

Conservation 101

A Guide To Land & Water Protection in the US



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Public Land Conservation

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Overview of Federal Lands in the US

- ◆ Total land mass of the US is 2.27 billion acres
- ◆ 28 percent, 635 million acres, is managed by the federal government
- ◆ US Forest Service: 193 million acres
- ◆ Bureau of Land Management: 248 million acres
- ◆ National Park Service: 80 million acres
- ◆ US Fish and Wildlife Service: 89 million acres
- ◆ Department of Defense: 19 million acres

Government Agencies that Manage Public Lands & Affect Environmental Policy

United States Department of the Interior (DOI)

DOI is responsible for the management and conservation of most federal land and natural resources and the administration of programs relating to American Indians, Alaska Natives, Native Hawaiians, territorial affairs, and insular areas of the United States. The Department is administered by the United States Secretary of the Interior, who is a member of the Cabinet of the President.

DOI oversees the following land-management agencies:

Bureau of Land Management (BLM): The BLM administers 248 million acres of America's public lands, totaling one-eighth of the landmass of the country. The BLM also manages 700 million acres of subsurface mineral estate underlying federal, state, and private lands. The BLM's multi-use mission is to sustain the health, diversity, and productivity of the public lands for the use and enjoyment of present and future generations. Most BLM lands are located in western states, especially Alaska. The BLM regulates recreation activities including hunting, fishing, camping, hiking, boating, hang gliding, shooting, off-highway vehicle driving, mountain biking, birding, and visiting natural and cultural heritage sites. The agency also regulates grazing, logging, mining, fracking, and other extractive activities. The BLM has a wide range of responsibilities, including collecting geographic information, maintaining records of land ownership and mineral rights, conserving wilderness areas while allocating other areas for grazing and agriculture, and protecting cultural heritage sites on public land. The BLM operates the National Landscape Conservation System, which protects some US National Monuments, some National Wild and Scenic Rivers, and some designated wildernesses areas and wilderness study areas.

◆ ***National Park Service (NPS):*** The NPS is a bureau within the Interior Department that manages all US national parks, many national monuments, and other conservation and historical properties. It was created on August 25, 1916, when Congress passed the National Park Service Organic Act. Most of the direct management of the NPS is delegated by the Secretary of the Interior to the National Park Service Director, who must be confirmed by the Senate. The National Park System includes all properties managed by the Park Service. The system encompasses approximately 84.4 million acres in 405 units. Since its inception in 1916, the NPS has managed each of the United States' national parks, which have grown in number over the years to 59. Yellowstone National Park was the first national park in the United States, established in 1872. Yosemite National Park began as a state park; the land for the park was donated by the federal government to the state of California in 1864 for perpetual conservation. Yosemite was later returned to federal ownership. At first, each national park was managed independently, with varying degrees of success. In 1916, Congress passed the National Park Service Organic Act to ensure consistent management of all national parks and some national monuments.



◆ **United States Fish and Wildlife Service (FWS):** The FWS is dedicated to the management of fish, wildlife, and natural habitats. The mission of the bureau is to “work with others to conserve, protect, and enhance fish, wildlife, plants and their habitats for the continuing benefit of the American people.” FWS manages the National Wildlife Refuge System, which includes more than 560 National Wildlife Refuges and thousands of small wetlands and other special management areas covering over 150 million acres. Among the Service’s responsibilities are enforcing federal wildlife laws, protecting endangered species, managing migratory birds, restoring nationally significant fisheries, conserving and restoring wildlife habitat such as wetlands, helping foreign governments with their international conservation efforts, and distributing money to states’ fish and wildlife agencies through the Wildlife Sport Fish and Restoration program.

United States Forest Service (USFS)

The US Forest Service, an agency of the US Department of Agriculture, administers the nation’s 155 national forests and 20 national grasslands, which encompass 193 million acres. The mission of the National Forest System is to protect and manage the forest lands so they best demonstrate the sustainable, multiple-use

management concept, using an ecological approach to meet the diverse needs of people. The Chief of the Forest Service is a career federal employee who oversees the entire agency. The Chief reports to the Under Secretary for Natural Resources and Environment in the US Department of Agriculture (USDA), an appointee of the President confirmed by the Senate. The Chief's staff provides broad policy and direction for the agency, works with the Administration to develop a budget to submit to Congress, provides information to Congress on accomplishments, and monitors activities of the agency. There are nine regions in the Forest Service; numbered 1 through 10 (Region 7 was eliminated in 1965 when the current Eastern Region was created from the former Eastern and North Central regions). Each region encompasses a broad geographic area, and is headed by a regional forester who reports directly to the Chief. The regional forester has broad responsibility for coordinating activities among the various forests within the region, for providing overall leadership for regional natural resource and social programs, and for coordinated regional land use planning.

Council on Environmental Quality (CEQ)

CEQ is a division of the Executive Office of the President that coordinates federal environmental efforts in the US,

and works closely with agencies and other White House offices in the development of environmental and energy policies and initiatives. The CEQ reports annually to the President on the state of the environment, oversees federal agency implementation of the environmental impact assessment process, and acts as a referee when agencies disagree over the adequacy of such assessments. CEQ is deeply involved in climate change policy and National Monument designations. Congress established the CEQ as part of the National Environmental Policy Act of 1969 (NEPA). In enacting NEPA, Congress recognized that nearly all federal activities affect the environment in some way and mandated that before Federal agencies make decisions, they must consider the effects of their actions on the quality of the human environment. Under NEPA, CEQ works to balance environmental, economic, and social objectives in pursuit of NEPA's goal of "productive harmony" between humans and the human environment. NEPA assigns to CEQ the task of ensuring that federal agencies meet their obligations under the Act. Through interagency working groups, CEQ works to advance the president's agenda. It also balances competing positions and encourages government-wide coordination, bringing federal agencies, state and local governments, and other stakeholders together on matters relating to the environment, natural resources, and energy.

United States Environmental Protection Agency (EPA)

EPA is an agency of the US federal government that was created to protect human health and the environment by writing and enforcing regulations based on laws passed by Congress. The EPA was proposed by President Richard Nixon and began operation on December 2, 1970. The agency is led by its administrator, who is appointed by the president and approved by Congress. The EPA is not a Cabinet department, but the administrator is normally given cabinet rank. Though EPA does not manage any federal land, the agency conducts environmental assessment, research, and education. It has the responsibility of maintaining and enforcing national standards under a variety of environmental laws, in consultation with state, tribal, and local governments. EPA is active in setting and maintaining clean air and clean water standards. It delegates some permitting, monitoring, and enforcement responsibility to US states and the federally-recognized tribes. EPA enforcement powers include fines, sanctions, and other measures. The agency also works with industries and all levels of government in a wide variety of voluntary pollution prevention programs and energy conservation efforts.



Protective Designations for Federal Lands



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Wilderness (BLM, NPS, USFS, USFWS): The highest level of protection for US federal lands; prohibits all logging, mining, oil & gas development, road construction, permanent structures and mechanized travel including mountain bikes; *“an area where the earth and community of life are untrammelled by man, where man himself is a visitor who does not remain.”* Only Congress can designate Wilderness.

Wilderness Study Area (BLM, USFS): A wilderness study area (WSA) contains undeveloped federal land retaining its primeval character and influence, without permanent improvements or human habitation, and is managed to preserve its natural conditions. WSAs are not included in the National Wilderness Preservation System until Congress passes wilderness legislation.

National Park (NPS): Established “to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.” Only Congress can establish a National Park.

National Monument (BLM, NPS, USFS, USFWS): The Antiquities Act gives the President the authority to establish National Monuments, setting aside certain valuable public natural areas as park and conservation land for “the protection of objects of historic and scientific interest.” No new mining permitted; requires a road plan and a plan for protecting resources.

National Conservation Area (BLM): Restrictions vary between conservation areas but generally the areas are not leased or sold under mining laws, and motorized vehicle use is restricted.

National Recreation Area (BLM, NPS, USFS): A designation for a protected area often centered on large reservoirs and emphasizing water-based recreation for a large number of people.

National Wild and Scenic Rivers: Selected rivers in the US that are preserved for possessing outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values. Designated rivers are protected from dam building. Rivers are classified as *wild*, *scenic*, or *recreational*.

Wild River Areas – Those rivers or sections of rivers that are free of impoundments and generally inaccessible except by trail, with watersheds or shorelines essentially primitive and waters unpolluted. These represent vestiges of primitive America.

Scenic River Areas – Those rivers or sections of rivers that are free of impoundments, with shorelines or watersheds still largely primitive and shorelines largely undeveloped, but accessible in places by roads.

Recreational River Areas – Those rivers or sections of rivers that are readily accessible by road or railroad, that may have some development along their shorelines, and that may have undergone some impoundment or diversion in the past.



Private Land Conservation

Private land conservation leverages the interest of the private sector to take part in conservation. Some of the main tools used to achieve these goals include land trusts, conservation easements, private reserves, and incentives.

- ◆ **Acquiring Land:** Many land trusts protect land simply by purchasing it, managing it for conservation and/or recreation, or conveying ownership to a state or federal land managing agency.
- ◆ **Conservation Easements:** A conservation easement is a restriction placed on a piece of property to protect its associated resources. The easement is either voluntarily donated or sold by the landowner and constitutes a legally binding agreement that limits certain types of uses or prevents development from taking place on the land in perpetuity while the land remains in private hands. Conservation easements protect land for future generations while allowing owners to retain many private property rights and to live on and use their land, at the same time potentially providing them with tax benefits.

Land and Water Conservation Fund

The Land and Water Conservation Fund (LWCF) is a Federal program that was established by Congress in 1964 to provide funds and matching grants to federal, state and local governments for the acquisition of land and water, and easements on land and water. The goal of the fund is to help protect and ensure access to land and water for recreation and to preserve natural treasures as parks and protected forest and wildlife areas.

The primary source of income to the fund is fees paid to the federal government by companies drilling offshore for oil and gas. Funds from the Land and Water Conservation Fund have helped state agencies and local communities acquire nearly seven million acres of land and easements controlling additional lands. LWCF funding has gone to every county in the US.

Though LWCF is authorized with a budget cap of \$900 million annually, this cap has been met only twice during the program's nearly four decades of existence. Congress regularly diverts most of the funds to other purposes. The LWCF program is divided into two distinct funding pools: state grants and federal acquisition funds. On the federal side, each year, based on project demands from communities as well as input from the federal land management agencies, the President makes recommendations to Congress regarding funding for specific LWCF projects. In Congress, these projects go through an appropriations committee review process. Given the intense competition among projects, funding is generally only provided for those projects with universal support. Initially authorized for a twenty-five-year period, the LWCF has been extended for another twenty-five years, its current mandate expiring in 2015.



Core Environmental Laws

The Wilderness Act

The Wilderness Act of 1964 created the legal definition of wilderness in the United States and protected 9.1 million acres of federal land. The act gives Congress the authority to permanently protect federal lands as wilderness that: (1) have minimal human imprint; (2) provide opportunities for unconfined recreation; (3) are at least 5,000 acres; and (4) have educational, scientific, or historical value. According to the act: "A wilderness, in contrast with those areas where man and his own works dominate the landscape, is hereby recognized as an area where the earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain." Wilderness areas are protected from logging, mining, energy development, and road construction, and prohibit enterprises or any motorized or mechanized transport. When Congress designates each wilderness area, it includes a very specific boundary line in statutory law. Once a wilderness area has been added to the system, its protection and boundary can only be altered by another act of Congress. That places a heavy burden on anyone who may propose some change.

Antiquities Act

The Antiquities Act of 1906 gives the President the authority to, by executive order, protect important areas of land owned by the federal government. The Act was intended to allow the President to set aside certain valuable public natural areas as park and conservation land. The 1906 act stated that it was intended for: "the protection of objects of historic and scientific interest." These areas are given the title of National Monuments. The aim is to protect all historic and prehistoric sites on US federal lands and to prohibit excavation or destruction of these antiquities. With this act, this can be done much more quickly than going through the Congressional process of creating a National Park. Presidents increasingly look for a high level of local public support before protecting an area under the Antiquities Act. Some areas designated as National Monuments have later been converted into National Parks, or incorporated into existing National Parks. The Act was first used to protect a large geographic feature when President Theodore Roosevelt proclaimed Devils Tower National Monument on September 24, 1906. President Roosevelt also used it to create the Grand Canyon National Monument, which Congress later designated a National Park.

Federal Lands Policy and Management Act (FLPMA)

Congress enacted the Federal Land Policy and Management Act (FLPMA) in 1976 to establish a unified, comprehensive, and systematic approach to managing and preserving BLM lands in a way that protects “the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values.” FLPMA applies to federally-owned lands that have not already been set aside for national forests and parks, wildlife preservation areas, military bases, or other federal purposes. Under FLPMA, the BLM is required to establish a planning process for the management of public lands that accommodates multiple uses of the land and its resources, and achieves sustained yields of natural resources. The law also requires BLM to regularly inventory its lands for wilderness characteristics. Uses of BLM lands range from livestock grazing, mineral extraction, and logging to recreational uses such as fishing, hunting, birding, boating, hiking, biking, and off-roading. The Secretary of the Interior has the authority to withdraw certain lands from being sold or used under other federal statutes for the purposes of preserving the land or reserving the land for a particular use. Withdrawals under FLPMA are

temporary, thus congressional action is necessary to make withdrawals permanent.

The National Forest Management Act (NFMA)

NFMA governs the administration of National Forests. NFMA requires that the Forest Service use a systematic and interdisciplinary approach to develop plans to manage the lands under the agency’s management. It also provided for public involvement in preparing and revising those forest plans. NFMA requires the Forest Service to inventory its lands, and zone those lands to determine the best use for each area. The law gives a wide range of interests — timber, mining, grazing, conservation, recreation — the opportunity to influence the management of National Forest lands by engaging in the planning process. Until NFMA was enacted, the Forest Service was not explicitly required to manage lands to benefit non-timber values like conservation, recreation, wildlife, and fisheries.

Endangered Species Act (ESA)

The Endangered Species Act of 1973 was designed to protect critically imperiled species from extinction as a “consequence of economic growth and development untempered by adequate concern and conservation.”

The US Supreme Court found that “the plain intent of Congress in enacting” the ESA “was to halt and reverse the trend toward species extinction, whatever the cost.” The Act is administered by two federal agencies, the United States Fish and Wildlife Service (FWS) and the National Oceanic and Atmospheric Administration (NOAA). To be considered for listing, the species must meet one of five criteria:

1. There is the present or threatened destruction, modification, or curtailment of its habitat or range.
2. An over utilization for commercial, recreational, scientific, or educational purposes.
3. The species is declining due to disease or predation.
4. There is an inadequacy of existing regulatory mechanisms.
5. There are other natural or manmade factors affecting its continued existence.

National Environmental Policy Act (NEPA)

NEPA established a US national policy promoting the enhancement of the environment. NEPA’s most significant effect was to set up procedural requirements for all federal government agencies to prepare environmental assessments (EAs) and environmental impact statements (EISs). EAs and EISs contain statements of the environmental effects

of proposed federal agency actions. NEPA also requires that agencies seek public input in decision-making processes, including National Forest plan revisions.

Clean Water Act

The Clean Water Act is the primary federal law in the US governing water pollution. Passed in 1972, the act established the goals of eliminating releases of high amounts of toxic substances into water, eliminating additional water pollution by 1985, and ensuring that surface waters would meet standards necessary for human sports and recreation by 1983.

Clean Air Act

The Clean Air Act is designed to control air pollution on a national level. It requires the Environmental Protection Agency (EPA) to develop and enforce regulations to protect the public from airborne contaminants known to be hazardous to human health. The law requires comprehensive federal and state regulations for both stationary and mobile pollution sources, acid rain, ozone depletion, and toxic air pollution.



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