whether the BLM can identify opportunities for co-stewardship with Tribes; we suggest changing the language of that section to: “There are potential opportunities for co-management and co-stewardship with Tribes;”. This minor modification would affirmatively require the BLM authorized officer to look for opportunities for tribal co-management and co-stewardship, rather than the less robust requirement to determine whether the BLM can identify any such opportunities.

**D. Restoration**

As discussed above, Federal agencies are bound by treaties and must both protect tribal reserved rights and provide access to tribal citizens with regard to sacred sites on federal lands. In addition, Executive Order 14096, *Revitalizing Our Nation’s Commitment to Environmental Justice for All* (April 21, 2023), states that the pursuit of environmental justice is a duty of all executive branch agencies and should be incorporated into their missions. Where tribal reserved rights and sacred sites on federal lands have been negatively impacted by environmental degradation, or access to specific sacred sites has been limited or impeded, restoration of those lands will positively impact Indigenous communities whose rights have been historically infringed upon by poor federal land management practices.

Accordingly, consideration of those impacts is appropriate and we suggest changing § 6102.3-1(a)(4) by adding the words “, including whether restoration actions will protect and preserve tribal treaty rights or other tribal reserved rights;”. In addition, we suggest changing § 6102.3-2(a)(4) to “Attainment of statewide, tribal and regional needs…” and changing § 6102.3-2(b)(5)(iii) to “important, scarce, or sensitive resources, tribal reserved resources or resources otherwise protected by law.”

**E. Conservation Leasing**

We support the development and use of conservation leases for protecting, managing or restoring natural environments, cultural or historic resources, and ecological communities, and agree that BLM has this authority. In addition to a 10-year duration for certain conservation leases, we also suggest that there should be an option for 20-year leases, particularly for areas that need longer-term restoration or are culturally significant. Conservation leases should be flexible and not artificially constrained geographically. We also believe that the purpose of conservation leases should be broadly construed.

We suggest adding catch-all provision at § 6102.4(a)(1)(iii), to allow for broad uses of conservation leases, or, alternatively, omitting §§ 6102.4(a)(1) in its entirety and relying upon the purpose as described in § 6102.4(a). Under § 6102.4(a)(3)(i), we suggest allowing for a 20-year conservation lease term in addition to a 10-year term. In §6102.4(c)(1), we suggest omitting the following language: “and how, in the opinion of the applicant, the proposed use conforms to the Bureau of Land Management’s plans, programs, and policies for the public lands covered by the proposed use.” This sentence is redundant because the purpose of a conservation lease must already fit into 6102.4(a). In the alternative, we recommend that this application requirement should not be applied to tribal nations or tribal entities, so as to help reduce unnecessary administrative burdens on tribal applicants seeking to protect and preserve culturally significant landscapes or resources.

In addition, we believe that tribal consultation and protection of tribal treaty-protected rights and other reserved rights should be strengthened. Thus, we suggest adding a section in § 6102.4 requiring the authorized officer to consult with Federally recognized tribes who may have treaty-protected historic or cultural connection to the public lands proposed to be leased prior to making a decision on a lease application.

We also suggest that tribes demonstrating cultural, historic or treaty-based connections to certain public lands should have presumptive approval for conservation lease applications. This would be consistent with the principles laid out in the Treaty Rights MOU and Sacred Sites MOU, the federal trust responsibility and environmental justice, and would promote tribal co-management and co-stewardship. This could be accomplished by adding a section under § 6102.4(c)(1), stating that “[I]f the applicant is a Federally recognized tribe or tribal entity designated for the purpose of holding a conservation lease on behalf of a Federally recognized tribe, and the applicant demonstrates a treaty-protected, historic or cultural connection to the public lands proposed to be leased, the authorized officer shall apply a presumption of lease approval, absent a determination that the applicant does not meet the requirements of §§ 6102.4, .4-1 or .4-2.”

Finally, we note that some tribes may have an interest in entering into conservation leases, particularly for public lands that hold special significance or treaty-protected resources, but may lack financial or staff capacity to do so. We suggest that BLM consider whether financial support, administrative support, partnerships or other mechanisms might bolster opportunities for tribal co-management or development of Indigenous Knowledge for tribes seeking greater levels of involvement with federal land management policy and restoration but unable to do so because of resource constraints. For example, we suggest inclusion of a provision that would allow tribes or tribal entities to be granted an exemption from bonding requirements or other financial assurance requirements.

**F. Management Actions for Ecosystem Resilience**

We support the inclusion of Indigenous Knowledge as a core consideration by authorized officers prior to taking any management actions and as a part of the broader framework for the BLM to make wise management decisions. However, Section 6102.5, as written, fails to address principles related to Free, Prior and Informed Consent (“FPIC”) which are ethically essential to the sharing of Indigenous Knowledge. We suggest substantial revisions with respect to Management Actions for Ecosystem Resilience to ensure FPIC principles are squarely addressed within BLM’s processes.

In general, § 6102.5 lacks specificity. We request that BLM clarify its obligations related to Indigenous Knowledge as applied across BLM decision-making and BLM discretionary actions and programs. Accordingly, we suggest inclusion of the following language from the Office of Science Technology and Policy and CEQ to help the agency adequately address the engagement processes of IK. (*See* *Guidance for Federal Departments and Agencies on Indigenous Knowledge* (2022).

§ 6102.5 (b)(6) states: “Respect include Indigenous knowledge, including by:” The term “include” should be changed to “and address”. The term “including by:” should be changed to “as follows:”.

 The entirety of § 6102.5 (b)(6) (i)-(ii) should be struck and replaced as follows:

§ 6102.5 (b)(6) (i): “Consult and collaborate with Tribal Nations and Indigenous People as early as possible to determine if, and how, Indigenous Knowledge could be relevant to the decision-making process to inform the development of alternatives, analysis of effects, and identification of mitigation measures.”

§ 6102.5 (b)(6) (ii): “Conduct an Initial Meeting before Tribes and Indigenous Peoples share Indigenous Knowledge, to identify the extent to which the agency will be able to maintain the confidentiality of Indigenous Knowledge if it is shared and what protocols will be used to store, share, and access sensitive documents, information, or data.”

§ 6102.5 (b)(6) (iii): “Develop an Indigenous Knowledge Plan which 1) documents and describes engagement between the BLM and applicable Tribes and Indigenous Peoples, including early and sustained engagement to ensure that Indigenous Knowledge shared is considered throughout, consistent with the expectations of the applicable Tribal Nations and Indigenous Peoples; 2) documents and addresses any concerns expressed by Tribal Nations and Indigenous Peoples about sensitive information, sacred sites, or knowledge that belongs to certain families or clans; and 3) to the extent possible, identifies and adopts mechanisms to address the concerns of Tribal Nations and Indigenous Peoples about privacy or potential threats to natural or cultural resources, loss of access, and/or desecration of lands and waters if certain information is shared with others.”

§ 6102.5 (b)(6) (iv): “Obtain and document consent from Tribal Nations and Indigenous Peoples prior to including Indigenous Knowledge into the decision-making process.”

§ 6102.5 (b)(6) (v): “After obtaining consent from Tribal Nations and Indigenous Peoples to use Indigenous Knowledge, ensure that the summarizing documents and results describe how Indigenous Knowledge was applied to reach the decision. and that the Tribal Nation and Indigenous Peoples are properly recognized and accredited for Indigenous Knowledge as applied.”

§ 6102.5 (b)(6) (vi): “Meet with Tribal Nations and Indigenous Peoples to describe how Indigenous Knowledge was included in the final decision and share outcomes.”

§ 6102.5 (c) states: “Authorized officers must use national, regional, site-based assessment, inventory, and monitoring data as available and appropriate, as with other high-quality information, as multiple lines of evidence to evaluate resource conditions and inform decisionmaking, specifically by…” We suggest “Indigenous Knowledge” be explicitly added to this section.

§ 6102.5 (c) (4) states: “Summarizing results and ensuring that a clear and understandable rationale is documented, explaining how the data was used to to make the decision.” We suggest amending as follows: “Summarizing results and ensuring that a clear and understandable rationale is documented, inclusive of describing how Indigenous Knowledge was applied to reach the decision, explaining how the data was used to to make the decision.”

**G. Mitigation**

As appropriate, mitigation measures should include adverse impacts to tribal reserved rights and resources. Accordingly, we suggest that §6102.5-1 should be modified to add the following language: “including resources to which tribal reserved rights apply.”

**H. Tools for Achieving Ecosystem Resilience-Land Health**

The concept of land health as a tool to achieve ecosystem resilience holds promise. Indigenous Peoples have managed their lands and waters for millennia to achieve land health and ecosystem resilience. Integrating Tribal consultation, appropriate use of IK, and other obligations discussed throughout these comments into land health fundamentals, standards and guidelines, as well as assessments, evaluations, and determinations will be necessary. However, by lifting text directly from the agency’s grazing regulations, the proposed rule fails to include the requisite specificity with regard to Indigenous Knowledge and other obligations to Tribal Nations and Indigenous Peoples.

We recommend that BLM clearly specify and integrate Indigenous Knowledge and other obligations discussed throughout these comments into the fundamentals of land health and their application. This should include, but not be limited to, consulting with Tribes to identify language throughout section § 6103.1(a) that recognizes Indigenous Knowledge and other Tribal Nation laws, standards, plans, or metrics relevant to achieving land health. For instance, § 6103.1 (a)(3)states: “Water quality complies with state water quality standards and achieves, or is making significant progress toward achieving, established BLM management objectives established in the land use plan such as meeting wildlife needs.” We suggest adding “or tribal” after “state” to reflect that Tribal water quality standards could also be implemented. Similarly, sections § 6103.1-1 and § 6103.1-2 should specify the need to consult with Tribes and incorporate Indigenous Knowledge when developing land health standards and guidelines and when conducting land health assessments, evaluations, and determinations.

**I. Procedural Matters**

BLM determined that this proposed rule would have no substantial direct effects on federally recognized Indian tribes, on the relationship between the Federal Government and tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. We believe that there is potential for the proposed rule to have substantial direct effects on federally recognized Indian tribes and firmly believe that tribal consultation is appropriate when agencies proposed rules that will impact Indigenous rights and resources.

We are generally supportive of the proposed rule, and are interested to see conservation leases and ACECs used more broadly to protect and restore public lands and tribal treaty rights and other reserved rights. We suggest that tribal consultation would be valuable for BLM to determine how the rule might most effectively achieve its aims in partnership with tribes for whom it holds resources in trust.

Respectfully,

[Chairman/Chairwoman/President]

[Tribal Nation or Organization]