



U.S. Department of the Interior
Bureau of Land Management

Restoration and Mitigation Leases

Fact Sheet – Public Lands Rule – April 2024

The Public Lands Rule will help safeguard the health of our public lands for current and future generations by helping ensure we protect our clean water and wildlife habitat, restore lands and waters that need it, and make informed management decisions based on science and data, including Indigenous Knowledge. Americans rely on public lands to deliver food, energy, clean air and water, wildlife habitat, and places to recreate. The Bureau of Land Management (BLM) understands the importance of balancing the use of our natural resources with protecting our public lands and waters. The Public Lands Rule will safeguard these lands and waters and make sure they are available for the use and enjoyment of current and future generations.

To sustain the health of public lands, the BLM is working to protect lands where they are healthy and to restore those that are not. Offering leases for restoration or mitigation will support durable land restoration and provide a long-sought tool for developers to offset their impacts by protecting and improving the health of public lands.

Not only do restoration and mitigation leases provide an opportunity to protect and restore our public lands, they provide a reliable approach to facilitate development, responding to requests from state, local, and industry partners to further facilitate compensatory mitigation on public lands.

What are restoration leases and mitigation leases?

The Public Lands Rule establishes a process for the BLM to issue restoration leases and mitigation leases to entities seeking to restore public lands or to offset the impacts of a particular action. These leases, which will be issued or denied at the discretion of the BLM, will support restoration and mitigation projects on public lands with a defined purpose and scope, approved and overseen by the BLM.

For example, a non-profit organization or conservation district could put people to work restoring wildlife habitat and, through a restoration lease, be assured the work could take hold and flourish. Such activities could also be part of compensatory mitigation, which replaces or provides substitute resources to address impacts of development on public lands.

The Public Lands Rule establishes the process used to apply for and grant restoration and mitigation leases, terminate or suspend them, determine noncompliance, and set bonding obligations. Applicants may propose restoration or mitigation leases to help achieve restoration or mitigation outcomes on public lands, but the BLM is not required to issue a lease; rather, it retains discretion to issue or not issue a lease in response to a leasing proposal, considering factors such as other existing uses of the lands, the level of collaboration around the proposal, and the potential for success.

Restoration or mitigation leases can be issued to qualified individuals, businesses, non-governmental organizations, Tribal governments, conservation districts, or state fish and wildlife agencies. They may not be issued to foreign persons or entities. While a restoration or mitigation lease is in place, casual uses of the leased lands, such as recreation, hunting and fishing, and research activities, would generally continue. When a restoration or mitigation lease ends, the BLM will manage the lands consistent with the Bureau's [land use plan](#) for the area and other authorized uses.

Appropriate places for restoration and mitigation leasing on public lands include degraded habitats in need of restoration, as well as intact landscapes and functioning ecosystems that can serve as compensatory mitigation for a particular action. For example, as part of authorizing a renewable energy project on public lands, the BLM and the project proponent may agree to compensate for loss of wildlife habitat by restoring or enhancing other habitat areas on public lands. A mitigation lease could be used to protect the restoration and enhancement actions.

Restoration and mitigation leases will not disturb existing authorizations, valid existing rights, or state or Tribal land use management. If the proposed activities in a restoration or mitigation lease would conflict with existing authorizations, such as if a specific type of restoration would not be compatible with ongoing grazing, then the lease would not be issued on those particular lands. Restoration and mitigation leases will also not preclude subsequent authorizations on leased lands so long as those subsequent authorizations are compatible with the restoration or mitigation activities identified in the lease.

The BLM is able to use these tools under its authority granted by the Federal Land Policy and Management Act to regulate the use, occupancy, and development of public lands.

What are examples of how restoration and mitigation leases will be used?

A solar energy project is proposed on public lands in an area that has wilderness and recreation values.

The environmental analysis for a proposed solar project identifies lands with wilderness characteristics in the project area, along with associated recreation values for hiking, camping, hunting, mountain biking and other activities. These impacts to wilderness and recreation resources cannot be avoided or mitigated through project design, so the BLM determines that compensatory mitigation is appropriate.

The solar project developer or another entity could apply for a mitigation lease to restore or protect wilderness and recreation values in a different location for the duration of the project impacts, thereby offsetting the unavoidable impacts of the development. Existing uses on the public lands affected by the mitigation lease would continue, such as grazing and public access, and new uses could be authorized if they are consistent with the purpose of the mitigation lease.

A non-profit organization wants to restore mule deer habitat.

A non-profit organization with restoration and stewardship capacity is interested in improving mule deer habitat on public lands and would like to help ensure that its investment in the landscape will have time to succeed – to take root.

The BLM could issue the organization a restoration lease for specific restoration and stewardship activities, such as fence removal, riparian restoration, and road rehabilitation. The BLM would oversee these activities, require a bond to provide for reclamation of any resulting adverse impacts, and retain authority to suspend or terminate the restoration lease in the event the lease holder fails to comply with applicable requirements, fails to use the lease for its intended purpose, or cannot fulfill the lease's purpose. The restoration lease would be issued for a renewable 10-year period, and existing uses could continue on the leased lands.

A proposed transmission line across public lands would impact imperiled bird species.

The environmental analysis for an interregional transmission line finds the project would have unavoidable impacts on a bird species that is managed as imperiled by the BLM and by state governments where the transmission line is proposed. The authorizing agencies determine that compensatory mitigation is warranted to address impacts to the species, and the best remaining habitat is found on BLM-managed public lands.

In this case, the BLM could consider an application for a mitigation lease to conserve the bird's habitat on public lands. The lease would identify conservation measures that address the unavoidable impacts to the bird

species and would help ensure that these measures remain effective for the duration of the transmission line's impact. The mitigation lease could be terminated or modified in response to changing habitat conditions.

How does the rule reflect public comments on the draft proposed rule?

In response to comments received, the BLM updated the final rule to provide clarity and specificity for the leasing program. The Final Rule establishes restoration leases and mitigation leases as two distinct types of leases, whereas the Proposed Rule grouped them together as "conservation leases." The Final Rule also provides a clearer and more detailed process for application and review of restoration and mitigation leases.

The Final Rule emphasizes that restoration leases and mitigation leases will only be issued where consistent with existing authorized uses. It lists factors for authorized officers to consider when evaluating lease proposals, such as whether the applicant is collaborating with existing permittees, whether the lease would advance environmental justice objectives, or whether the objectives of the proposed leases would be supported by current management of the lands. The rule is also explicit that restoration and mitigation leases will not be granted to foreign entities. The BLM will use standard practices, similar to other leases BLM issues, to determine whether an entity is qualified to hold a restoration or mitigation lease.

The Final Rule also enables conservation districts and State fish and wildlife agencies to hold restoration and mitigation leases and specifies that recreation uses would not generally be precluded by restoration or mitigation leases.