
Appendix A – Major Legal Authorities

The following is a list of the major legal authorities¹ that are relevant to the BLM land use planning process, including laws, executive orders, and secretarial orders:

Laws

- The Oregon and California Railroad and Coos Bay Wagon Road Grant Lands Act of 1937 (O&C Act) as amended, (43 U.S.C. 1181a, *et seq.*) provides the legal authority for management of O&C lands by the Secretary of the Interior. The O&C Act requires that the O&C lands be managed “for permanent forest production, and the timber thereon shall be sold, cut, and removed in conformity with the principal (*sic*) of sustained yield for the purpose of providing a permanent source of timber supply, protecting watersheds, regulating stream flow, and contributing to the economic stability of local communities and industries, and providing recreational facilities.”
- The Federal Land Policy and Management Act of 1976 (FLPMA), as amended (43 U.S.C. 1701 *et seq.*), provides the authority for BLM land use planning. The following are the more relevant sections:
 - Sec. 102 (a) (7) and (8) sets forth the policy of the United States concerning management of the public lands.
 - Sec. 201 requires the Secretary of the Interior to prepare and maintain an inventory of the public lands and their resource and other values, giving priority to areas of critical environmental concern (ACECs), and, as funding and workforce are available, to determine the boundaries of the public lands, provide signs and maps to the public, and provide inventory data to State and local governments.
 - Sec. 202 (a) requires the Secretary, with public involvement, to develop, maintain, and when appropriate, revise land use plans that provide by tracts or areas for the use of the public lands.
 - Sec. 202 (c) (1–9) requires that, in developing land use plans, the BLM shall use and observe the principles of multiple use and sustained yield; use a systematic interdisciplinary approach; give priority to the designation and protection of areas of critical environmental concern; rely, to the extent it is available, on the inventory of the public lands; consider present and potential uses of the public lands; consider the relative scarcity of the values involved and the availability of alternative means and sites for realization of those values; weigh long-term benefits to the public against short-term benefits; provide for compliance with applicable pollution control laws, including State and Federal air, water, noise, or other pollution standards or implementation plans; and consider the policies of approved State and tribal land resource management programs, developing land use plans that are consistent with State and local plans to the maximum extent possible consistent with Federal law and the purposes of this Act.
 - Sec. 202 (d) provides that all public lands, regardless of classification, are subject to inclusion in land use plans, and that the Secretary may modify or terminate classifications consistent with land use plans.
 - Sec. 202 (f) and Sec. 309 (e) provide that Federal, State, and local governments and the public be given adequate notice and an opportunity to comment on the formulation of standards and criteria for, and to participate in, the preparation and execution of plans and programs for management of the public lands.

¹ This is not a complete list of all the legal authorities that direct BLM management.

- Sec. 302 (a) requires the Secretary to manage BLM lands under the principles of multiple use and sustained yield, in accordance with available land use plans developed under Sec. 202 of FLPMA. There is one exception: where a tract of the BLM lands has been dedicated to specific uses according to other provisions of law, it shall be managed in accordance with such laws.
 - Sec. 302 (b) recognizes the entry and development rights of mining claimants, while directing the Secretary to prevent unnecessary or undue degradation of the public lands.
 - Sec. 701 (b) provides that notwithstanding any provision of FLPMA, in the event of conflict with or inconsistency between FLPMA and the O&C Act, insofar as they relate to management of timber resources and disposition of revenues from lands and resources, the O&C Act shall prevail.
- The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), requires the consideration and public availability of information regarding the environmental impacts of major Federal actions significantly affecting the quality of the human environment. This includes consideration of alternatives and mitigation of impacts.
 - The Clean Air Act of 1990, as amended (42 U.S.C. 7418), requires Federal agencies to comply with all Federal, State, and local requirements regarding control and abatement of air pollution. This includes abiding by requirements of State Implementation Plans.
 - The Clean Water Act of 1972, as amended (33 U.S.C. 1251), establishes objectives to restore and maintain the chemical, physical, and biological integrity of the Nation’s water.
 - The Healthy Forests Restoration Act of 2003, as amended (16 U.S.C. 6501), contains a variety of provisions to expedite hazardous-fuel reduction and forest-restoration projects on specific types of Federal land that are at risk of wildland fire or insect and disease epidemics. It also provides other authorities and direction to help reduce hazardous fuels and restore healthy forest and rangeland conditions on lands of all ownerships.
 - The Federal Water Pollution Control Act of 1948, as amended (33 U.S.C. 1323), requires Federal land managers to comply with all Federal, State, and local requirements, administrative authorities, process, and sanctions regarding the control and abatement of water pollution in the same manner and to the same extent as any nongovernmental entity.
 - The Safe Drinking Water Act of 1974, as amended (42 U.S.C. 201), is designed to make the Nation’s waters ‘drinkable’ as well as ‘swimmable.’ Amendments in 1996 establish a direct connection between safe drinking water and watershed protection and management.
 - The Endangered Species Act (ESA) of 1973, as amended, (16 U.S.C. 1531 *et seq.*):
 - Provides a means whereby the ecosystems upon which endangered and threatened species depend may be conserved and provides a program for the conservation of such endangered and threatened species (Sec. 1531 [b], Purposes).
 - Requires all Federal agencies to seek to conserve endangered and threatened species and utilize applicable authorities in furtherance of the purposes of the Endangered Species Act (Sec. 1531 [c] [1], Policy).
 - Requires all Federal agencies to avoid jeopardizing the continued existence of any species that is listed or proposed for listing as threatened or endangered, or destroying or adversely modifying its designated or proposed critical habitat (Sec. 1536 [a], Interagency Cooperation).

- Requires all Federal agencies to consult (or confer) in accordance with Sec. 7 of the ESA with the Secretary of the Interior, through the Fish and Wildlife Service and/or the National Marine Fisheries Service, to ensure that any Federal action (including land use plans) or activity is not likely to jeopardize the continued existence of any species listed or proposed to be listed under the provisions of the ESA, or result in the destruction or adverse modification of designated or proposed critical habitat (Sec. 1536 [a], Interagency Cooperation, and 50 CFR 402).
- The Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 *et seq.*), decrees that all migratory birds and their parts (including eggs, nests, and feathers) are fully protected. The Migratory Bird Treaty Act is the domestic law that affirms, or implements, the United States' commitment to four international conventions (with Canada, Japan, Mexico, and Russia) for the protection of a shared migratory bird resource.
- The Wild and Scenic Rivers Act of 1968, as amended (16 U.S.C. 1271 *et seq.*), requires Federal land management agencies to identify potential river systems, and then study these rivers for potential designation as wild, scenic, or recreational rivers. The Wild and Scenic Rivers Act also provides for agencies to manage designated rivers to protect their outstanding values.
- The Wilderness Act of 1964, as amended (16 U.S.C. 1131 *et seq.*), authorizes the President to make recommendations to Congress for Federal lands to be set aside for preservation as wilderness. The Wilderness Act also provides for agencies to manage designated wilderness to protect wilderness values.
- The Antiquities Act of 1906 (54 U.S.C. § 320301 *et seq.*), protects cultural resources on Federal lands and authorizes the President to designate National Monuments on Federal lands.
- The National Historic Preservation Act of 1966, as amended (54 U.S.C. § 300101 *et seq.*), expands protection of historic and archaeological properties to include those of national, State, and local significance and directs Federal agencies to consider the effects of proposed actions on properties eligible for or included in the National Register of Historic Places. The National Historic Preservation Act also directs the pro-active management of historic resources.
- The American Indian Religious Freedom Act of 1978 (42 U.S.C. 1996 *et seq.*), establishes a national policy to protect and preserve the right of American Indians to exercise traditional Indian religious beliefs or practices.
- The Recreation and Public Purposes Act of 1926, as amended (43 U.S.C. 869 *et seq.*), authorizes the Secretary of the Interior to lease or convey BLM lands for recreational and public purposes under specified conditions.
- The Federal Coal Leasing Amendments Act of 1976 (30 U.S.C. 201 (a) (3) (A) (i)), requires that coal leases be issued in conformance with a comprehensive land use plan.
- The Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*), requires application of unsuitability criteria prior to coal leasing and to proposed mining operations for minerals or mineral materials other than coal.
- The Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*), authorizes the development and conservation of oil and gas resources.

- The Onshore Oil and Gas Leasing Reform Act of 1987 (30 U.S.C. 181 *et seq.*), provides that a study be conducted by the National Academy of Sciences and the Comptroller General that results in recommendations for improvements which may be necessary to ensure the following are adequately addressed in Federal land use plans:
 - Potential oil and gas resources are identified.
 - The social, economic, and environmental consequences of exploration for and development of oil and gas resources are determined.
 - Any stipulations to be applied to oil and gas leases are clearly identified.
- The General Mining Law of 1872, as amended (30 U.S.C. 21 *et seq.*), allows the location, use, and patenting of mining claims on sites on public domain lands of the United States.
- The Mining and Mineral Policy Act of 1970, as amended (30 U.S.C. 21a) establishes a policy of fostering the orderly development of economically stable mining and minerals industries and studying methods for reclamation and the disposal of waste.
- The Taylor Grazing Act of 1934, as amended, (43 U.S.C. 315 *et seq.*), authorizes the Secretary of the Interior “to establish grazing districts, or additions thereto and/or to modify the boundaries thereof of vacant, inappropriate and unreserved lands from any part of the public domain . . . which in his opinion are chiefly valuable for grazing and raising forage crops[.] . . .” The Act also provides for classification of lands for particular uses.

Executive Orders

- Executive Orders 11644 and 11989 (both titled Use of Off-Road Vehicles on the Public Lands; 37 FR 2877 and 42 FR 26959, respectively) establish policies and procedures to ensure that off-road vehicle use shall be controlled to protect public lands.
- Executive Order 11988 (Floodplain Management) requires Federal agencies to take action to reduce the risk of flood loss, to minimize the impact of floods on human safety, health and welfare, and to restore and preserve the natural and beneficial values served by floodplains.
- Executive Order 11990 (Protection of Wetlands) requires Federal agencies to take action to minimize the destruction, loss or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands.
- Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations; 49 FR 7629), requires that each Federal agency consider the impacts of its programs on minority and low-income populations.
- Executive Order 13007 (Indian Sacred Sites; 61 FR 26771), requires Federal agencies to the extent practicable, permitted by law, and not clearly inconsistent with essential agency functions to:
 - Accommodate access to and ceremonial use of Indian sacred sites by Indian religious practitioners; and
 - Avoid adversely affecting the physical integrity of such sacred sites.
- Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments; 65 FR 218) provides, in part, that each Federal agency shall establish regular and meaningful

consultation and collaboration with Indian tribal governments in developing regulatory practices on Federal matters that significantly or uniquely affect their communities.

- Executive Order 13112 (Invasive Species; 64 FR 6183) provides that no Federal agency shall authorize, fund, or carry out actions that it believes are likely to cause or promote the introduction or spread of invasive species unless, pursuant to guidelines that it has prescribed, the agency has determined and made public its determination that the benefits of such actions clearly outweigh the potential harm caused by invasive species; and that all feasible and prudent measures to minimize risk or harm will be taken in conjunction with the actions.
- Executive Order 13186 (Responsibilities of Federal Agencies to Protect Migratory Birds; 66 FR 3853) directs the Fish and Wildlife Service, in coordination with Federal agencies and Executive departments, to take certain actions to further the implementation of the Migratory Bird Treaty Act in promoting conservation of migratory bird populations.
- Executive Order 13443 (Facilitation of Hunting Heritage and Wildlife Conservation; 72 FR 46537) provides, in part, that Federal agencies shall, consistent with agency missions evaluate the effects of agency actions on game species and their habitats; manage wildlife and wildlife habitats on public lands in a manner that expands and enhances hunting opportunities; work collaboratively with State governments to manage and conserve game species and their habitats; and seek the advice of State fish and wildlife agencies.
- Executive Order 13514 (Federal Leadership in Environmental, Energy, and Economic Performance; 74 FR 52117) directs agencies to measure, manage, and reduce greenhouse gas emissions toward agency-defined targets for agency actions such as vehicle fleet and building management.
- Executive Order 13653 (Preparing the United States for the Impacts of Climate Change) directs agencies to assess climate change related impacts on and risks to the agency's ability to accomplish its missions, operations, and programs and consider the need to improve climate adaptation and resilience.

Secretarial Orders

- Secretarial Order 3175 (Departmental Responsibilities for Indian Trust Resources), incorporated into the Departmental Manual at 512 DM 2, requires that if Department of the Interior (DOI) agency actions might impact Indian trust resources, the agency must explicitly address those potential impacts in planning and decision documents, as well as consult with the tribal government whose trust resources are potentially affected by the Federal action.
- Secretarial Order 3215 (Principles for the Discharge of the Secretary's Trust Responsibility), incorporated into the Departmental Manual at 303 DM2, provides guidance to the employees of the DOI who are responsible for carrying out the Secretary's trust responsibility as it pertains to Indian trust assets.
- Secretarial Order 3289A1 (Addressing the Impacts of Climate Change on America's Water, Land, and Other Natural and Cultural Resources) establishes a Department-wide approach for applying scientific tools to increase understanding of climate change and to coordinate an effective response to its impacts on tribes and on the land, water, ocean, fish and wildlife, and cultural heritage resources that the Department manages.

- Secretarial Order 3308 (Management of the National Landscape Conservation System) seeks to further the purposes of the Omnibus Public Land Management Act of 2009, which established the National Landscape Conservation System under the jurisdiction of the BLM in order to conserve, protect, and restore nationally significant landscapes that have outstanding cultural, ecological, and scientific values for the benefit of current and future generations, and the President's initiative on America's Great Outdoors.
- Secretarial Order 3310 (Protecting Wilderness Characteristics on Lands Managed by the Bureau of Land Management) affirms that the protection of the wilderness characteristics of public lands is a high priority for the BLM, and is an integral component of its multiple use mission; provides direction to the BLM regarding its obligation to maintain wilderness resource inventories on a regular and continuing basis for public lands under its jurisdiction; and further directs the BLM to protect wilderness characteristics through land use planning and project-level decisions unless it is determined that impairment of wilderness characteristics is appropriate and consistent with other applicable requirements of law and other resource management considerations.
- Secretarial Order 3330 (Improving Mitigation Policies and Practices of the Department of the Interior) establishes a Department-wide mitigation strategy that will ensure consistency and efficiency in the review and permitting of infrastructure development projects and in conserving our Nation's valuable natural and cultural resources.
- Secretarial Order 3335 (Reaffirmation of the Federal Trust Responsibility to Federally Recognized Indian Tribes and Individual Indian Beneficiaries) sets forth guiding principles that bureaus and offices will follow to ensure that the DOI fulfills its trust responsibility.