

## **BLM IS BROKEN AND HOW TO FIX IT**

Dear Secretary Haaland:

The Bureau of Land Management (BLM) in your Interior Department is broken and I know how you can and should fix it.

BLM's dominant management culture has long been (and is) corrupt, biased, regressive, and secretive. I know because I worked for BLM for about fifteen years, from 2002 to 2017. I was on a BLM management team during most of this time, so I saw how the management "sausage" was made behind-the-scenes. I was the Planning and Environmental Coordinator for BLM's Arizona Strip District Office, where I oversaw National Environmental Policy Act (NEPA) and related compliance processes.

While BLM has some good employees, most of them never aspire to nor become managers. This is largely because the BLM culture values loyalty to traditional management biases over intelligence, competence, or integrity. Even palpably incompetent managers are not removed, but rather transferred around until they decide to retire. Many idealistic people become BLM employees and then become disenchanted and leave due to the regressive culture. These patterns reinforce the culture and tend to keep it impervious from any attempts at reform. Managers often act like a cult in terms of defending each other regardless of the circumstances.

The Federal Land Policy and Management Act (FLPMA) of 1976 provides BLM's comprehensive statutory authority to implement its different land management related programs. When BLM managers are asked what they do, their basic answer is that BLM is a "multiple use" agency. This is partly true, but FLPMA limits "multiple uses" of renewable resources to those that ensure "sustained yield". Even back in 1976, Congress wanted BLM to manage resources sustainably. But you never hear a BLM manager say that they work for a "sustained yield" agency. And the latest and best science tells us that many renewable resources on BLM lands are in serious trouble and experiencing downward trends. Whether expanding cheatgrass or declining sage grouse populations, this evidence of overall failure is clear.

FLPMA also provides that, if specific BLM lands have protective designations, those designations govern over normal multiple use management. However, BLM

managers often ignore this when they treat BLM national monuments, national conservation areas, wilderness areas, and areas of critical environmental concern (ACECs) the same or worse as the so-called “public domain” lands under their authority. Indeed, FLPMA requires BLM to make the designation and protection of ACECs a “priority” in its land use planning processes. Unfortunately, regardless of the type of designation, there are many egregious examples of this consistent BLM failure to protect lands designated for protection.

Where I live in southwest Utah, BLM recently approved a controversial Northern Corridor Highway through its Red Cliffs National Conservation Area (NCA). This approval likely violated at least five federal laws, went against the statutory purposes for this NCA, threatens twenty million dollars’ worth of lands acquired for permanent protection under the Land and Water Conservation Fund (LWCF), and would destroy designated critical habitat for threatened Mojave desert tortoises. The NEPA analysis demonstrated that there were two feasible alternatives outside of the NCA that would have avoided these problems, but BLM instead bowed to political pressure from local officials and their developer friends.

BLM has continually demonstrated that it cannot properly manage commercial livestock grazing in its supposedly protected areas. Whether improperly authorized or in chronic trespass, BLM has allowed demonstrably harmful grazing to occur in many of its national monuments, including Gold Butte, Grand Staircase Escalante, Grand Canyon Parashant, and Sonoran Desert. BLM similarly allows harmful and often trespass grazing in its NCAs, such as San Pedro Riparian, Gila Box Riparian, and Beaver Dam Wash. Ditto for many ACECs.

Near where I live, BLM approved a harmful road through an ACEC while refusing to even analyze a feasible alternative outside the ACEC. Out of profound cowardice, BLM managers may also fail to raise potential federal reserved water rights even when proposed upstream water diversions threaten ACECs established to protect aquatic and riparian habitats and associated special status species.

Overall, most BLM managers are risk-averse and put job security well above doing their jobs. They are too willing to abdicate their authority and defer to what county commissioners, influential ranchers, or corporate interests want. This reality means that BLM’s professed national system of conservation lands is primarily managed to meet local or state needs. Unfortunately, most people accept the illusion of purported national protection without knowing the harsh reality.

What are the consequences when BLM managers consistently approve projects that undermine the sustained yield of renewable resources or harm lands specifically designated for protection? They are always supported and often promoted. What are the consequences for employees who ask BLM managers to follow the law, best science, and make decisions in the public interest? They tend to be ostracized, taken out of management informational loops, and otherwise shunned. I repeatedly learned that “no good deed goes unpunished at BLM”.

BLM managers even try to improperly discourage employees from expressing their First Amendment rights of free speech and association on BLM related issues as private citizens on their own time and out of the office. You can be chastised for having an environmental decal on your personal vehicle in a BLM parking lot, even as your vehicle may be surrounded by vehicles with NRA decals or pro-Republican bumper stickers.

BLM professes to encourage employee diversity, but a BLM diversity coordinator got me as environmental coordinator and the tribal liaison taken off a BLM management team. Diversity is pointless in a culture that puts loyalty to traditional thinking above creativity or different viewpoints.

The political pendulum swings back and forth over the years. Secretary Haaland, you are now understandably overwhelmed with the enormous job of trying to rescind or reverse literally hundreds of corrupt and harmful Trump era BLM decisions. This is critically important and necessary work. It is also reactive work. The previous Obama administration made many positive decisions that Trump appointees spent four years working to rescind. Now you are working to rescind or reverse many of those Trump era rescissions. As the political pendulum goes back and forth, we see this long-term trend of see-sawing federal decisions.

However, the management culture at BLM tends to be largely immune to these swings, as it always tends to be corrupt, regressive, and secretive. Although it can be an incredibly slow and tedious process, reforming BLM’s management culture would do much more good in the long run and outlast many of the Biden administration’s current progressive policies. In fact, a reformed BLM culture could become more progressive and accountable and make proactive environmental progress possible. This would be better than continuing to waste time and resources on the endless defensive battles to try to get BLM managers to follow the law and best science.

I worked at BLM during President Obama's eight years. I patiently waited for his "change we can believe in" to arrive at my district BLM office. Sadly, it never did. Many of President Obama's progressive BLM related policies were thwarted because of the resistance, incompetence, cowardice, and sloth of many BLM managers. When good policy goes up against bad agency culture, the culture usually wins. It was especially galling when President Obama designated BLM's Gold Butte National Monument because, both then and now, the outrageous quarter-century of Cliven Bundy trespass livestock grazing there continues unabated.

In my view, the BLM can and should play a pivotal role in responding in a meaningful way to the climate and extinction crises. BLM manages the largest amount of federal land and minerals; over ten percent of the land area of the whole nation. As it has done long before and during the Obama eight years (and excelled at during the four Trump years), BLM's management culture stands in the way. If you don't reform this culture, you won't be able to achieve many of your BLM related policy objectives. It is that simple. Of course, the potential solutions are complex. No single remedy would be a panacea. However, I believe that implementing all or many of my following recommended reforms would make significant and durable positive inroads.

So how can this harmful and deeply embedded BLM management culture be reformed?

### **1) Annual Performance Evaluations**

Virtually all BLM managers and employees are subject to the annual performance evaluation process. Employees consult with their supervisors each year to develop performance objectives for the coming year. These are put in writing and signed by the employee and supervisor. The supervisor then checks with the employee at least twice during the following year to evaluate whether the objectives are being fulfilled. Based on this evaluation, the supervisor then determines the level of performance and whether it was satisfactory for that year. In the vast majority of cases, supervisors find their employees' performance to be satisfactory, largely because much of this performance often deals with accomplishing administrative tasks.

The challenge would be to change how these objectives are developed, monitored, and enforced. Instead of focusing so heavily on administrative tasks, the

objectives (especially for managers) should be based on resource trends and conditions under their general authority and control.

For example, if trespass grazing is occurring, the objective would be to stop it within a reasonable time. If a livestock grazing allotment is found to not be meeting the required standards for rangeland health or is suffering great vegetative stress due to prolonged drought, the objective would be to cancel or suspend that grazing permit for resource protection. If an area is suffering from harmful illegal route proliferation and does not yet have an approved BLM Travel Management Plan (TMP), the objective would be to adopt a strong TMP ASAP and to pursue greater law enforcement presence.

In short, there would be accountability that ties performance to whether or how well resource challenges are being addressed out on the ground. Is that performance strong, intelligent, creative, timely, and effective? Or is that performance mostly making excuses, kicking the can down the road, and blaming others for the lack of effective actions? Linking job performance to resource trends and conditions would be a huge step forward. Did a manager use “best efforts” to stop and reverse downward resource trends? Or did a manager largely stand by and watch those downward trends continue and worsen?

While managers cannot control the climate and drought, they can control other human uses (like livestock grazing) that adds to those stresses on BLM lands. The question is how well they use that control, and whether they allow career cowardice or political expediency to supersede what is needed for tangible resource protection.

This new type of performance accountability would be especially critical to ensure that BLM lands with protective designations (monuments, NCAs, ACECs, etc.) are being properly managed. It would align with the Biden administration’s new public lands and environmental policies, including the 30 by 30 commitment. It would discourage the type of corruption that occurred during the Trump era and that the Biden Executive Order 13990 attempts to identify and correct.

## **2) Independent audits (especially Land and Water Conservation Fund related)**

Independent audits are common in other businesses and professions, especially those that deal with money like banks and investment firms. These audits recognize human nature, and that if no one is looking, people may be more

tempted to do improper things. However, other than rare Inspector General investigations that may be instigated by Congress, most accountability at BLM is limited to managers, annual performance evaluations, and internal employee polling that tends to stay inside BLM. These existing methods have proven insufficient because BLM's dominant management culture can easily manipulate, deflect, or ignore them.

A system of independent audits of BLM management is needed, just as if BLM was a bank or investment firm. BLM has the solemn duty to properly manage the largest amount of federal land belonging to all Americans, and this is of priceless value to current and future generations. Fraud, neglect, or incompetence by BLM managers can do as much or more harm to the public interest than might occur by bank or investment firm managers. Outside auditors with no connection to BLM should be assigned randomly chosen decisions and actions by managers to investigate whether they followed the relevant law, science, and were in the public interest. BLM employees and the public should also be able to anonymously recommend manager decisions and actions that should be audited.

The audit reports should be made public and available for searches through a web data base. If the audits find improprieties, those findings should be forwarded to the relevant high-level Interior and Justice Department officials for appropriate enforcement action, up to and including termination of employment. If the public finds discrepancies in an audit report, they should be able to raise them within a reasonable time period after they are web posted. When managers know that any future decision or action in their official capacity may be audited, and that the findings of such audits would become public and perhaps subject them to disciplinary action, they will begin to put fidelity to law, science, and the public interest ahead of loyalty to the dominant management culture.

In addition to random or anonymous recommended audits, I believe that all BLM manager decisions and actions affecting lands acquired directly or indirectly with Land and Water Conservation Fund (LWCF) monies be audited. This is because I am aware of at least three examples where I believe that BLM managers failed to adequately protect such LWCF acquired lands that went into BLM administration. All of these examples were in supposedly protected areas, the Grand Canyon Parashant National Monument and the Red Cliffs NCA.

Indeed, it is BLM's current position that it is okay to degrade or destroy about \$20,000,000 worth of LWCF acquired tortoise habitat, without any specific

compensation or mitigation, in the Red Cliffs NCA. The LWCF is extremely popular with the American people and has had strong bipartisan support in Congress. In fact, last year Congress passed, and President Trump signed into law a measure that included full and permanent LWCF funding going forward. Sadly, many BLM managers do not respect the LWCF, and often manage lands acquired for protection with those funds as if they were normal public domain lands subject to potentially harmful multiple uses.

If the Biden administration wants to uphold the integrity and credibility of the LWCF, it needs audits to ensure that BLM managers are properly protecting those LWCF acquired lands. Without such audits, future harm to LWCF acquired lands, even in the middle of supposedly protected BLM areas, is likely to continue and perhaps worsen.

### **3) Whistleblower complaints**

I filed a whistleblower complaint on the chronic Bundy trespass grazing situation because I had first-hand knowledge of improper, wasteful, and inept BLM management. My complaint was delayed and mishandled. When the investigation concluded, I was told that I could not see the final report nor BLM's response to it. I filed it long before the famous Bunkerville Standoff, where a proposed BLM round up almost caused a militia gun battle. Then and now, BLM refuses to learn from its mistakes and continues its attempts to sweep this major embarrassment under the rug.

Ironically, BLM has required that employees take annual whistleblower training. I took this training before and after I filed my own complaint. What BLM teaches is misleading and far beyond the reality that I experienced. My complaint to the Interior Department Inspector General was ultimately delegated to a BLM Arizona employee in Phoenix. I believe that he was under improper BLM cultural and political constraints. I do not believe that this investigation was fair, thorough, or commensurate in worth to the job risk that I was taking. I also believe that, despite the annual training, many BLM employees do not trust the program to keep them safe from potential manager reprisals.

BLM also has mandatory employee record keeping training, but managers have orally and improperly instructed employees not to document trespass grazing impacts or concerns in writing.

As with my audit recommendation, I believe that BLM whistleblower complaints should be handled only by high level Interior and/or Justice Department officials, and the resulting investigations should be completely insulated against any potential BLM leaks or interference. Those filing the complaints should also consistently be able to review the final investigation reports, provide any confidential comments, and see how BLM responded to the reports. For those who put their jobs on the line to challenge highly questionable manager decisions or actions, these are simple and fair requests. The Biden administration should welcome reform of the whistleblower protection program because it can and should be a much better method for identifying BLM corruption and taking remedial actions.

#### **4) NEPA IDT teams**

In my experience, there are enormous inconsistencies in the quality and quantity of the BLM Inter Disciplinary Team (IDT) member compositions, depending on the BLM office, the current level of staffing, and what proposed action the IDT may be evaluating to set the stage for the required NEPA analysis.

For example, even when it is extremely relevant, many BLM offices do not have qualified experts on timely subjects like climate change, hydrology, or landscape ecology. Other IDT members may have graduated with AA, BA, or BS degrees decades ago, and there was and is no requirement that they kept up to the date on the latest science relating to their purported area of expertise. When I worked at BLM, the “soil, water, and air” specialist thought climate change was a political hoax.

At IDT meetings, it was sometimes clear that my office did not have a qualified expert on a relevant resource or issue that would be analyzed in a NEPA document. There was little or no attempt to procure that missing expertise. Instead, the project lead and I often did our best to prepare this analysis, despite our lack of relevant training or experience. It was often creative writing, but, if it looked reasonable, the managers would accept it in their approved NEPA documents.

Biden administration officials, including at the Interior Department and Council on Environmental Quality (CEQ), need to recognize that inadequate, unqualified, and deficient BLM NEPA IDT teams are an ongoing and serious problem. They undermine the fundamental quality and credibility of the NEPA analyses that may be heavily relied upon by the public and (sometimes) managers in making important decisions. When not available locally, BLM managers should be



required to locate and use a well-qualified expert on a relevant resource or issue to prepare that NEPA analysis. BLM hiring should place a top priority on filling more positions on subjects representing “scarce skills” such as expertise on climate change, hydrology, and landscape ecology.

#### **5) Arbitrary livestock grazing and vegetation management NEPA disconnect**

BLM has improperly but successfully placed a “wall” between how it NEPA analyzes most livestock grazing related proposed actions and how it NEPA analyzes most vegetation management or landscape restoration project proposed actions. If the public raises a concern on one side of the wall about the other side, BLM’s standard response is that it is “outside the scope” of the NEPA analysis. This demonstrates the BLM dominant management culture’s obvious pro-grazing bias and its unwillingness to connect necessary “dots” because that could demonstrate embarrassing failures. This also demonstrates the ridiculous BLM contention that they can somehow properly separate cattle grazing from vegetation management, and vice versa.

Cattle eat vegetation. Cattle eating vegetation changes fuel loads and therefore the fire ecology of an area. These changes affect the ability for natural or human caused fires to be carried in the landscape, and how hot they may burn. These changes also affect how much and what type of vegetation may be available for various proposed treatments.

When cattle are released in treated areas, they may eat much of the new desired plants before they can become well established and serve their intended “watershed health” or “landscape restoration” purposes. The public literally spends millions of dollars on projects where the primary beneficiaries may be ranchers who get greater private profits by selling fatter cattle by weight at auction. For this obvious reason, ranchers tend to push BLM to do more of these types of projects. BLM managers could care less that it is unfair for us taxpayers to pay for vegetation treatments on our public lands so that private ranchers can make more money.

Even where vegetation management may arguably be necessary and appropriate, it is difficult to know the truth when BLM managers cannot be trusted. Are the managers truly putting the public interest above the ranchers’ private interests? Would implementing the proposed treatments have a good chance for long-term success, or would allowing premature livestock grazing to resume in the treatment area cut short or greatly diminish that potential success?

Among many cumulative adverse impacts, cattle trample soils, destroy important cryptobiotic crusts, collapse tortoise and other animal burrows, defecate in public waters, compete with native wildlife for limited forage (especially during prolonged droughts), spread invasive plants that increase the potential for catastrophic fires, drink huge amounts of precious water (often from diverted natural springs), and scare off wary hikers trying to enjoy their public lands.

But when the public asks about these impacts during NEPA processes, BLM is inclined to arbitrarily divide them between grazing permit renewal related NEPA and vegetation treatment related NEPA. Never the twain shall meet. Despite CEQ and BLM NEPA guidance on connected and similar actions, BLM maintains this artificial barrier that how it decides to manage livestock grazing and how it decides to manage vegetation are two entirely separate things.

Like Reagan once said about the Berlin Wall, the Biden administration must tear down this ludicrous BLM NEPA wall. Proposed BLM livestock grazing and vegetation management decisions need to be analyzed comprehensively and together, so that the obvious connections are made, and so that BLM's cultural bias favoring grazing may be less able to control the outcomes.

## **6) Continuing Education**

As previously mentioned, BLM NEPA IDT members and other resource specialists are not required to take any specific continuing education courses to stay current on their purported area of expertise. In other professions, like lawyers and doctors, such continuing education is usually required. In my experience, it was clear that some of the BLM specialists that I worked with were no longer up to date or qualified. Indeed, some with purported college degrees could barely write a coherent paragraph for a NEPA document. The quality and trustworthiness of BLM NEPA analyses is questionable when the BLM experts who prepared it may not be qualified to do so.

I recommend that high-level Interior Department officials direct the BLM to promptly initiate continuing education requirements and to prepare relevant courses as appropriate. BLM's National Training Center could conduct some of these courses, but BLM employees should also get credit for passing relevant courses at colleges and universities. Mixing older BLM employees with perhaps younger college students would be positive and hopefully expose the BLMers to more contemporary thinking.

BLM managers should also be subject to these requirements, as they too may be unqualified, and they are responsible for reviewing and approving BLM NEPA analyzes. I especially believe that all managers and resource specialists should be required to take a course on climate change science. This topic is increasingly urgent and relevant given prolonged drought, extreme heat, water shortages, stressed vegetation, and nearly year-round fire seasons.

#### 7) **Resource Advisory Councils (RACs)**

In my experience, most BLM RACs tend to serve as BLM lapdogs rather than effective watchdogs. RACs virtually always support BLM's management culture and make recommendations that essentially are "rubber stamps" for what BLM managers want. RAC members generally do not ask tough questions or rock any BLM boats. They are usually conservative and represent commodity or motorized recreational interests with little or no bona fide environmental representation.

Governors apparently have a veto power over RAC member nominations, so this means that even the token environmental representatives are not likely to seriously question any BLM proposed actions. Moreover, RACs pretend to want public input, but they don't. Public comment periods are usually limited to perhaps a half hour at one or two day meetings and are scheduled at or near the end of the meetings after any RAC decisions have already been made.

To reform RACs, the nomination and approval process for RAC members should be much more transparent and accountable, and the best qualified people to represent environmental or other interests should be chosen. If a Governor wishes to veto a nomination, the Governor should provide a public explanation and be held accountable. BLM's RAC coordinators should also be directed to provide meaningful opportunities for public comments at RAC meetings, including before any decisions occur and with the ability for the public to ask BLM managers questions in this public forum.

#### 8) **BLM Managers should read the NEPA and decision documents that they approve, not make NEPA promises that they likely won't keep, and remain impartial until the NEPA process is completed**

Some BLM managers actually read NEPA and decision documents before they approve them, but other managers do not. In most cases, although BLM managers are supposed to withhold judgment and remain impartial, the reality is that BLM managers usually know what decision they want to make before the NEPA

analysis and associated public involvement occurs. This bias should violate NEPA and the Administrative Procedures Act, but managers are smart enough to not document this bias in writing. If an arbitrary and improper decision is legally challenged, the challenge often fails if even obvious bias cannot be found in the administrative record. However, if the independent audit and whistleblower reforms described above are implemented, it would increase the odds that such improper bias would be exposed, and those managers held accountable. Auditors could also ask managers questions about the NEPA and decision documents that they approve, and likely discover those managers who improperly failed to read those documents.

BLM managers also may insist that NEPA documents include a level of promised mitigation and monitoring actions that may be unreasonable given limited BLM staff and funds, changing priorities, and recent experience. On some grazing permit renewal NEPA documents, I knew that a huge reduction in our range staff would mean that much of the promised utilization and key area monitoring would likely not occur. This was because there were already long time gaps for this monitoring on these allotments. But I was told to carry forward the standard promises from a decade or more ago, without any caveats. It may be fraud when people make promises that they know they probably cannot fulfill in legal documents. However, it is standard NEPA practice for some BLM managers who prefer that their NEPA documents look professional even if they are dishonest.

Audits that include whether BLM promised post-NEPA mitigation and monitoring actions were implemented could help to expose this ongoing dishonesty. BLM managers found to be culpable for this NEPA dishonesty should be disciplined, up to and including termination from federal service. The public properly expects that the BLM NEPA analyzes that they pay for should be honest and accurate, not propaganda for the status quo.

#### **9) Executive Order 13990 Follow Up**

President Biden's EO 13990 was a commendable attempt to evaluate Trump era federal decisions to determine whether they may have been illegal, subject to improper political influence, or otherwise not in the public interest. Unfortunately, I am not aware of any publicly available information on whether or how this EO has actually been implemented. Which Trump era decisions were investigated, and, of those, which were found to be potentially defective? Who made those

potentially defective decisions and are they still in federal service making important decisions?

Without this information, the public cannot know whether specific Trump era decisions of high interest were ever investigated, and, if so, what were the findings. This is relevant because BLM's corrupt dominant management culture was highly receptive to and supportive of the Trump era environmental rollbacks and regressive policies. As such, the EO 13990 investigations of deficient BLM decisions during the Trump era could identify the specific BLM managers who made those decisions. If such decisions are subsequently rescinded or reversed, there should also be an investigation to determine if the BLM manager should be subject to disciplinary action.

In short, depending on how it is being implemented, EO 13990 investigations could not only help reverse corrupt Trump era decisions but also hold those responsible BLM managers accountable. Such accountability is sorely needed and long overdue.

Secretary Haaland, please let me know if you have any questions or if I may provide any other assistance. I wish you the best of luck and every success in achieving your commendable policy objectives. I hope that my BLM reform recommendations are helpful, and that they may prevent you from repeating some of the Obama administration's mistakes that I witnessed.

Too much time and effort has been spent on seemingly endless defensive battles to reverse or stop regressive actions. BLM cultural reform offers the best chance to turn this status quo around. The challenges we face are immense, and we must get to the place where we can productively focus on proactive actions to achieve progressive objectives that will last.

Thank you very much for considering my BLM reform recommendations.

Sincerely,

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