



STATE OF SOUTH DAKOTA  
**OFFICE OF THE GOVERNOR**  
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**Congressional Testimony**

**Why the Director of the Bureau of Land Management Must Withdraw  
the Proposed BLM Rule On "Conservation and Landscape Health"**

**Before the U.S. House of Representatives Committee on Natural Resources on  
H.R. 3397, To require the Director of the Bureau of Land Management to withdraw  
a rule of the Bureau of Land Management relating to conservation and landscape  
health.**

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## Introduction

Good morning, Chairman Westerman, Ranking Member Grijalva, and members of the Committee.

Thank you for the opportunity to be with you all today. I recall vividly my tenure on this committee and remember fondly working with many of you on both sides of the aisle to achieve important priorities for the American people.

Today, I come before you not as a committee member, but as a former colleague and current Governor of the great state of South Dakota. I would like to direct my comments this morning to the important piece of legislation the committee is considering – H.R. 3397. This legislation would require the Director of the Bureau of Land Management (BLM) to withdraw a rule relating to conservation and landscape health.

I stand with Representative John Curtis of Utah, the sponsor of H.R. 3397, and his fellow Representatives who are co-sponsoring the legislation.

In addition to my testimony today, I have joined a letter with the Governors of Utah, Idaho, Montana, Nevada, and Wyoming to voice these concerns to the Biden Administration directly.

There are several reasons why I believe this rule needs to be withdrawn immediately:

The rule creates unnecessary redundancy in scope and practice.

It fails to follow long-established NEPA requirements.

The rule fails to properly balance the proposed definition of “conservation” with the economic impact on South Dakotans and Americans.

It also prioritizes conservation leases over other proven proper uses of public lands.

The rule would limit the public’s access to federal lands and deny them the ability to utilize and enjoy our landscapes and outdoor activities.

It would also limit grazing on public lands. This would be devastating to our producers, our economy, and our ability as a nation to produce our own domestic food supply – all while limiting a critical management practice.

The rule would also negatively impact our ability to manage our forests responsibly to the benefit of our land, wildlife, public safety, and economy.

This rule is just one of many which highlights an example of an overreaching, unelected bureaucracy attempting to perpetuate radical environmental policies that ignore common sense stewardship practices that have protected our land for generations,

while allowing multiple uses of this precious resource to strengthen America and our people.

We have seen these types of actions before, such as in the Waters of the United States rule proposed by President Biden. We've also seen it in the 30x30 program that has now been deceptively rebranded as "America the Beautiful." But make no mistake, it is a land grab initiative purposely designed to make the federal government more powerful and to take more control over people's daily lives.

My family has lived off the land for generations. I was raised by a dad who often reminded me, "Don't sell land, Kristi. God isn't making any more land."

From the time I was a young girl, I listened to him talk about soil types, native ground, conservation practices, and management decisions. I learned the scientific data and research that was necessary to protect the land, but I also learned why he cared so much – because working the land wasn't just a job or a career to him. It is a family legacy, a way of life, and a culture that not only preserves a critical work ethic, but also reminds us daily of the natural resources that are such a gift to this country.

As I grew older, I learned more about the importance of keeping all areas of our country productive to help stabilize our economy through difficult times. I also learned how critical it is that we continue to be energy independent and produce our own food supply.

When I was elected Governor, I asked a fellow rancher, Larry Rhoden, to serve as my Lieutenant Governor. To our knowledge, we are the first Governor/Lieutenant Governor combination in our country's history that both primarily earned their living working in agriculture. We understand as well as anyone that our farmers and ranchers care about our land. We care about preserving it to pass on to our kids and grandkids.

My experience in business, public office, and national security has reaffirmed my belief that our enemies and those who hate the United States of America may never choose to fire a weapon at us. They may not need to. We are surrendering our Freedom by becoming more dependent on them for our critical needs: gas, oil, food, medicine, and more. When a country controls our food supply or our energy supply, they will control us. And American Freedom will be gone. We cannot allow rules such as this one to move forward in a way that stops productivity and American independence.

### **Background**

Nearly 98% of all BLM surface lands in South Dakota are grazed by permittees. Grazing is a proven and effective conservation strategy in South Dakota and across much of the Great Plains and the Western United States. South Dakota also hosts 76 actively producing oil and gas leases that cover 36,762 acres. The acres managed by BLM in South Dakota provide outdoor recreation opportunities including hunting, fishing, hiking,

camping, and others. Maintaining public access to those lands is of critical importance to South Dakota residents and visitors.

### **Unnecessary Redundancy to Existing Law**

The Federal Lands Policy and Management Act of 1976 (FLPMA) requires that BLM manage public lands for multiple use and sustained yield. Multiple use requires a balanced use of diverse resources to meet the present and future needs of the American people. Conservation is a tool to ensure those resources are managed in a way that promotes resiliency to natural disturbance events and achieves sustainable use of those resources for the long-term.

The proposed rule seeks to clarify that “conservation is a use on par with other uses of the public lands under FLPMA’s multiple-use, sustained-yield framework.” Conservation is *not* a ‘use,’ but an overarching objective in all other uses. This rule, as proposed, seats conservation as a competing use to those others listed, when it is already mandated by those other uses. The proposed rule is both unnecessary and redundant.

### **Compliance with NEPA**

The proposed rule will have a significant impact on the environment and should trigger an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA). BLM has stated that the proposed rule is too broad and thus exempt from the NEPA process. I disagree with BLM’s determination. If private Americans must follow NEPA, then so should the federal government.

### **Imbalance of Conservation versus Economic Needs**

This proposed rule overemphasizes conservation rather than the economic needs of the American people. Resources like minerals, mining, and fields for grazing are critically important for the continued success of our economy. But the proposed rule broadens the application of the fundamentals of land health from just public land grazing to all other renewable resource uses.

The rule does not include an economic analysis evaluation. It also does not provide any data to indicate better outcomes for conservation practices if implemented. They claim that the rule does not have a “significant economic effect,” or that it does not affect “a significant number of small entities.” BLM provides no support for this ridiculous claim. And they’re declaring that it’s not a “major rule” based on this analysis.

The more I read the rule, the more offended I was.

In addition, BLM should not eliminate the requirement to publish potential designations of Areas of Critical Environmental Concern in the Federal Register. This provides states and other interested stakeholders time to consider the economic and environmental impacts to those areas prior to the public comment period.

## **Competition from Conservation Leases**

The "...proposed rule would provide a framework for BLM to issue conservation leases on public lands for the purpose of pursuing ecosystem resilience through mitigation and restoration." As previously stated, creating a new use targeted solely at conservation creates unnecessary competition for the other approved uses. Rather than creating a new rule that proposes conservation as a use, BLM should follow its existing mandate to review all permits and lease applications to adhere to conservation guidelines and standards for use of public resources.

Also, conservation leases can be bought up by outside groups that do not adhere to or embrace the mission of federal land use – even activist groups.

## **Maintain Public Access**

Public lands in South Dakota provide opportunities for hunting, fishing, hiking, camping, and other types of recreation. But the proposed rule says that "...*the purposes of a lease may require that limitations to public access be put in place in a given instance* (for example, temporarily limiting public access to newly restored areas)." That is simply unacceptable.

Some tracts of BLM land in South Dakota are vast landscapes. BLM should not limit access to entire leased areas when only a fraction of a landscape is in a restorative state. Larger tracts of land offer better recreational opportunities by spreading pressure out, which is less likely to push big game away.

South Dakota prioritizes our Walk-In Area hunting access program to enroll private lands that are adjacent to BLM lands. This creates larger blocks of land open to public hunting and increases access opportunities that might otherwise not be available from isolated BLM tracts.

If a proposed lease must restrict access to any public lands for the purpose of restoration, public access must be addressed. There are currently BLM parcels in South Dakota and across the western US that are landlocked within private lands. Rather than implementing new ways to restrict access to BLM lands, BLM should put more time, funding, and efforts into accessing landlocked BLM lands.

## **Grazing Management**

As stated earlier, nearly all surface lands managed by BLM in South Dakota are grazed by permit or lease. Livestock grazing is an important management tool that grasslands have evolved with over millennia. Grazing aids in promoting biodiversity, keeps fire fuels low, and promotes a robust rural economy. Further, rotational grazing promotes a healthy ecosystem and is an important tool for conservation.

In South Dakota, BLM tracts are comingled with private land and lands owned by the South Dakota Office of School and Public Lands (SDSPL). Because of the small and isolated nature of BLM lands in South Dakota, these are often comanaged as a unit and BLM lands are not separately fenced. As a result, critical infrastructure such as water sources, mineral supplement, interior fences for promoting sustainable grazing practices cannot be easily severed from the existing BLM, private, and SDSPL complexes. If this rule is implemented in a manner where the comingled nature of BLM is not accounted for, the implementation of this rule would result in hardship for the local landowners and the SDSPL to manage their lands adjacent to BLM lands.

Additionally, severing these BLM lands from existing grazing management may result in less conservation because the lands are no longer managed on a landscape scale.

### **Forestry**

BLM manages over 34,000 acres of forestland in South Dakota. BLM should focus on using authorities already in place, such as a Good Neighbor Agreement, to manage these forests. South Dakota adheres to forestry best management practices. There is no need to create additional guidance for forest management activities to address conservation concerns.

### **Biden Administration Overreach**

This proposed rule reminds me of President Biden's failed effort to overregulate so-called "Waters of the United States." His administration wanted to redefine the phrase "navigable waters" as described in the Constitution to regulate every drop of water and every inch of land from coast to coast. The Biden Administration stated publicly their desire to seize control of thirty percent of all land in the United States by the year 2030. These efforts are un-American and unconstitutional. The American people do not want an overburdensome federal government breathing down their neck when they seek to use their private property.

Justice Alito and the Supreme Court made this abundantly clear in the recent *Sackett* opinion. The authority to regulate the environment is not a blank check to make up rules that take away liberty. This BLM rule, like the unconstitutional WOTUS rule, would take power away from the states and the people and give it to the federal government.

It's not to say the federal government doesn't have a role in federal land management decisions, of course it does, but it should not restrict people's abilities to have access or utilize this natural resource while ignoring economic impact – or even conducting basic scientific research.

## **Conclusion**

In closing, I support H.R. 3397 because the rule BLM has proposed would be bad for the country. Moreover, the proposed rule opens the door for a mechanism to circumvent the NEPA process and not require an environmental impact study.

Let me be clear, this is a land grab by a greedy government that wants more power and control and will even ignore its own laws to do so. Lastly, this rule would be devastating for our people in South Dakota and our economy. And it would make it impossible to responsibly conserve or utilize our land.

Thank you, and I will stand by for questions.