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GRAZING

HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

OF THE

COMMITTEE ON
ENERGY AND NATURAL RESOURCES
UNITED STATES SENATE

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

TO

REVIEW THE GRAZING PROGRAMS OF THE BUREAU OF LAND MANAGEMENT AND THE FOREST SERVICE, INCLUDING PERMIT RENEWALS, RECENT AND PROPOSED CHANGES TO GRAZING REGULATIONS, AND RELATED ISSUES; AND TO EXAMINE THE WILD HORSE AND BURRO PROGRAM, AS IT RELATES TO GRAZING, AND THE ADMINISTRATION'S PROPOSAL FOR SAGE GROUSE HABITAT CONSERVATION

JUNE 23, 2004

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GRAZING

WEDNESDAY, JUNE 23, 2004

U.S. SENATE,
SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC.

The subcommittee met, pursuant to notice, at 4:17 p.m., in room SD–366, Dirksen Senate Office Building, Hon. Larry E. Craig presiding.

OPENING STATEMENT OF HON. PETE V. DOMENICI, U.S. SENATOR FROM NEW MEXICO

The CHAIRMAN. This is the subcommittee hearing. I am chairman of the full committee. The subcommittee chairman is Senator Craig. He will be along shortly, in which event I will probably be in and out.

I want to do what he had suggested, that we take the visiting witnesses first. So, Mr. Hughes from the Department, would you wait, and if the three witnesses that have come to us from other States, would they take the witness stand and let us get started?

Mr. Chairman.

Senator CRAIG. Senator Domenici.

The CHAIRMAN. Before you proceed—and I thank you for coming up here. This has been a difficult day for us. It is not like we have run away from you. It is just that we had seven votes. That is very unusual. You cannot come up here and go back down. So that is where we were.

I want to thank the three witnesses that came from out West, Mr. Skinner, Mr. Casabonne, and Mr. Groseta, because it is very important that we hear from you. We will hear from the Federal people.

I just want to say a simple kind of proposition. We started years ago trying to get both the BLM and the Forest Service where they would get caught up on their permitting, and that if they did not and it was no fault of the permittee, we kept on year after year passing amendments that would not in any way cause your leases to be changed by that problem.

We have gotten to the point now where we have done that for 10 or 12 years, and I hope that we finish up here today with some understanding by the Federal Government on what their responsibility is. And is it a question of money or not? And can we get this thing under control some way? It is just awful that with all the management tools we have got that we cannot do this. Frankly, we have pushed them very hard in our State, hard enough that I do

not want to do that anymore. I am here to tell them they have got to push hard in every State.

With that, I yield to the subcommittee chairman and I will be back in a while.

STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Senator CRAIG. Well, Mr. Chairman, thank you for stopping by.

Certainly public land grazing in New Mexico is every bit as important to that State as public land grazing is in my State of Idaho or the Senator from Arizona's State or any other western public land State where the livestock industry still plays a major role in overall agricultural economies and production.

So this is a second oversight hearing that we have held, one about a year ago this time, that is reflective of what the chairman has spoken to, and that is trying to get it right in cattle country, understanding and hoping to send a message to the agencies and to other interested parties that grazing is an important use of our public resources and done responsibly and wisely, as we think it is.

So, gentlemen, we thank you for being here.

I am going to turn to my colleague from Arizona for an introduction of a constituent, and then I will move to the balance of you. Then we will get your testimony.

[The prepared statement of Senator Craig follows:]

PREPARED STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO

Good afternoon and welcome. Today's oversight hearing is on grazing programs on Forest and BLM administered Federal Lands. I want to welcome Senator Domenici, Chairman of the Full Committee, Senator Wyden, our Ranking Member for the Subcommittee and our other members.

Also, I want to welcome Mr. Jim Hughes, Deputy Director for the Bureau of Land Management; and Mr. Tom Thompson, Deputy Chief for the Forest Service. And our other witnesses, all ranchers who deal with these issues daily:

- Mr. Andy Groseta, Chairman of NCBA's Federal Lands Committee, from Cottonwood, Arizona,
- Mr. Mike Casabonne, President, Public Lands Council of the New Mexico Cattlegrowers' Association from Hope, New Mexico,
- Mr. Bob M. Skinner with the Oregon Cattlemen's Association from Jordan Valley, Oregon.

This is the second oversight hearing we have held on this issue in as many years. The ranching industry has been under assault for some time. Whether by benign neglect, lack of adequate priority or interest, or intentional anti-grazing actions of the past decade, we have reached a state of urgency for addressing our federal grazing programs. The new players this administration has put in place have shown a commitment to solving these problems, and maybe we are beginning to turn the corner, but there is still much to do. It is my intention to continue with oversight hearings in the future until I'm confident that there has been sufficient progress that we have sustainable programs on the ground that will support a viable industry.

As a former rancher, I know the benefits and challenges of grazing. In Idaho, cattle industry is one of our most valuable agricultural products.

I support grazing because I believe multiple use of public lands is a win-win situation. Ranchers are good stewards of the land. They know that their livelihoods are dependent upon the land, and if they abuse it, they will not prosper.

Grazing also reduces the risk of fire potential by reducing the fuel load of the land and is an important tool in combating invasive non-native weeds.

What these hearings are about is ensuring the continued use of public lands for grazing in ways that protect the environment.

Today, we will hear from the Administration about the current status of their current grazing programs and their progress on rangeland management.

I have asked the BLM to speak on the current management situation with respect to wild horses and burros on the public rangelands. This program is intended to consider other resources such as wildlife and vegetation, and-other uses such as livestock grazing and recreation. But the problems that come with these growing populations, have been compounded by years of drought and vast areas of wildfire. Management tools are minimal, very expensive and seem to have marginal effectiveness. I look forward to hearing more about this important rangeland issue.

We will also hear about the Administration's proactive approach on sage grouse habitat conservation.

I welcome our witnesses that are here today. We are eager to hear your plans and concerns, and want to assist you whenever possible.

STATEMENT OF HON. JON KYL, U.S. SENATOR FROM ARIZONA

Senator KYL. Well, thank you, Mr. Chairman. I am just going to take a second because everybody has been waiting far too long here.

But Andy Groseta is not just a constituent of mine, but a friend and a rancher that is well representative of the problem of the cattlemen generally in our Western States where we have drought, where there have been cutbacks. He will tell you there are folks who have not had cattle on their allotments for years because of a variety of circumstances.

And I share the comments that both you and the chairman of the full committee have made. We have got to do a better job of coordinating with our agencies and the folks that are out there trying to make a living. It is tough enough, with all the conditions that we have to deal with, when we do not have a Government that is necessarily as responsive as it can and should be. It is up to us to help make that happen.

But Andy Groseta will be speaking for the National Cattlemen's Beef Association, but I know he will tell the story of the Tonto Forest in Arizona too.

I want to welcome him and welcome all of you and apologize in advance for having to leave. We are all now way backed up today. So you will see us come in and out of the meeting. But we will have the full record in front of us. We will debrief the chairman, and the fact that there are not as many people here does not mean there is a lack of interest. It is just the fact that we have had this kind of a day.

I thank you, Mr. Chairman, for holding this extraordinarily important hearing.

Senator CRAIG. Jon, thank you very much.

Andy, thank you for joining us. Mike Casabonne, president, Public Lands Council of New Mexico Cattlegrowers' Association from Hope, New Mexico. Bob Skinner, a gentleman I have known for a good long while, from the Oregon Cattlemen's Association from Jordon Valley, Oregon. Gentlemen, we thank you. Andy, we will start with you. Please proceed.

STATEMENT OF PETER ANDREW GROSETA, CHAIRMAN, FEDERAL LANDS COMMITTEE, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, COTTONWOOD, AZ

Mr. GROSETA. Thank you, Senator. Good afternoon, Chairman Craig and Senator Kyl.

My name is Peter Andrew Groseta, and I am a third generation cattle rancher from the Verde Valley in north central Arizona. My

family came to the Verde Valley at the turn of the last century to work in the copper mines in Jerome, Arizona. In 1922, my father's family moved to a ranch in Middle Verde and in 1936 to Cottonwood, where our ranch operations are headquartered today.

We are a family run ranching operation. My father passed away in May 2000 and my mother still lives on the ranch. We are in the cow/calf business. For 20 years, we owned and operated two ranches, the cow/calf operation and a stocker operation. We have sold our native yearling cattle to feeders in California, Texas, Oklahoma, Colorado, and Kansas. With severe drought conditions that started in the mid 1990's, we sold our stocker ranch. In addition, we downsized our cow herd to a core herd trying to retain the genetics in our cattle that have been developed and improved upon for 82 years.

I also serve as chairman of the Federal Lands Committee of the National Cattlemen's Beef Association. I appreciate the opportunity to be here today to provide some of my experience in public lands grazing to the committee on behalf of the sheep and cattle rancher members of the Public Lands Council and National Cattlemen's Beef Association.

Restocking the Tonto National Forest and range monitoring. Arizona, along with the rest of the Southwest, has been severely stricken by drought for the last several years. Because of drought and other issues, animal unit months on Forest Service land has been reduced on the Tonto National Forest by nearly 80 percent, and the area's ranching community has suffered. As you can well imagine, this drastic reduction in AUM's has created a distrust of the Forest Service among the ranchers who question the drought required reductions at the scale imposed.

The Public Lands Council and NCBA recognize the drought is a serious resource issue. We have also worked hard to ensure that agency decisions are based on science, facts, and policy and not on the personal biases of individual agency employees. Clearly the cooperation of all affected parties will be required to enable the Forest Service to effectively fulfill its multiple use mandate for managing public lands.

Fortunately, signs of such cooperation with the Forest Service, the Bureau of Land Management, the NRCS, and a number of State partners are beginning to emerge to at least give rise to hope that the lands can be managed in a sensible manner that recognizes the needs of both resource condition and local ranching communities.

First, the U.S. Forest Service, the NCBA, the Public Lands Council, the Arizona Cattle Growers, along with the Gila County Cattle Growers' Association, have recently teamed up and signed an agreement called the Tonto Restocking Agreement to restock cattle on Arizona's Tonto National Forest. The Tonto National Forest will expedite the return of as many cattle as supportable by forage conditions on these allotments.

An integral element of the restocking program is that monitoring data will be used to support decisions about cattle numbers on the ground, reducing the chance that personal biases can influence resource decisions. The resource information produced by third par-

ties will help stabilize grazing management both for ranchers and for the Forest Service.

Grazing permit renewal. It is imperative to the financial success of a public lands ranching operation that permits to graze on those public lands be renewed in a timely manner when they expire. Ranchers who run cattle on Federal land need and deserve a stable regulatory environment within which to operate.

The U.S. Forest Service grazing permit backlog in particular is tremendous and would put our members' operations at risk in the absence of existing protective language. We understand the Forest Service will not be able to eliminate this backlog in the 4 remaining years of the new legislation.

Given these times of large budget deficits, it seems unlikely that Congress will provide the additional funds needed to eliminate the permit backlog. We, therefore, urge members to consider whether additional reform of NEPA is warranted to help with the problem.

Vacant allotments. Perhaps one of the more important issues facing the public land grazing industry and Federal land managers is what to do about the increasing number of vacant allotments appearing throughout the West on Federal lands. PLC and NCBA is opposed to proposals for Federal policy that favors eliminating the infrastructure needed to support grazing on public lands. Vacant allotments in the Federal Government's inventory should be made available to existing ranching operations before they are considered for other uses. In particular, we oppose legislation introduced by Congressmen Grijalva and Shays to fund permanent retirement of Federal grazing permits. This position is consistent with those in and out of the Government who recognize the value of keeping ranches intact. This position is also consistent with those who support the principle of the multiple use of public lands in which grazing is a co-equal use of those lands.

Still, we recognize that some ranchers may want to get out of the business and there is not always someone ready to step in behind them to take their place. We also believe that ranchers get forced out of business by overly zealous regulation of operations by Federal employees. Land use conflicts between ranching and predators also make continued operations untenable for some.

Voluntary or forced relinquishment of grazing permits is particularly painful for ranchers because of the economic value conferred by possession of a permit is recognized in the marketplace and is part of the business assets maintained by ranchers with livestock grazing on public lands. Even environmentalists recognize the economic value of permits, as indicated by their willingness to compensate ranchers for that value in the Grijalva/Shays bill. The point here is that when ranchers leave or are forced off their Federal allotments, they also lose part of their equity value of their businesses, as well as part of their way of life.

In closing, I want to thank you for the opportunity to present the views of the Public Lands Council and the National Cattlemen's Beef Association to the subcommittee on issues facing ranchers grazing livestock on public lands. I would be pleased to answer any questions. Thank you.

[The prepared statement of Mr. Groseta follows:]

PREPARED STATEMENT OF PETER ANDREW ("ANDY") GROSETA, CHAIRMAN, FEDERAL LANDS COMMITTEE, NATIONAL CATTLEMEN'S BEEF ASSOCIATION, AND OWNER, W DART RANCH, DBA GROSETA RANCHES, LLC

Good afternoon, Chairman Craig and distinguished members of this subcommittee, my name is Peter Andrew Groseta; and I am a third-generation cattle rancher from the Verde Valley, in north central Arizona. My family came to the Verde Valley at the turn of the last century to work in the copper mines in Jerome, Arizona. In 1922, my father's family moved to a ranch in Middle Verde, and in 1936 to Cottonwood, where our ranch operations are headquartered today.

We are a family-run ranching operation. My father passed away in May of 2000, and my mother still lives on the ranch. We are in the cow/calf business. For 20 years, we owned and operated two ranches, a cow/calf and a stocker operation.

We have sold our native yearling cattle to feeders in California, Texas, Oklahoma, Colorado and Kansas. With severe drought conditions that started in the mid 1990s, we sold our stocker ranch. In addition, we downsized our cow herd to a "core" herd trying to retain the genetics in our cattle that have been developed and improved upon for 82 years.

Our present ranch consists of approximately 25,000 acres. This includes private (deeded), state and Forest Service lands. The ranch consists of 88 percent Forest Service lands.

My wife, Mary Beth, and I have raised three children, one son and two daughters, who are all presently enrolled at the University of Arizona, majoring in agriculture. Our son, who graduates this December, would like to come back to run the ranch after he receives his college degree. It is very gratifying, as a parent, to have our children (fourth generation) carry on the family ranching business. In these times, we are seeing less and less family-owned ranches in the West. With more and more government regulations (ESA, CWA, NEPA, etc.) and estate tax issues, it is making it more difficult for family ranches to continue to remain profitable and stay in business.

I also serve as Chairman to the Federal Lands Committee of the National Cattlemen's Beef Association. I appreciate the opportunity to be here today to provide some of my experience in public lands grazing to the Committee on behalf of the sheep and cattle rancher members of the Public Lands Council and the National Cattlemen's Beef Association.

The Public Lands Council (PLC) represents sheep and cattle ranchers in 15 western states whose livelihood and families have depended on federal grazing permits dating back to the beginning of last century. The National Cattlemen's Beef Association (NCBA) is the trade association of America's cattle farmers and ranchers, and the marketing organization for the largest segment of the nation's food and fiber industry.

Ranching out west has been part of the landscape, the economy, and the culture for approximately three centuries. About 214 of the 262 million acres managed by BLM are classified as "rangelands," as are 76 million of the 191 million acres managed by the Forest Service. More than 23,000 permittees, their families, and their employees manage livestock to harvest the annually renewed grass resource grown on this land. Western ranching operations provide important additional benefits to the Nation by helping to preserve open space and reliable waters for wildlife, by serving as recharge areas for groundwater, and by supporting the economic infrastructure for rural communities. Our policy is to support the multiple-use and sustained-yield of the resources and services from our public lands which we firmly believe brings the greatest benefit to the largest number of Americans. Both PLC and the NCBA strive to create a stable regulatory environment in which our members can thrive.

RESTOCKING THE TONTO AND RANGELAND MONITORING

Arizona, along with the rest of the southwest, has been severely stricken by drought for the last several years. Because of drought and other issues, Animal Unit Months (AUMs) on Forest Service land has been reduced on the Tonto National Forest by nearly 80 percent, and the area's ranching community has suffered. As you can well imagine, this drastic reduction in AUMs has sown distrust of the Forest Service among the ranchers, who question whether the drought required reductions at the scale imposed. The Public Lands Council and NCBA recognize the drought is a serious resource issue with which to be grappled. We, have also worked hard to ensure that agency decisions are based on facts and policy, and not on the personal biases of individual agency employees. Clearly, the cooperation of all affected parties will be required to enable the Forest Service to effectively fulfill its multiple-use mandate for managing public lands.

Fortunately, signs of such cooperation with the Forest Service, BLM, NRCS, and a number of state partners are beginning to emerge to at least give rise to the hope that the lands can be managed in a sensible manner that recognizes the needs of both resource condition and local ranching communities. First, the U.S. Forest Service (USFS), NCBA, PLC, and Arizona and Gila County Cattle Growers have recently teamed up to restock grazing cattle on Arizona's Forest Service land. The Tonto National Forest Restocking Agreement signed by Arizona-based representatives of the USFS, the Arizona Cattle Growers Association, and Gila County Cattle Growers will expedite the return of as many cattle as supportable by forage conditions on allotments.

Having the ranchers and the Forest Service work collaboratively on this project has offered an opportunity to begin rebuilding trust between the Agency and the ranching industry and provides a broader perspective for the Agency to administer National Forest lands collaboratively with important forest stakeholders. Forest Service participation in this project is important agency recognition of the important contributions ranchers make to rural economies and to the benefits of helping keep large landscapes intact.

Key components of the Tonto Restocking Program include:

- A Coordinated Resource Management Task Force comprised of qualified range technicians representing the Forest Service, Arizona Association of Conservation Districts, University of Arizona, and Natural Resources Conservation Service, will assist ranchers with monitoring and planning strategies for each grazing allotment.
- Technical Resource Team members will assess resource conditions and provide stocking options for individual grazing allotments.
- If the team determines that stocking is appropriate, alternatives will be presented addressing stocking levels under various management situations.
- Options presented by the Technical Resource Team will be used by Forest Service line officers when making decisions regarding stocking.
- Ranchers will stock allotments in accordance with the line officer's decision. The line officer will use monitoring based on recommendations provided by the team in determining if numbers need to be adjusted. Ranchers will subsequently adjust livestock numbers, either up or down, as directed by the line officer.
- All recommendations will be made by allotment on a case-by-case basis and conform to all legal requirements and agency policies.

An integral element of the restocking program is that monitoring data will be used to support decisions about cattle numbers on the ground, reducing the chance that personal whim can drive resource decisions. The Tonto National Forest restocking effort is an extreme example of why industry concluded that the long-term viability of grazing on public lands depends on the availability of reliable information upon which to make management decisions. The resource information produced by third parties will help stabilize grazing management both for ranchers and for the Forest Service.

The Forest Service and the Natural Resources Conservation Service have supported monitoring on the Tonto National Forest in other ways as well. Both agencies have contributed funding to support additional staff positions to give monitoring the attention it needs. Additionally, both agencies have worked to implement a program of financial assistance to ranchers through the Farm Bill Environmental Quality Incentives Program who implement rotational grazing systems on their public land allotments. The purpose of the program is to conserve the forage resource on the public lands, and to support the economic viability of ranching operations during difficult economic times because of the drought. Many people in and out of the administration understand that keeping intact ranching operations on public and private lands is among the most effective means for keeping large landscapes intact with the attendant wildlife habitat benefits of those landscapes. The EQIP dollars will help accomplish this important conservation goal. We appreciate the support of NRCS and the Forest Service for restoring responsible grazing on the Tonto National Forest.

Our support for monitoring extends to seeking additional appropriations. In FY05, PLC and NCBA supported increased funding for the BLM's monitoring budget through the range program. We were unable to request additional funding for the Forest Service because, unlike the BLM, they were unable to directly, concretely account for where the money was spent. We will continue to seek funding for monitoring where the agencies can directly account for the use of those additional dollars.

GRAZING PERMIT RENEWAL

It is imperative to the financial success of a public lands ranching operation that permits to graze on those public lands be renewed in a timely manner when they expire. Ranchers who run cattle on federal land need and deserve a stable regulatory environment within which to operate. A business cannot remain economically viable when its capital is in question due to the federal government's lack of ability to meet its obligations. Last year, Congress took the important step of enacting legislation to ensure that permits would not be interrupted for a period of five years while the agencies strive to eliminate their backlog of permits for which they have not completed required NEPA documentation.

The U.S. Forest Service's grazing permit backlog, in particular, is tremendous and would put our members' operations at risk in the absence of existing protective language. We understand the Forest Service will not be able to eliminate this backlog in the four remaining years of the new legislation. We urge Congress to take a comprehensive look at permit renewal issues to come up with a long-term solution that takes into account the need to provide a stable regulatory framework for ranchers throughout the west as well as the needs of the agency to complete their work.

Given these times of large budget deficits, it seems unlikely that Congress will provide the additional funds needed to eliminate the permit backlog. We therefore urge members to. consider whether additional reform of NEPA is warranted to help with the problem. Grazing allotments with small numbers of cattle, or whose resource condition has been demonstrably stable over many years, or on which threatened or endangered species do not reside may not require the same level of NEPA attention as do allotments with more complicated and important resource issues. PLC and NCBA have long-believed that federal land management dollars are better spent on managing resources than on producing documentation that adds little value to understanding resource issues on the ground.

VACANT ALLOTMENTS

Perhaps one of the more important issues facing the public land grazing industry and federal land managers is what to do about the increasing number of vacant allotments appearing throughout the west on federal lands. PLC/NCBA's starting point in addressing this question is opposition to proposals for federal policy that favors eliminating the infrastructure needed to support graze public lands. In particular, we oppose legislation introduced by Congressmen Grijalva and Shays to fund voluntary relinquishments of federal grazing permits. This position is consistent with those in and out of the government who recognize the value of keeping ranches intact for keeping large landscapes intact. This position is also consistent with those who support the principle of multiple-use of public lands in which grazing is a co-equal use of the lands together with waterflows, fish, wildlife, recreation, and timber.

Still, we recognize that some ranchers want to get out of the business and there is not always someone ready to step in behind them and take their place in the operation. We also believe that ranchers get forced out of business by overly zealous regulation of operations by federal employees. Land-use conflicts between ranching and predators also make continued operations untenable for some.

Relinquishment of grazing permits is particularly painful for ranchers because the economic value conferred by possession of a permit is recognized in the marketplace and is part of the business assets maintained by ranchers with livestock grazing on public lands. Apart from whether holding a grazing permit is legally recognized as a property right, the permits are bought and sold as part of larger ranch transactions, banks loan money on permits, and the Internal Revenue Service taxes ranchers on the value conferred by permits. Even environmentalists recognize the economic value of permits as indicated by their willingness to compensate ranchers for that value in the Grijalva/Shays bill. The point here is that when ranchers leave or are forced off their federal allotments, they also lose part of the value of their businesses as well as a part of their way of life.

Whatever the specific cause, both the BLM and the FS have a number of vacant allotments on their rolls which are not retired to other uses and are not being actively used for grazing. PLC and NCBA are concerned that these grazing allotments be made available in the first instance to other ranchers to use either individually or to manage collectively to optimize the size of their ranching operations. Should other ranchers not wish to avail themselves of surplus allotments, then the allotments should be held in reserve by the federal agencies for times when drought or other causes requires more forage to be available for grazing to minimize the impact of adverse conditions on any single allotment.

These reserved allotments should be considered part of a working ranching landscape. At no time should grazing allotments be set aside for conservation use.

CONCLUSION

I want to thank you for the opportunity to present the views of the Public Lands Council and National Cattlemen's Beef Association to the subcommittee on issues facing ranchers grazing livestock on public lands. I would be pleased to take any questions members of the subcommittee may have for me.

Senator CRAIG. Andy, thank you very much.

Mike, we will turn to you.

STATEMENT OF MIKE G. CASABONNE, PRESIDENT, NEW MEXICO PUBLIC LANDS COUNCIL, HOPE, NM

Mr. CASABONNE. Mr. Chairman, distinguished members of the committee, I appreciate the opportunity to testify here in behalf of New Mexico Public lands Council. My name is Mike Casabonne. I am a rancher in southeastern New Mexico. I raise sheep and cattle on intermingled privates, Federal, and State land. I grew up on the ranch that our family continues to operate near Hope, New Mexico. My family has been ranching in southeastern New Mexico since the early 1900's.

I would specifically like to talk to you today about rangeland monitoring on Federal land used for livestock grazing and the proposed changes to the Bureau of Land Management's grazing regulations and some other topics related to Federal land livestock grazing.

New Mexico's livestock producers support the collection of monitoring data on Federal rangeland. We believe it is essential for Federal land managers and ranchers alike to have access to results of long-term vegetative monitoring to adequately assess the condition of rangeland and to be able to manage it in the best interests of the rancher as well as the public. It is also essential to document our record of good stewardship of Federal grazing land.

The BLM in New Mexico has a good record of data, especially in the southern part of the State. The New Mexico Department of Agriculture and the Range Improvement Task Force of New Mexico State University have contributed to agency expertise in collecting and analyzing monitoring data, and the record of data, along with the involvement of university scientists and the academic community in the Public Rangeland Improvement Act, PRIA's section 8 process has been instrumental in averting or resolving conflict between the BLM and ranchers in contrast to what has occurred in other areas and on U.S. Forest Service administered lands where there is little or no data. This system, we feel, is a model that would benefit agency range management west-wide.

We believe the record of data is invaluable to all parties concerned with range management, including ranchers and the land management agencies, and we must not break the continuity of that record, where it exists, and build a record where there is none.

In addition to our belief that the collection of monitoring data leads to better management of range resources, it is also a statutory requirement of the BLM and the Forest Service to collect and analyze data on the condition and trend of Federal rangeland. The numerous statutes are detailed in my written testimony.

The data collected should be of physically measurable characteristics, repeatable, and demonstrate consistent results over time. Change in range condition normally happens slowly in arid climates and under such conditions, a one-point-in-time assessment of rangeland is not useful. The data must be collected over several growing seasons to be of maximum value. Long-term, quantitative vegetative monitoring has proven to be the most accurate method of assessing range condition and trend.

In addition to vegetative monitoring, data is needed on the impacts of uses other than livestock grazing. Methods to assess forage use specifically by different species of wildlife, impacts by oil and gas production and recreational use need to be developed. It should not be assumed that all impacts of use are attributable to livestock grazing.

If more resources were directed to monitoring, then many of the other problems that drain off personnel and budget resources would be avoided.

New Mexico livestock organizations, in cooperation with New Mexico State University and the Department of Agriculture and Soil and Water Conservation districts have encouraged rancher monitoring. But even if the agencies have the full cooperation of the ranching community in a cooperating monitoring program, it will be unrealistic to expect that the industry will be able to collect data, to provide the level of data that is needed to accomplish the task.

Whatever the industry response may be to rancher monitoring, the agencies are still legally required to collect data and ranchers should not be expected to assume that much of the agencies' responsibilities. If agency budget and personnel limits are constraints on monitoring, ranchers' resources in those areas are even more limited.

We have another problem with the implementation of the standards and guidelines. The Standards of Public Land Health and the Guidelines for Grazing Management are being implemented in New Mexico and across the West. "Rangeland health" is a term the agencies have begun to use to replace "range condition," and we believe the term "health" is less appropriate to describe rangeland. If health is less than optimum, the assumption is made that there is an illness with a cause that should be remedied, and we do not believe these analogies fit rangeland.

As a first step in the process, BLM field offices in the State have begun a process they call watershed assessment using a handbook entitled Interpreting Indicators of Rangeland Health. This methodology is not science-based and results in an evaluation that is highly subjective.

Another problem that we have with this process is it is a one-point-in-time assessment that we do not believe is valid. We think that quantitative vegetative monitoring, as we mentioned before, is still the best way to assess range condition and that the indication of the vegetative monitoring is still the best measure of rangeland health.

We also have some issues with the U.S. Forest Service, and the relationship between the Forest Service and the ranching community is not good. We understand that there are some steps being

taken toward solutions, and the recent instruction to Forest Service range personnel to incorporate section 8 of PRIA into their grazing allotment administration is a positive step. There is gratification that the Forest Service has become concerned enough with the plight of ranchers in the region that a separate working group has been tasked to address the problem. How on-the-ground issues are handled at the allotment level, however, will be the way that success in rebuilding the relationship is judged. We will do our part in that effort.

We did have some other comments on the Endangered Species Act and NEPA compliance. We believe that the environmental assessments that are required to be done on permit renewal, if there could be a categorical exclusion applied to the permit renewal process, which I am sure you have heard before, but that would release the agency personnel so they would be able to do a lot more of this monitoring that we think would avert a lot of the costly legal problems and the conflict that happens now.

But with that, I will conclude and say we also have some detailed comments on the BLM regulatory reform that are a part of the written comments.

With that, I again would like to thank the committee for the opportunity to address you here today on behalf of the New Mexico Public Lands Council. I too would be willing to answer any questions that the committee may have.

[The prepared statement of Mr. Casabonne follows:]

PREPARED STATEMENT OF MIKE G. CASABONNE, PRESIDENT, NEW MEXICO PUBLIC LANDS COUNCIL, HOPE, NM

Mr. Chairman and distinguished members of the Committee, my name is Mike Casabonne. I am a rancher in southeastern New Mexico raising sheep and cattle on intermingled private, federal and state land. I grew up on the ranch that our family continues to operate near Hope, NM. My family has been ranching in southeastern New Mexico since the early 1900's.

I would specifically like to talk to you today about rangeland monitoring on federal land used for livestock grazing and the proposed changes to the Bureau of Land Management's (BLM's) grazing regulations and other topics related to federal land livestock grazing.

AGENCY MONITORING

New Mexico's livestock producers support collection of monitoring data on federal rangeland. We believe it is essential for federal land managers and ranchers alike to have access to results of long-term vegetative monitoring to adequately assess the condition of rangeland to be able to manage it in the best interests of the rancher as well as the public. It is also essential to document our record of stewardship of federal grazing land.

The BLM in New Mexico has a good record of data especially in the southern part of the state. That data has been a major factor contributing to the record of sound range management of southern New Mexico ranches. New Mexico State University (NMSU), the New Mexico Department of Agriculture (NMDA) and NMSU's Range Improvement Task Force have contributed to agency expertise in collecting and analyzing monitoring data.

New Mexico has made extensive use of the provisions in Section 8 of the Public Rangelands Improvement Act (PRIA) that allow for consultation, cooperation and coordination among federal and state agencies and local private range users. The state of New Mexico and the BLM and Forest Service have MOU's that formalize that relationship. The record of data along with the involvement of university scientists and the academic community in the PRIA Section 8 process has been instrumental in averting or resolving conflict between the BLM and ranchers in contrast to what has occurred in other areas and on U.S. Forest Service (Forest Service) administered

lands where there is little or no data. This system is a model that would benefit agency range management west wide.

We believe the record of data is invaluable to all parties concerned with range management including ranchers and the land management agencies. We must not break the continuity of that record where it exists and begin to build a record where there is none.

In addition to our belief that collection of monitoring data leads to better management of range resources it is also a statutory requirement of the BLM and Forest Service to collect and analyze data on the condition and trend of federal rangeland. Statutes mandating such data collection are listed as follows:

National Forest Management Act of 1976 (NFMA)

- The National Forest Management Act (NFMA) of 1976 directs the Forest Service to prepare land and resource management plans (LRMP) for individual units of the National Forest System. The forest plan "provides for multiple use and sustained yield of goods and services from the national forest... in a way that maximizes long-term net public benefits in an environmentally sound manner."
- The Land and Resource Management Plan (LRMP) must contain four specific categories of findings and conclusions. *This includes that the LRMP must provide "monitoring and evaluation requirements that will provide a basis for periodic determination and evaluation of the effects of management practices."*

Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA)

- Sec. 2. Findings:
  - (3) to serve the national interest, the renewable resources program must be based on a comprehensive assessment of present and anticipated uses, demand for, and supply of renewable resources from the Nations' public and private forests and rangelands . . . .
  - (4) the new knowledge derived from coordinated public and private research programs will promote a sound technical and ecological base for effective management, use, and protection of the Nations' renewable resources.
  - Sec. 6. (g)(2)(B) "*provide for obtaining inventory data on the various renewable resources, and soil and water,* . . . .
- Sec. 6g(3)(c) insure research on and (*based on continuous monitoring and assessment in the field*) evaluation of the effects of each management system to the end that it will not produce substantial and permanent impairment of the productivity of the land.

Federal Lands Policy and Management Act of 1976 (FLPMA)

- Sec. 102. (a)(2) *The national interest will be best realized if the public lands and their resources are periodically and systematically inventoried* and their present and future use is projected through a land use planning process coordinated with other Federal and State planning efforts.

Public Rangelands Improvement Act of 1978 (PRIA)

- Sec. 2. (b)(1) *inventory and identify current public rangelands conditions and trends* as a part of the inventory process required by Section 201(1) of FLPMA
- Sec. 2. (b)(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values . . . .
- Sec. 4. (a) *Following enactment of this Act, the Secretary of the Interior and the Secretary of Agriculture shall update, develop (where necessary) and maintain on a continuing basis thereafter, an inventory of range conditions and record of trends of range conditions on the public rangelands, and shall categorize or identify such lands on the basis of the range conditions and trends thereof as they deem appropriate. Such inventories shall be conducted and maintained by the Secretary as a part of the inventory process required by section 201 (a) of the Federal Land Policy and Management Act (43 U.S.C. 1711). and by the Secretary of Agriculture in accordance with section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1603); shall be kept current on a regular basis so as to reflect changes in range conditions; and shall be available to the public.*

To be of most value the data collected should be of physically measurable characteristics, repeatable and demonstrate consistent results over time. There are widely accepted methods of collecting range monitoring data that involve transects to determine composition, ground cover, exclosures for utilization studies and various other techniques that have been proven to give useful data and repeatable results.

Change in range condition normally happens slowly in arid climates, which describes most of our western rangelands. Under such conditions a one-point-in-time assessment of rangeland is not useful. Data must be collected over several growing seasons to be of maximum value. Long-term, quantitative, vegetative monitoring has proven to be the most accurate method of assessing range condition and trend. The 'more years of data in the database, the more useful the information is.

In addition to the quantitative vegetative monitoring, data is needed on the impacts of uses other than livestock grazing on rangeland. Methods to assess forage use specifically by different species of wildlife, impacts on forage production by oil and gas production and recreational use of federal lands need to be developed. It should not be assumed that all impacts of use are attributable to livestock grazing.

Monitoring should be one of the agencies' highest priorities. If more resources were directed to that effort many of the other problems that drain off personnel and budget would be avoided.

RANCHER MONITORING

New Mexico livestock organizations, in cooperation with NMSU, NMDA and Soil & Water Conservation districts have encouraged rancher monitoring, not to replace agency efforts, but for their own use in management decision-making and in the event of adverse action by the agencies or third parties. We have always encouraged federal land ranchers to participate in agency monitoring efforts so they understand the data collection and analysis process. The BLM has recently asked us to encourage rancher monitoring on a cooperative basis with the agency. The New Mexico livestock industry is currently discussing ways we could assist the BLM in monitoring data collection.

However, even if a significant number of ranchers participate with the agencies in monitoring efforts there are still hurdles to overcome. Rancher-collected data will be viewed as biased by grazing opponents. Agencies will have to review and authenticate data at a level to insure credibility.

Cooperation with the agencies will have to be carried out on an allotment-by-allotment basis. Not all ranchers will be able to participate at the same level. The agencies will still have to administer the program and fill in the gaps where rancher data is insufficient. If the agencies have budgetary and personnel constraints; rancher resources are even more limited. Even with most optimistic estimates of how many ranchers will be able to undertake the task, it is unrealistic to expect the industry to be able to collect monitoring data at the level needed.

Credible scientific data will provide basis for sound decisions and avoid costly conflict and legal actions that have drained so much of the agencies' resources over the last several years. Agency investment in monitoring is a cost-effective policy.

Whatever the industry response may be to rancher monitoring, the agencies are still legally required to collect data. Ranchers should not be expected to assume the agencies' responsibility, which in reality as an industry will not be able to.

The need for continued monitoring by both the BLM and Forest Service where there is a record of data and to begin data collection efforts where there the record is incomplete should be one of the agencies' highest priorities.

STANDARDS & GUIDES IMPLEMENTATION

There are serious problems with the way the Standards for Public Land Health and Guidelines for Grazing Management are being implemented in New Mexico and across the west. The Standards and Guides require an assessment of "rangeland health." "Rangeland health" is a term the agencies have begun to use to replace the historical "Range Condition" with mixed results. Both are value-laden terms, the term "health" is less appropriate to describe rangeland. If "health" is determined to be less than optimum, the assumption is made that there is an illness with a cause that should be remedied. These analogies do not fit rangeland management.

In New Mexico a process has begun to assess priority watersheds in BLM field office areas. These "watershed assessments" are conducted using a process outlined in a BLM technical reference titled "Interpreting Indicators of Rangeland Health." This methodology is not science-based and results in an evaluation that is highly subjective.

The evaluation of a particular site is reflected as a rating that is nothing more than a compilation of ratings of different attributes of the range site. The observer ranks what he sees compared to what he believes should exist under a set of defined conditions. The danger is that this process gives a ratings score to something that is not measured by any quantifiable method.

This process violates one of the basic principles of range science by rendering a conclusion on rangeland health or condition based on a one-point-in-time assess-

ment. A basic tenet of range management especially on and or semi-arid rangelands is that data must be collected over time to be of use. And these assessments are only interpreted subjective opinions, not scientific data.

Page 1 of the technical reference defines how this process is to be used. It is specifically NOT to be used to "independently generate national or regional assessments of rangeland health."

"The approach described in this technical reference IS designed to:

- Be used only by knowledgeable, experienced people
- Provide a preliminary evaluation of soil/site stability, hydrologic function, and integrity of the biotic community (at the ecological site level).
- Help land managers identify areas that are potentially at risk of degradation.
- Provide early warnings of potential problems and opportunities
- Be used to communicate fundamental ecological concepts to a wide variety of audiences in the field.

The approach is NOT to be used to:

- Identify the cause(s) of resource problems.
- Make grazing and other management decisions.
- Monitor land or determine trend.
- Independently generate national or regional assessments of rangeland health."

These assessments are a comparison of what the observer believes should exist on the site compared to observed conditions. There are many factors including lack of familiarity with similar range sites and inexperience in range evaluation that can lead to erroneous results from this process. Because of the subjective nature of the evaluations, the results are not repeatable. Sites monitored by this method cannot be monitored over time to provide useful data because the next evaluator may not see the same conditions the same way.

Condition of some range sites is influenced by factors that cannot be changed by altering grazing management. This process may not identify these factors. The results could be used to suggest a solution to a problem that in reality will provide no remedy. *Example:* A proposed solution to localized erosion could be to reduce or remove livestock grazing when the only management practice that will have any effect on the problem may be mechanical erosion control. Although grazing may be involved in the condition, modification of grazing management by itself may not be part of the solution. *Example:* Grazing management may have no effect on brush encroachment on a range site without some form of brush control.

Professional and academic range scientists have told us that this process is not science based and the results cannot be compared to quantitative vegetative analysis. Decisions based on these findings will not lend themselves to the PRIA Section 8 process that has been used in New Mexico to such benefit because these decisions will not be based on any facts that can be scientifically confirmed or denied.

We have not been able to find any significant benefit to the enhancement of range management from this process.

Traditional vegetative monitoring is not as simple or as fast as the methods described above but there is no shortcut to obtaining useful data. While the BLM's desire to use this method to gather range data because it is fast, easy and considerably less work is understandable, it does not meet the standard of good range science. Monitoring quantitative vegetative attributes of range sites is still the only way to get usable results.

New methods of assessing some of these attributes are under discussion by range scientists and academics. The agencies should consider how they can incorporate the latest proven scientific methods into their monitoring program.

WATERSHED MANAGEMENT

We understand the desire to manage on a watershed basis. However the term "watershed" can have different meanings that vary widely in scope. There must be recognition that resource problems can be different from area to area even within the same allotment in a defined watershed. Solutions to problems have to be found and applied on an individual basis. A localized problem should not lead to management prescriptions applied to the whole watershed unless it is demonstrated by sound data that it is needed across the wider area.

NEPA COMPLIANCE

One of the reasons there is a shortage of personnel and resources to accomplish monitoring is the preparation of Environmental Assessments (EAs) for renewal of

grazing permits. The National Environmental Policy Act (NEPA) regulations require each federal agency to develop its own set of NEPA procedures (40 CFR 1507.3)

These agency procedures identify:

a. which types of actions normally meet the criteria for preparation of EIS (i.e. if the action is a "major federal action significantly affecting the quality of the human environment");

b. which actions normally require EAs; and

c. which actions normally do not have a significant effect on the quality of the human environment and therefore can be categorically excluded from further NEPA review procedures

Agency personnel have become increasingly occupied with burdensome procedural tasks such as preparing Environmental Assessments for every permit renewal. If BLM and Forest Service range staff were relieved of some of these burdens, they would have more time to conduct rangeland monitoring and would then have the data to enable them to manage more effectively.

A categorical exclusion from NEPA analysis should be applied to the regular permit renewal process. The grazing program has undergone a programmatic EIS and all revisions to management plans must undergo NEPA analysis. That should be sufficient to comply with the congressional intent of NEPA.

ENDANGERED SPECIES ACT COMPLIANCE

Endangered Species Act (ESA) compliance is another process that distracts agency range staff and budget from meaningful range management. The single species management that occurs as result of ESA concerns leads to poor federal land natural resource management. BLM and Forest Service managers should not abdicate their role in managing resources under their responsibility to the Fish & Wildlife Service (FWS). Modification of the ESA to allow common sense solutions to be applied to endangered species concerns and limit legal action is desperately needed. Current ESA administration is not environmentally or fiscally responsible. There should also be legislation to require that ranchers or other private property owners be compensated for the replacement value of grazing capacity or other property taken for the benefit of endangered species.

FOREST SERVICE ISSUES

The relationship between ranching community and the Forest Service in the Southwest Region is not good. This is not a new problem and we recognize that resolution will not be easy. We are hopeful that there has been recognition of the seriousness of the problem and that steps are being taken toward solutions. The recent instruction to FS range personnel to incorporate Section 8 of PRIA into their grazing allotment administration is a positive step. We find that the agency's use of punitive reductions in cattle numbers is not productive. But there is gratification that the Forest Service has become concerned enough with the plight of ranchers in the Southwest Region that a separate working group has been tasked to address the problem.

How on-the-ground issues are handled at the allotment level will be the way success in rebuilding the relationship is judged. We will do our part in that effort.

PROPOSED CHANGES TO BLM REGULATIONS

The New Mexico livestock industry has been extremely pleased that the BLM has undertaken grazing regulatory reform, although in our view the reform may not go far enough. Our detailed comments are submitted as an attachment to this testimony and here are a few of the points our producers keyed in on.

- Section 4 permits
- We requested that monitoring data should be one of the required sources of information used to determine status of Rangeland Health. (More appropriate term—Range Condition)
- Inclusion of socio-economic factors in analysis of agency action (Human Dimension Standard)
- Reinstatement of District Grazing Advisory Boards
- Moving whole Standards & Guides section from Part 4180 to Part 1610 planning section of the regs.
- Elimination of subleasing surcharge, not included in draft regs. but should have been, not a grazing fee issue.
- Interested public definition
- Burden of proof should be on BLM

- Monitoring data has to be used to make decisions, not just rangeland health assessment

We have covered a great deal of ground here today and I know that addressing even a single portion of our concerns will require dedication and cooperation on the part of ranchers as well as federal land management agencies. We in New Mexico are certainly willing to do what we can to that end. Thank you for your time today and your consideration of these comments as they impact federal legislation.

The following attachments have been retained in subcommittee files:

1. New Mexico Public Lands Council BLM Regulatory Reform Comments, March 2004
2. BLM/Governor of New Mexico MOU
3. U.S. Forest Service/NMDA MOU

Senator CRAIG. Mike, thank you very much.

Now, Bob, we will hear from you.

STATEMENT OF BOB SKINNER, ON BEHALF OF THE SHEEP AND CATTLE RANCHER MEMBERS OF THE PUBLIC LANDS COUNCIL AND THE NATIONAL CATTLEMEN'S BEEF ASSOCIATION

Mr. SKINNER. Good afternoon, Mr. Chairman and other members of the subcommittee. My name is Bob Skinner. I am a fifth generation rancher from Jordan Valley, Oregon. Our ranch currently has a BLM permit that allows us to utilize approximately 5,750 animal unit months for cattle in the Vale District in southeast Oregon.

I am immediate past president of the Oregon Cattlemen's Association and currently a National Public Lands Council delegate from my State of Oregon. I very much appreciate the opportunity to be here today to provide some of my experience as a public lands grazing permittee to this committee on behalf of grazing permittees across the West.

Ranching out West has certainly been part of the landscape, the economy, and the custom and culture for well over a century now. More than 23,000 grazing permits, which are represented mostly by families that are not unlike mine, comprise the majority of permittees. All of the producer groups that I have and do represent support multiple use and sustained yield of the resources.

Oregonians are rightfully proud of the many beautiful rivers that run through our State. Unfortunately, as things so often happen, management of these rivers and particularly those with segments that have been designated under the Wild and Scenic Rivers Act have recently wreaked havoc with the livestock industry. The intent and spirit of the Wild and Scenic Rivers Act has, at least we believe, been violated in that it now is used as a springboard to support litigation against our land management agencies and, of course, ultimately our people who are dependent upon these permits.

The problem that has developed in Oregon is that extreme special interest groups have repeatedly brought suit against the land management agencies, in this case both BLM and Forest Service, because the management plans called for in this act may not directly address impacts such as grazing to the wild and scenic values. These special interest groups have mission statements that bluntly state that "they are out to terminate grazing."

In Oregon alone, special interest groups have brought suit challenging grazing under the Wild and Scenic Rivers Act on the

Donner und Blitzen River, the John Day, the Malheur, Murderer's Creek, and Owyhee Rivers. Approximately 25 ranches are currently fighting for the livelihoods on the Malheur and Murderer's Creek corridors. As the landowner representative that has been involved in several of these efforts, I can assure this committee that the anguish and frustration with the system is just devastating, not to mention the enormous financial burden that is necessary to fight for your life.

The Oregon Cattlemen's Association, along with the Public Lands Council and NCBA, ask this committee to bring a better balance between grazing and river protection to the Wild and Scenic Rivers Act. The people whose lives and livelihoods are rooted in rural Oregon deserve attention for a remedy. There is no question that the law should prevent degradation of river values. We do not feel as though the intent of the law is to wreak havoc on rural families and communities in Oregon and throughout the West. We offer to work with the members of this committee to bring a better balance to the act and better carry out the spirit and intent of the law.

An area of ongoing concern in the ranching industry is the Endangered Species Act, in particular, the potential listing of the sage grouse under the act. The greater sage grouse resides in 13 States in the West, including a significant population in southeast Oregon. The U.S. Fish and Wildlife Service is currently reviewing multiple petitions to list the sage grouse as threatened or endangered under the Endangered Species Act and is scheduled to complete a 12-month species status review by the beginning of 2005.

Should Fish and Wildlife Service conclude at the end of this status review that listing the bird is warranted under the act, virtually all land use in the 13 States with designated habitat will be impacted. Unprecedented cooperation between Federal and State agencies, along with industry, is certainly helping compile data to prevent a listing.

The Western Association of Fish and Wildlife Agencies recently completed a conservation assessment of the status of the grouse. The assessment concluded that the population numbers have been stable for the last 15 years and that a number of areas in the West continue to have viable concentrations of populations. While there is some concern whether the population numbers will remain viable into the future, it also seems clear that the bird is not threatened with extinction at this time.

I have heard it said by several agency personnel back in my home State of Oregon that this potential listing is not about saving the bird, but instead about grazing. The potential social and economic effects of listing in the West are devastating. I can personally remember when sage grouse numbers were supposedly at their peak in the latter 1950's and 1960's, and I have to remind the committee that this point in time is also when range conditions were at an historic low point. Agencies and industry alike were managing our rangelands for maximum production with little understanding of what may happen to the sustainability of the resource. Those days are long gone. We realize now the importance of rangeland ecology to not only the resource, but to our livelihoods as well.

Invasive plants are one of the issues that we need to address and we most certainly appreciate Senator Craig's effort with S. 144. We

very much applaud that effort, and I think I have testified to your committee previously on that. We would like to get that in the record today. We realize that S. 144 has passed the Senate twice and currently is being considered by the House Ag and Resources Committees. Any help members of this committee can offer to enact S. 144 during this session of Congress would be much appreciated. The Public Lands Council and National Cattlemen's Beef Association are committed to seeing that this bill pass and do pledge their help.

The wild horses are a non-native species that is threatening our Western rangeland. In my recent conversations with local BLM personnel, I am very disturbed to learn that dwindling local resources and manpower are being diverted to deal with horses. We realize that the health of our rangelands is at stake here and understand the importance of gathering these horses. However, to diminish rangeland resources to address a single non-native could be a huge problem. We have so many issues facing us right now.

In conclusion, I want to thank the members of this committee, particularly my Senator from Oregon, Senator Ron Wyden, for their important support for livestock grazing issues. Public Lands Council and National Cattlemen's Beef Association staff have assured me they are ready and anxious to work with all of you to help resolve many of these issues I have talked about today. Thank you very much.

[The prepared statement of Mr. Skinner follows:]

PREPARED STATEMENT OF BOB SKINNER, ON BEHALF OF THE SHEEP AND CATTLE RANCHER MEMBERS OF THE PUBLIC LANDS COUNCIL AND THE NATIONAL CATTLEMEN'S BEEF ASSOCIATION

Good afternoon, Chairman Craig and Distinguished Members of this Subcommittee, my name is Bob Skinner. I am a fifth-generation rancher from Jordan Valley, Oregon. I run 5,750 animal unit months of cattle on Bureau of Land Management land in the Vail District. I also served as President of the Oregon Cattlemen's Association. I appreciate the opportunity to be here today to provide some of my experience in public lands grazing to the Committee on behalf of the sheep and cattle rancher members of the Public Lands Council and the National Cattlemen's Beef Association.

The Public Lands Council (PLC) represents sheep and cattle ranchers in 15 western states whose livelihood and families have depended on federal grazing permits dating back to the beginning of last century. The National Cattlemen's Beef Association (NCBA) is the trade association of America's cattle farmers and ranchers, and the marketing organization for the largest segment of the nation's food and fiber industry. Both PLC and the NCBA strive to create a stable regulatory environment in which our members can thrive.

Ranching out west has been part of the landscape, the economy, and the culture for approximately three centuries. About 214 of the 262 million acres managed by BLM are classified as "rangelands," as are 76 million of the 191 million acres managed by the Forest Service. More than 23,000 permittees, their families, and their employees manage livestock to harvest the annually renewed grass resource grown on this land. Western ranching operations provide important additional benefits to the Nation by helping to preserve open space and reliable waters for wildlife, by serving as recharge areas for groundwater, and by supporting the economic infrastructure for rural communities. Our policy is to support the multiple-use and sustained-yield of the resources and services from our public lands which we firmly believe brings the greatest benefit to the largest number of Americans.

WILD AND SCENIC RIVERS AND RANCHING IN OREGON

Oregonians are rightfully proud of the many beautiful rivers that course through our state. Unfortunately, as things so often happen, management of these rivers, and particularly those with segments that have been designated under the Wild

River and Scenic Act, has brought harm to other segments in society, in this case the state's rural ranching communities. A better balance between ranching and river protection needs to be struck under the Act.

The Wild and Scenic River Act protects existing uses along designated river corridors, such as grazing. However, the Act also requires these existing uses to protect and "enhance" the values for which the river corridors were designated under the Act. PLC and NCBA believes that properly managed grazing can be compatible with maintaining healthy river corridors. However, the "enhance" standard in the Act poses a virtually impossible hurdle for grazing to meet. In each instance in which environmentalists have brought suit challenging grazing management plan for corridors along rivers designated under the Act, grazing has been eliminated.

In Oregon alone, environmentalists have brought suit challenging grazing under the Wild and Scenic River Act on the Donner und Blitzen, the John Day, the Malheuer, and the Owyhee Rivers. Approximately 25 ranches were forced to cease operations as a result of the Malheur River suit alone. It is safe to assume that similar numbers were adversely affected by the actions brought on the other rivers. Elimination of these ranch operations means the elimination of a way of life that has been in place for generations in many cases. Without the ranches and their economic activity, the local communities obviously suffer as well, and ultimately the fabric of life in rural Oregon.

PLC and NCBA ask this Committee to bring a better balance between grazing and river protection to the Wild and Scenic River Act. The people whose lives are rooted in rural Oregon deserve the respect and attention of this body. The law should prevent degradation of river values. It need not bring harm to rural families and communities in Oregon and throughout the west. We would be pleased to work with the members of this committee to bring a better balance to the Act.

ENDANGERED SPECIES ACT AND SAGE GROUSE

An area of ongoing concern in the ranching industry is the Endangered Species Act, and in particular the potential listing of the sage grouse under the Act. The Greater sage grouse resides in 13 states in the west, including a significant population in southeast Oregon. The U.S. Fish and Wildlife Service (USFWS) is currently reviewing multiple petitions to list the sage grouse as threatened or endangered under the Endangered Species Act, and is scheduled to complete a 12-month species status review by the beginning of 2005.

Should the FWS conclude at the end of the status review that listing the bird is warranted under the Act, virtually all land use in the 13 states with habitat will be impacted. PLC and NCBA recognize the obligation of the federal government to avoid jeopardy and conserve wildlife under the ESA. For this reason, our members have been active participants in an unprecedented locally-led single-species conservation efforts in all of the affected states. The BLM, Forest Service, and NRCS are collecting and cataloguing information about conservation practices that have been implemented using federal dollars and the Western Governor's Association is collecting the same information for work that has been conducted on private lands. All three agencies have also given special priority to funding sage grouse conservation projects.

The Western Association of Fish and Wildlife Agencies recently completed a conservation assessment of the status of the sage grouse. The assessment concluded that the population numbers have been stable for the last 15 years and that a number of areas in the west continue to have viable concentrations of populations. While there is some concern whether the population numbers will remain viable into the future, it also seems clear that the bird is not in threatened with extinction at this time.

In the face of these conservation efforts and findings about the population, many members of the public will become discouraged if FWS exercises its regulatory authority to list the bird and usurp the conservation efforts of states and local working groups which consist of local stakeholders. Local conservation efforts would be at risk for fading away. Industry members fear that a listing would create a new issue for litigation every time a new permit is issued. Our members also obviously fear that a decision to list could lead the FWS to impose regulatory conditions that could drive many ranchers out of business.

We are further concerned that managing a bird with a west-wide range would be more of a workload than the FWS is prepared to handle. In this situation, the agency would understandably be put in a position when it would be forced to make quick, general management decisions that could ignore actual conditions on the ground. PLC and NCBA firmly believes that the best hope for conservation in this

country is to engage as many local elements of society as possible. A FWS decision to list the bird is antithetical to this vision.

The personal experience of one of our members in Nevada gives us hope that an overall positive solution can be found for managing sage grouse populations. This rancher has grazed the same allotment for 27 years. When sage grouse population numbers were first called into question a few years ago, 5,000 birds were identified on the allotments. Since that time, resource specialists have come to believe there are more than 13,000 birds on the allotment. We believe that range-wide there is a sustainable number of sage grouse that can coexist successfully with livestock grazing.

WILD HORSES AND BURROS

The Wild Horse and Burro program within the Bureau of Land Management needs congressional attention. Horse populations are exploding and the agency lacks the resources and authority to deal with them.

Wild horses are not native to the west. They first appeared on the range after being abandoned or having escaped from early ranchers. The numbers of these horses grew until today there are approximately 36,000 horses on the open range, and 14,000 in long-term care. The goal of the program is to manage horse numbers at the appropriate management level (AML). The BLM has rarely if ever met this goal in the 30 year life of the program.

Overpopulation of the horses is a problem for wildlife, vegetation, and of course, livestock grazing. The resource damage that occurs is devastating and takes many years to recover. The horses also cause damage to water holes, springs and riparian areas. Most big game numbers are controlled to a degree by predators and hunting. Livestock is managed in a systematic manner and move according to season and forage availability. Like all farm or ranch animals and wildlife, we believe horses too should be managed to keep them at or below the established AML.

Just this past week at a public lands meeting of the Nevada Cattlemen's Association, a permittee from Elko County Nevada came to us with his story. He has a winter permit to run cows and last fall as he was preparing to turn out, he discovered that the horses had totally used up the forage beyond the 60% utilization level that he is allowed to take. On the other hand, he would have been required to move his livestock when the 60% utilization occurred. The AML for that allotment is 181 head of horses, while the actual count last fall was 589 head. This is just one example of many across the western ranges. We have been contacted by permittees from Oregon, Idaho, and Wyoming because of their frustration with unmanaged wild horse populations and the adverse impacts these populations have had on their ranching operations.

PLC and NCBA would love to see the horse populations better managed through more effective adoption programs. To date, it appears that adoptions will not be able significant reduce the numbers of horses on the range. While the percentage of horses adopted in recent years has increased, horse adoption rates overall have declined over the years. All the same, any effort to increase adoptions by making greater use of third parties to perform the work may be an important step in the right direction. Incentives could also be identified to encourage non-profit foundations to become more involved in with facilitating horse adoption.

The other existing solution for removing horses from the range is long-term care facilities, which is also accounts for the disposition of most horses removed from the range. Currently, there are approximately 14,000 horses and burros in long-term holding facilities, more than one-third of the entire wild horse and burro population. Horses can enter long-term facilities at a young age and live to 22 years and older. Long-term care costs taxpayers $1.25 per horse, per day, which quickly becomes a large financial burden.

Wild horses are not native to the west. They first appeared on the range after being abandoned or having escaped from early ranchers. Horse in long-term facilities, in particular, are domestic animals. They are not running free on the open range and the vast majority of them will never do so again. Many of the horses are older and have been put up unsuccessfully for adoption several times. The likelihood is slim that horses rejected for adoption more than once will ever be adopted.

In short, the Horse and Burro program is crying for congressional attention. We would be pleased to work with the Committee on solutions.

NOXIOUS WEEDS

Invasives are one of those issues that do not jump out to grab the headlines. All the same, weeds are slowly taking over the landscape of many prime grazing areas and other natural areas and have the potential to take over many more. While a

number of government programs exist that help the edges of the problem, no single program exists that focuses the cooperative energies necessary to succeed in defeating the onslaught of weeds.

That is, no program before Senator Craig introduced his bill, S. 144. This important proposal relies on local cooperative weed management entities to identify and solve their weed problems on public and private lands. Local action is the proper focus for an issue that in large degree is a local land use control issue. S. 144 leaves it to the states to decide which of the local activities merit funding and minimizes the control that federal officials have over local land use.

This important bill has passed the Senate twice. Currently it is being considered by the House Agriculture and Resources Committees. Any help members of this committee can offer to enact S. 144 this session of Congress would be very appreciated by PLC and NCBA. We thank Senator Craig and the members of this committee for their work on this important issue.

CONCLUSION

I want to thank the members of this committee, and particularly Senator Wyden, for their important support for livestock grazing on public lands. PLC and NCBA staff are anxious to work with you to solve the many problems facing our members.

Senator CRAIG. Bob, thank you very much.

We have been joined by my colleague, Craig Thomas of the great State of Wyoming. Craig, would you wish to make any opening comment? And I will let you start the questioning.

Senator THOMAS. Thank you, Mr. Chairman.

The opening comment, of course, is that we are all very concerned about the grazing, about the management of public lands for multiple use. As times change, they become more difficult. So I thank you very much for being here and talking somewhat about the issues that are there.

Let me go back just a little and ask you to sort of put a priority on it. What do you think is the major problem, and what would you do about it?

Mr. GROSETA. The grazing permit renewal is a problem that needs to be addressed. We have been on the band aid approach for several years I think as we all recognize, and we do appreciate what has transpired. Now we have legislation for 5 years, 4 years remaining. As I had shared with you in my presentation, in order to remedy that, I think that we need to be much more aggressive in NEPA reform. We really need to look at ESA and look at that hard. There has been a lot of talk about it, but no one seems to be willing to step up to the plate and to really address that issue and to resolve that. I really think that is the source of the problem that we really need to look at.

Senator THOMAS. So the environmental analysis is too complicated and so on.

Mr. Casabonne.

Mr. CASABONNE. I would agree with that. The NEPA analysis that has to be done on permit renewal, of course, puts us in jeopardy by not being able to get the permits renewed in a timely manner, and if it were not for the legislation that kind of saves us from that, we would be gone.

And then the other thing that that does is it takes the range personnel away from doing what we think should be their main job, and that would be monitoring and collecting the data that we think will show them how the land needs to be managed and will be information for us. It would also demonstrate to the public our record of stewardship, which we believe is important. We are not afraid

of the monitoring data. We think there should be more of it collected, not less.

Senator THOMAS. What is the answer to being able to do this more quickly or in a more timely way?

Mr. CASABONNE. If there were the categorical exclusion for the NEPA analysis, the environmental assessments on renewal of every term permit as permit renewal was more of simple process, before you had to do the NEPA analysis, and then the range folks, instead of sitting in the office having to write NEPA documents all the time, could be out on your place running transects on the range study sites, and they would collect the monitoring data.

Senator THOMAS. Mr. Skinner, what is your priority? What do you think is the most important problem and how do you fix it?

Mr. SKINNER. In our area that thing that pops to my mind, Senator, is our litigation issues. It hamstrings the agencies. It is diverting manpower and money, both from the agencies and from the private sector. It takes personnel out of the field which is what my colleagues have been talking about. To address these constant assaults in the courts has just totally changed the management scheme of the agencies. It has lowered the morale in the agencies. It is just a real, real problem in the State where I am.

Senator THOMAS. These are generally suits with respect to endangered species. They are not grazing particularly, but it has an impact on the grazing.

Mr. SKINNER. Oh, yes.

Senator THOMAS. They do not sue about the grazing permit itself often, do they?

Mr. SKINNER. Well, indirectly. It is like they have told me in the past. They do not sue ranchers, but they do sue ranchers. They do not file suit against the ranchers. They file against the Forest Service or the BLM in our case, and of course, the ranchers are the permittees. So they are the ones that suffer the ultimate consequence.

Senator THOMAS. No. I understand.

Mr. SKINNER. Like in the Wild and Scenic Rivers Act case, the law is clear. It states that grazing shall continue, but it says that they have to write the management plan. It is a long story.

Senator THOMAS. There is one other area, before I run out of time, that we are particularly involved with, and you mentioned it, and that is wild horses. You mentioned the gathering process which we seem to be able to do rather efficiently and quite often. The problem is once they are gathered, what do you do with them? How would you handle that issue?

Mr. SKINNER. That is a big, bib problem. We need to address that, and I think in talking to the BLM local office, $1.25 approximately per head. I cannot verify these numbers. They told me that currently there are around 22,000 of them in storage, whatever you call it. That is just an absolute, enormous burden on the taxpayer.

Senator THOMAS. No question.

Mr. SKINNER. I do not know what the answer is.

Senator THOMAS. We have talked to them about increasing the eligible adoption numbers that a person could, if they choose. But you are right.

I guess I am about out of time. But I have a bill in that says for endangered species, there has to be additional scientific infor-

mation. It can be listed pretty easily now, and when they are listed, there ought to be a delisting process along with it. I think there have been almost 2,000 listed and only 20 delisted.

What would you think of that? Do you think there ought to be more science to go into the listing process?

Mr. GROSETA. Yes, and it needs to be science-based, fact-based.

Senator THOMAS. Thank you, Mr. Chairman.

Senator CRAIG. Craig, thank you very much.

Andy, the restocking plan for the Tonto National Forest and the effort that has been made in completing that is quite impressive. What do you attribute your success in reaching an agreement to?

Mr. GROSETA. Well, collectively the cattlemen got engaged, along with the agency folks, and I think collectively all of us realized that we needed to work together. We are in this together. It was a situation that was created and precipitated to a point where with the drought conditions basically the Tonto National Forest was zeroed out. Last summer they had less than 1,000 head out of a total of 60,000 permitted numbers on that forest.

But through the efforts of the Gila County Cattle Growers, the local Cattlemen's Association, the Arizona Cattle Growers, the PLC, NCBA, those people came back here to D.C., met with the staff, met with the regional people, and we came up with this restocking agreement. It was an agreement that we all collectively worked on and agreed to, and hopefully this is a model or a template that we can use in other places in the West because time will tell whether or not this is really going to work. We are looking right now at the implementation. We just got the agreement signed the first week of this month. All the groups signed a cover letter. That cover letter is going out now, I am told, as we speak, to all of the grazing permittees on the Tonto National Forest.

The cattlemen have the opportunity—and this is one thing that is unique and was different than the past—of pulling together range resource teams, technical teams. They have the ability to use University of Arizona extension agents, private range consultants, or what we call third party people to bring them to the table. The Forest Service now has acknowledged they will use input from those folks. So it is just another way to bring more information to the table.

And the recommendation from that group will be to the forest line officer and hopefully to get these folks back on the land. Some of them have been off the land 2, 3, and 4 years. They are totally out of business, and it is very difficult now to get back engaged in business.

But we are excited, and I tip my hat to the Forest Service and also to the cattle growers. It was a collective effort to pull this off. As I said, the jury is still out, so to speak, but we are very excited about it. Hopefully it will be a template that we can use in other places in the West.

Senator CRAIG. Is there flexibility in the plan to address any changes in conditions?

Mr. GROSETA. Yes. Each rancher has the ability of putting together a team to bring in his own people to assess the conditions and its stock and monitoring is a critical component of this. They will go out and make an assessment, and then they will make a

recommendation to the forest line officer. But we have flexibility where it is just not the agency making the decision. Now there is input from the ranching side. The rancher has the ability to go out and get a third party consultant, an outside consultant, and with them, they can make a recommendation to the line officer, this is what we want to do. Then they will go out and monitor. And monitoring is the name of the game. You have heard it several times this afternoon.

In Arizona, we are very excited. The Arizona Cattle Growers has an arrangement with the NRCS. We have a person on board to work with cattlemen. This Tonto thing, this person will be engaged with the cattlemen on the Tonto. But actual dollars, time, and energy will be spent with the grazing permittee. And the Forest Service will recognize the facts and data collected by these third party vendors. So, yes, we are very excited about it. We have really nowhere to go but up in that particular situation.

As I said, I commend the agency and the cattle growers for putting this together. I think it does a lot of things. It is something that we need to try and it is positive.

Senator CRAIG. I appreciate that testimony. It is nice to hear when parties can come together collectively, something can come of it.

And you are right. Monitoring is the name of the game. Mike, I want to switch to you because in your comments and testimony you talked a good deal about that. And it is important, and the great tragedy today with the resource we have within our agencies is that many of them spend more time in shop, if you will, doing exactly what you were talking about, than out on the ground.

But when they go out on the ground, I have called it range management by yardstick. They take a ruler along and they measure the stubble. Therefore, that is the whole trend line, if you will, of the condition of the range. We are talking about standards and guidelines and all of that that may or may not work. I would like to think that good minds and collaborative processes understand range conditions, also historic knowledge not a yardstick.

How would you propose correcting some of the problems we have got today as it relates to monitoring?

Mr. CASABONNE. Senator Craig, I agree with you 100 percent. Some of the things that we have done in New Mexico with the BLM that have worked for a long time, similarly to what Andy is talking about that they have worked out with the Forest Service in their restocking plan on the Tonto, we always talk about section 8 of PRIA. Section 8 of PRIA calls for careful and considered consultation, cooperation, and coordination with not only the permittees but with State agencies that are involved in land management.

Years ago the State of New Mexico, through the Governor's office, negotiated an MOU with the BLM to allow the New Mexico Department of Agriculture of the State, which has been represented by the Department of Agriculture, to cooperate with the BLM. Through an interdisciplinary team of range scientists, riparian specialists, wildlife specialists, and ag economists to analyze the socioeconomic impacts, they worked with the BLM and developed a monitoring protocol. It is not just a yardstick method, as

you talked about, but it is a truly credible range science system of monitoring.

And that is what has been done in some of the BLM field offices in New Mexico. It has not been done all over the State. It has been done to a greater or lesser degree in some places. I have been lucky enough on the allotments that I have anything to do with, we have over 20 years of monitoring data, and they were on a schedule to monitor every 5 years. Now they have fallen behind on that schedule because of these EA's, primarily the environmental assessments that have to be done on permit renewal. That keeps the staff tied up in the office, and they do not have a chance to get out and do this kind of range monitoring. We think the methods are there. People know how to do that kind of stuff. They just need to have the priorities changed so they are not working on stuff in the office all the time and they are out doing these kinds of things.

I would add that in the last revision to the grazing manual for the Forest Service, I think that I have seen a copy of that that said they are supposed to consider section 8 of PRIA. And I think that by consulting and cooperating, coordinating with the permittees and then the ability to involve the academic community or range consultants that have credibility that can institute monitoring protocols, that is a really beneficial thing, if the Forest Service will implement that to the degree that the BLM has in New Mexico.

And we also have an MOU that is signed between the New Mexico Department of Agriculture and the Forest Service, which they have never really acknowledged and have never really used, but I think that can be a great process to help us and get more monitoring work done, which I think will benefit us all.

It will also help protect us from these frivolous lawsuits that come along because if there is credible scientific data that will stand up in court, it is harder for groups to sue on things when they obviously do not have a case. And even if they do sue, the cases do not go very far. So it should be a cost effective thing for the agency to have a good, effective monitoring program in place so that they can be able to defend the actions that we know need to be taken.

Senator CRAIG. Well, I totally concur with you. We will look at their budgets again, but you are right. There is a whole other set of policy out there that drives them in the directions that you have all spoken to, and that is part of the frustration I think all of us are attempting to deal with at this moment.

Bob, you are right about the Wild and Scenic Rivers Act and what is says as it relates to grazing. Now, I know Oregon is known for a lot of things. Is there something unique in the water out there that would cause parties to sue using Wild and Scenic Rivers to get cattle off the land? What causes that? That does not seem to be the tool in other areas of the country.

Mr. SKINNER. Well, we have got a very liberal district court, and then we have got a very liberal Ninth Circuit that the district court has to answer to. There is no question that Oregon is the worst State for litigation in the Nation. There is no question. Every time I go to a public meeting, the rest of the people like these guys all wait to see what is going to happen to us because we are just under siege. There are some other States that are also under siege.

But this is very carefully orchestrated. Make no mistake about it. We have a very liberal district court, and then of course, as you well know, that court has to fall back on the Ninth Circuit, which has not been all that friendly. That is why they are using us. That is why Oregon is in the fire line.

Senator CRAIG. Well, I appreciate your frustration. We all recognize and go back to the point that Mike was making about monitoring and building a scientific base to make the arguments. If you cannot have that informational flow, you cannot make the arguments that justify a livestock presence there under the conditions so prescribed. It becomes increasingly difficult to sustain these lawsuits.

Of course, you are right. It is orchestrated. There is no question there are organizations out there that have a very clear intent as it relates to getting livestock off the public lands. Hopefully, we have shifted some of that bias in the last few years. Many of us have worked mightily on it with the Department of the Interior and the Department of Agriculture to bring that pendulum back to center ground and to cause our agencies to work hard at bringing balance. The public policy is still there and the record is still there, and that in part is our difficulty.

We have also struggled to attempt to bring some redirection to the Endangered Species Act. That has not occurred. It is not going to be an easy task to do. If we could get change to the President's desk, he has pledged to sign it. I think he, like all of us, have seen its misuse as a law, but because it has become holy grail or at least is caused to be represented in that way, it is a very difficult law to make some reasonable adjustment in until it just runs amok. It has run amok in your State. It is running amok in our State right now with wolves, and it has happened in other States across the country.

Now, of course, you have mentioned grouse and what we are doing there. We are going to be asking BLM in a few moments about that issue. That is tremendously important and we are working in a cooperative right now to see if we cannot get out in front of it with science to make the right decisions there.

Thank you also for mentioning S. 144 and the cooperation with the National Cattlemen, along with Nature Conservancy and others. When you approach these things in the right way, you can build very valuable coalitions because certainly invasive species of weeds or plant life are damaging to the western ranges, and we have seen it in spades across my State and others. We are working hard to get that done.

Gentlemen, thank you very much for your patience, first of all, and your presence here and your testimony and your involvement in these issues. We know that as active livestock producers, you take a lot of time away from your businesses to participate in this public process, and that is appreciated. We hope you will continue. We will try to make it a more productive experience. Thank you very much.

Mr. GROSETA. Thank you.

Mr. CASABONNE. Thank you.

Mr. SKINNER. Thank you.

Senator CRAIG. Now let me invite to the table Jim Hughes, Deputy Director of the Bureau of Land Management, Department of the Interior, and Tom Thompson, Deputy Chief, National Forest System, U.S. Department of Agriculture.

Again, gentlemen, and those who accompany you, thank you for your patience and your staying power here today. I guess the shortness of our presence here today will be in direct relationship to your testimony. But we hope that it will be complete and comprehensive, and of course, your full statements are a part of the record. Jim, we will start with you.

STATEMENT OF JIM HUGHES, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR, ACCOMPANIED BY ED SHEPARD, ASSISTANT DIRECTOR, RENEWABLE RESOURCES AND PLANNING

Mr. HUGHES. Thank you, Mr. Chairman. Thank you for inviting us to testify about the Bureau of Land Management rangelands.

I am accompanied by Ed Shepard, BLM's Assistant Director for Renewable Resources and Planning.

The administration recognizes that ranching is an important component of the economies of many Western rural communities and it is the core of their history, their social fabric, and cultural identity. The BLM is committed to collaborating with those who work on the public lands as we strive for economically productive and environmentally healthy rangelands.

The BLM manages grazing on more than 160 million acres of public lands in the West. In a typical year, the BLM has 1,500 permits up for renewal. The BLM experienced a spike in grazing permit renewals in 1999. Over 5,000 permits were due for renewal in 1999, and 2,200 permits in the year 2000. Additionally, the BLM was required to improve environmental documentation for processing grazing permit and lease renewals. The increased workload made it clear that BLM would not meet the required deadlines for permit renewals. As Chairman Domenici stated, Congress gave us the language to protect the ranchers so we could try and work out a schedule to renew all these permits with the appropriate environmental analysis.

Of the 12,041 grazing permits that expired between fiscal year 1999 and fiscal year 2003, 10,234 have been fully processed. We believe at the BLM that the remaining backlog should be completed by the close of 2009, at which time the BLM plans to fully process all permits in the year they expire.

A quick note on our grazing regulations: In the spring of 2003, we initiated a review of the regulations governing grazing management on public lands. The Secretary of the Interior announced the proposed rule in December 2003. The public comment period on the proposed rule closed in early March, and at this time we are in the process of reviewing and analyzing the public comments and drafting a final rule and EIS. The final EIS is scheduled to be completed and released in September of this year. We anticipate publishing the final rule in October, with an effective date of December of this year.

The proposed rule recognizes that public land grazing has its roots in the settlement of the West. Communities and families still

rely on a combination of public and private lands to sustain the rural landscape and open spaces. The changes outlined in the proposed rule are intended to be another important step forward to improve grazing, drawing upon the lessons learned since the previous revisions more than 8 years ago.

Three major objectives of the proposed rule were to improve working relations with permittees and lessees, protect the health of the rangelands, and increase administrative effectiveness and efficiency.

Regarding wild horses, the goal of BLM's wild horse and burro program is to achieve and maintain healthy, viable wild horse and burro populations on the public lands that are in balance with other uses and the productive capability of their habitat. We need to achieve appropriate management levels to restore this balance. Current numbers of free-roaming wild horses and burros exceed appropriate management levels.

The BLM's strategy calls for removing enough wild horses and burros from the public lands now to achieve appropriate management levels. Removing excess animals will benefit the health of the herds, reduce the number of emergency gathers of animals during drought, improve habitat conditions for all public land resource users, and help to achieve healthy rangelands.

The BLM recently received approval to reprogram $7.6 million from other programs to the wild horse and burro program in fiscal year 2004. We do understand the budget constraints facing the Congress, and we think this money will allow the BLM to move a significant number of animals from the rangelands into the adoption program or into long-term holding facilities.

In regard to sage grouse, today the BLM manages about half of the remaining habitat for sage grouse. Although these birds range across 11 Western States and 2 provinces in Canada, their populations have decreased significantly over the past 4 decades as nearly one-half of their sagebrush nesting grounds were lost, degraded, or fragmented.

The BLM is currently participating in cooperative conservation efforts that are being led by State wildlife agencies throughout the range of the sage grouse.

Later this summer, the BLM expects to issue its National Sage Grouse Habitat Conservation Strategy which will set out a framework for conservation of sage grouse and associated sagebrush habitats on lands administered by the BLM. The BLM's national strategy has been designed to deliver a substantial Federal contribution to cooperative conservation efforts that are being led by State wildlife agencies throughout the range of the sage grouse in the West.

Finally, the BLM is expending over $14 million in fiscal year 2004 and we have requested an additional $3.2 million for fiscal year 2005 for restoration and conservation of sagebrush habitat. By taking proactive steps in sage grouse habitat conservation, we are fostering collaborative and voluntary measures in order to maintain flexibility in land use options and management.

All of these BLM efforts recognize the important role played by ranchers in protecting the land and preserving open spaces in the West. The economic and social benefits of ranching in this country

are many, and the BLM strives to preserve that important part of our heritage.

Thank you for this opportunity to testify. We would be happy to answer any questions you may have.

[The prepared statement of Mr. Hughes follows:]

PREPARED STATEMENT OF JIM HUGHES, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Thank you for inviting me to testify regarding the management of Bureau of Land Management (BLM) rangelands. The Administration recognizes that ranching is an important component of the economies of many Western rural communities, and it is the core of their history, social fabric, and cultural identity. Ranching can also play an important role in preserving open space in the fast-growing West. The BLM is committed to collaborating with those who work on the public lands as we strive for economically-productive and environmentally-healthy rangelands.

As the Committee has requested, I will discuss grazing permit renewals, our pending grazing rulemaking, wild horse and burro issues as they affect the rangelands, and our efforts to conserve and enhance sage-grouse habitat while allowing productive uses of the public lands.

GRAZING PERMIT RENEWALS

The BLM manages grazing on more than 160 million acres of public land in the West. We administer over 18,000 grazing permits and leases, and, in 2003, six million AUMs (animal unit months) were used.

By regulation, grazing leases and permits are normally issued for 10-year periods. In a typical year the BLM has 1,500 permits up for renewal. As we have discussed before with this Committee, the BLM experienced a spike in grazing permit renewals in 1999. Over 5,000 permits were due for renewal in 1999, and 2,200 permits in 2000. Additionally, the BLM was required to improve environmental documentation for processing grazing permit and lease renewals. The increased workload made it clear that the BLM would not meet the required deadlines for permit renewals.

Congress took action to ensure that grazing permittees and lessees could continue to graze if the BLM was unable to complete the environmental analysis mandated by the National Environmental Policy Act (NEPA). Since 1999, a provision has been included each year in the Interior Appropriations bill that gives the BLM the authority to extend grazing permits and leases under their same terms and conditions until completion of NEPA compliance, Endangered Species Act (ESA) consultation, and other legal requirements. I would like to share with you what BLM is doing not only to address the permit-renewal workload, but also to avoid recurrence of this problem.

As the BLM began working its way through the permit workload spike, it became increasingly clear that simply doing "business as usual" was not going to provide a long-term solution to the problem. Therefore, the Bureau has placed an emphasis on renewing expiring grazing permits within priority watersheds with significant resource-use conflicts or issues. Rather than rigidly adhering to a predetermined schedule of renewals, where possible, we are grouping permits with common impacts, watersheds and land health standards. Not only does this provide a more even redistribution of future permit renewals over a full 10-year cycle, but it also affords more timely completion of consultation with the U.S. Fish and Wildlife Service and/or the NOAA Fisheries. In addition, these measures will facilitate an effective review of land health standards on a watershed basis, allow for improved cumulative impact analysis, and focus restoration resources. In the long term, this will improve and streamline our processing of permit renewals.

Of the 12,041 grazing permits that expired between fiscal year 1999 and fiscal year 2003, 10,234 have been fully processed. The remaining 1,807 are planned for completion by the close of 2009, at which time the BLM plans to fully process all permits in the year they expire.

Our experience has shown that most NEPA documents needed for grazing permit renewals have been at the Environmental Assessment (EA) level, with very few requiring full Environmental Impact Statements (EISs). Terms and conditions have been substantially unchanged from the expired permit for the overwhelming majority of fully processed permits.

The BLM is strongly committed to meeting the permit completion goals I have outlined. The BLM will continue to closely monitor the status of grazing permit and lease renewals and, as appropriate, will make adjustments to meet our goals. However, in any given year, other factors, such as challenges to decisions through ap-

peals and litigation, or a particularly difficult fire season (which may involve temporarily diverting some BLM personnel) may test our ability to meet our planned timeframes. However, we do not believe this will impede our ability to complete this process by 2009, and we remain committed to meeting our goals.

GRAZING REGULATIONS

In order to improve grazing management and continue to promote ranching on public lands in the rural West, the BLM, in the Spring of 2003, initiated a review of the regulations governing grazing management on public lands. We held four public meetings and received more than 8,300 comment letters on our Advanced Notice of Proposed Rulemaking. Based on the input received from the public as well as our own experiences with the existing regulations, the Secretary of the Interior announced the proposed rule in December 2003. A draft environmental impact statement (DESI) on the proposed rule released for public review in January 2004.

The public comment period on the proposed rule and DESI closed in early March. We received over 15,000 comments on that proposal. In addition, five public meetings were held across the West, as well as one here in Washington to take comments on the proposed changes. At this time, we are in the process of reviewing and analyzing the public comments and drafting a final rule and EIS. A final EIS is scheduled to be completed and released in September of this year. We anticipate publishing the final rule in October with an effective date of December of this year.

Last December's proposed rule recognizes that public-land grazing has its roots in the settlement of the West. Communities and families still rely on a combination of public and private lands to sustain the rural landscapes and open spaces. Many adjustments have been made in livestock grazing management and practices to improve the health of the public rangelands since the passage of the 1934 Taylor Grazing Act, and the 1976 Federal Land Policy and Management Act. The changes outlined in the proposed rule are intended to be another important step forward to improve grazing upon the lessons learned since the previous revisions more than eight years ago.

The three major objectives of the proposed rule are to: improve working relations with permittees and lessees, protect the health of the rangelands, and increase administrative effectiveness and efficiency.

Significant provisions of the proposed rule include requirements that the BLM analyze and document the relevant social, economic and cultural effects of proposed grazing changes; a phase-in of changes in grazing use of more than 10%; and a provision for joint ownership of range improvements in some cases. Additionally, the proposed regulation removes the 3-consecutive-year limit on voluntary temporary non-use and requires BLM to use monitoring data in making certain determinations of land health. Furthermore, changes include expanding the definition of "grazing preference," and making administrative revisions on stays pending certain appeals.

WILD HORSE & BURRO PROGRAM

A priority of the Administration is to provide for sustainable multiple-use of the public lands. Among the authorized multiple uses that affect the rangelands is the BLM's mandate to implement the *Wild Free-Roaming Horse and Burro Act*. Our most recent estimate in February of this year indicated that the herd population totaled approximately 36,000 wild horses and burros on the public lands and another 19,000 animals in holding facilities. (Since February, spring births have added approximately 7,500 additional animals.)

The goal of BLM's Wild Horse and Burro program is to achieve and maintain healthy, viable wild horse and burro populations on the public lands that are in balance with other uses and the productive capacity of their habitat. Achieving appropriate management levels of wild horses and burros is necessary in order to restore and maintain thriving natural ecological balance and maintain balance with other uses of the lands. Current numbers of free roaming wild horses and burros exceed appropriate management levels. If BLM were managing at the appropriate management level, approximately 26,000 animals would be on the open range at any one time. Wild horse and burro populations increase by approximately 20% per year, so populations will double approximately every five years without active management.

The BLM's strategy for managing wild horse and burro populations calls for removing enough wild horses and burros from the public lands now to achieve appropriate management levels, and implementing more efficient management for adoptions and long-term holding. Removing excess animals will benefit the health of the herds, reduce the number of emergency gathers of animals during droughts, improve habitat conditions for all public land resource users, and help to achieve healthy rangelands.

Failure to act aggressively to achieve appropriate management levels will cause further harm to rangeland health by overgrazing forage resources. This in turn adversely impacts other public land resources such as wildlife habitat and populations. With wild horse and burro populations exceeding appropriate management levels, field managers are forced to consider reducing livestock below permitted use in an attempt to maintain rangeland conditions. This is a situation that the BLM is actively seeking to avoid.

The BLM recently received approval to reprogram $7.6 million from other programs to the Wild Horse and Burro program for FY 2004. The BLM understands the budget constraints facing the Congress, and while the reprogramming authority doesn't fully meet our request, the approved reprogramming level of $7.6 million will allow the BLM to move a significant number of animals from the rangelands into the adoption program or into long-term holding facilities. The BLM is currently calculating the exact number of removals that the agency will be able to conduct with the reprogrammed funds. The BLM also is analyzing other impacts of the approved reprogramming authority, including the timeframe for achievement of appropriate management levels.

SAGE-GROUSE

Today, the BLM manages about half of the remaining habitat for sage-grouse. Once seen in great numbers and a popular game bird with hunters, the sage-grouse is an icon of the western sagebrush landscape. Although these birds range across 11 western states and two provinces in Canada, their populations have decreased significantly over the past four decades as nearly one-half of their sagebrush nesting grounds were lost, degraded, or fragmented.

Seven petitions to protect sage-grouse under the Endangered Species Act were filed with the U.S. Fish and Wildlife Service (FWS) between 1999 and March 2003 because of concerns over sage-grouse population declines. However, even before the petitions were filed, the BLM, in response to concerns about the bird population, began identifying actions that could be taken to stem declines on BLM-managed public lands.

The BLM is currently participating in cooperative conservation efforts that are being led by state wildlife agencies throughout the range of the sage-grouse. With increasing numbers of at-risk species in the West, the BLM recognized the need to work with other Federal agencies and state wildlife agencies to more effectively coordinate conservation efforts in sagebrush habitat. Beginning in 2000, BLM began working with the FWS, the Forest Service (FS), and the Western Association of Fish and Wildlife Agencies (WAFWA) under a Memorandum of Understanding (MOU) to establish a Conservation Planning Framework Team consisting of four representatives from WAFWA member agencies and one each from BLM, FS, and FWS. The Framework Team is responsible for developing the range-wide conservation framework for sage-grouse conservation planning, and making recommendations and providing guidance to working groups concerning the contents of state and local conservation plans.

In February-March 2004, BLM Director Clarke hosted several "listening meetings" with stakeholders and state wildlife agencies in Colorado, Montana, Washington, Oregon, Utah, Nevada, and Wyoming on sage-grouse conservation planning. The BLM has rewritten its interim Management Guidance to address concerns raised at the meetings.

In July 2004, the BLM expects to issue its National Sage-Grouse Habitat Conservation Strategy which will set out a framework for conservation of sage-grouse and associated sagebrush habitats on lands administered by the BLM. The document identifies resources and actions necessary to support the development and implementation of BLM state-level strategies and/or plans. The BLM's national strategy has been designed to deliver a substantial Federal contribution to cooperative conservation efforts that are being led by state wildlife agencies throughout the range of sage-grouse in the West.

Cooperative conservation underlies most recent, large-scale conservation and land management efforts. It has produced unprecedented coordination across eleven Western states.

Finally, the BLM is expending over $14 million in FY 2004 (and has requested an increase of $3.2 million for FY 2005) for restoration and conservation of sagebrush habitat. By taking proactive steps in sage grouse habitat conservation, we are fostering collaborative and voluntary measures in order to maintain flexibility in land use options and management.

CONCLUSION

All of these BLM efforts recognize the important role played by ranchers in protecting the land and preserving open spaces in the West. The economic and social benefits of ranching in this country are many—and the BLM strives to preserve that important part of our heritage. Thank you for the opportunity to testify. I would be pleased to answer any questions you may have.

Senator CRAIG. Jim, thank you very much.

Now let me turn to Tom Thompson. Welcome, Tom. Deputy Chief, National Forest System.

STATEMENT OF TOM THOMPSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE, ACCOMPANIED BY JANETTE KAISER, DIRECTOR, RANGELAND MANAGEMENT

Mr. THOMPSON. Thank you, Mr. Chairman, for this opportunity to present the subcommittee with an overview of grazing management in the Forest Service. With me today is Janette Kaiser who is the Director of our Rangeland Management Program.

The Forest Service has been managing rangelands for nearly 100 years and has a long history of partnerships with the livestock producers who rely upon National Forest System lands. Today there are grazing allotments on nearly half of all National Forest System lands, approximately 90 million acres in 34 States. The Forest Service administers approximately 8,800 allotments, with over 9,000 livestock permits, and about 9.7 million animal unit months of grazing for cattle, horses, sheep, and goats.

On June 25, 2003 before this subcommittee, the administration testified about the Forest Service's progress to implement section 504 of Public Law 104-19, the Rescissions Act. Section 504 directed the Chief to identify grazing allotments that needed NEPA analysis and to establish and adhere to a schedule for completion of that analysis. The end date established in that schedule was 2010.

The 2003 Consolidated Appropriations Resolution, Public Law 108-7, directed the Secretary of Agriculture to renew grazing permits for those permittees whose permits expired prior to or during fiscal year 2003, as the Forest Service was behind the schedule established for the Rescissions Act and was dealing with pending lawsuits.

The 2004 Interior Appropriations Act further directed the Secretary to renew grazing permits that expired or transferred or waived between 2004 and 2008, and directed the Secretary to report to Congress beginning in November of this year, 2004, and every 2 years thereafter, the extent to which analysis required under applicable laws is being completed prior to the expiration of grazing permits.

As the years have progressed, the Forest Service has continued to complete NEPA analyses on those grazing allotments that are listed on the schedule. As of 2004, approximately 2,300 allotments have NEPA analysis completed. An additional 368 allotments are scheduled for completion of NEPA analysis this fiscal year. The Forest Service remains committed to completing the environmental analysis on the remaining allotments by the 2010 deadline without disrupting permitted livestock grazing activities. In May 2004, I submitted a letter to the regional foresters outlining this commit-

ment and we are on track to report to Congress in November on our progress.

The Department has testified previously before this subcommittee that the current decision-making procedures to authorize livestock grazing or other activities on rangelands administered by the Forest Service are inflexible, unwieldy, time-consuming, and expensive. The agency is continuing dialog with our colleagues at the Bureau of Land Management and the Council of Environmental Quality to discuss the challenges of complying with NEPA in a timely and effective manner.

This year the Forest Service updated and clarified direction in the Forest Service Handbook dealing with rangeland management decision-making and how NEPA is implemented. The direction clarifies existing policies on how to develop efficient and effective range NEPA and apply adaptive management on a given allotment and highlights successful practices currently in use that can serve to extend the life of a NEPA document.

With this updated process, adaptive management is built into the proposed action by defining the maximum limits of what will be allowed on the grazing allotment in terms of appropriate timing, intensity, frequency, and duration of livestock.

The ecological conditions of rangelands often affect the social and economic stability of many rural communities.

Some national forests and national grasslands have established programs that encourage the grazing permittee to conduct much of the implementation monitoring. In some cases the permittee, working in conjunction with the Forest Service and other Federal agencies, universities, and rangeland consultants, has developed a successful, collaborative monitoring program.

An example of this effort is in the Southwestern Region where the Forest Service is developing cooperative agreements with New Mexico State University and the University of Arizona, focused on collaborative monitoring. The goal of these agreements is to utilize expertise at the State institutions to help the agency develop monitoring strategies for rangelands.

Also, the Forest Service and the National Cattlemen's Beef Association in April 2004 have signed a joint letter that was delivered to Forest Service personnel and permittees requesting volunteers to establish pilots for cooperative monitoring under this MOU to facilitate the process and lead the way for others to follow.

The drought these past 6 to 8 years has persisted over much of the Western United States, and predictions call for more dry weather throughout most of the West. It will take a number of years of higher than average rainfall to recover from the drought. In 2002 and 2003, significant reductions in grazing use on National Forest System lands occurred in the West and the Western Great Plains. Although it is still too early to know the full effects of the drought this year, reductions in grazing use could still occur.

The Forest Service has actively coordinated drought management with Federal, State, and local government agencies and officials.

Collaboration efforts are tremendously important, as has already been pointed out. The Forest Service has been working with our partners in the livestock industry to improve coordination and com-

munication in particular since the drought has affected rangelands throughout the West.

Recently a unit in the Forest Service implemented a different process to work with the ranching community to incorporate values and economic needs of the ranching industry consistent with sound rangeland administration. On the Tonto National Forest, this effort, as has been described, shows a lot of promise. Through a collaborative effort, both the Forest Service, the Tonto and the Southwestern Region, and the Arizona Cattle Growers' Association have developed a process to allow for the return of livestock as drought conditions improve. Implementation of this process I think reaffirms the Forest Service's commitment to multiple use management.

This concludes my statement. I would thank the committee for their interest in this program and our progress. I would be pleased to answer any questions that you might have.

[The prepared statement of Mr. Thompson follows:]

PREPARED STATEMENT OF TOM THOMPSON, DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to present the subcommittee with an overview of grazing management in the Forest Service. The Forest Service has been managing rangelands for nearly 100 years, and has a long history of partnerships with livestock producers who rely upon National Forest System (NFS) lands. Livestock grazing on National Forests reserved from the public domain is administered under a number of statutes, including the Granger-Thye Act of 1950, the Multiple-Use Sustained-Yield Act of 1960, the Forest and Rangeland Renewable Resources Planning Act of 1974, and the Federal Land Policy and Management Act of 1976, among others. These laws augment the authority in the Organic Act of 1897, which established the National Forests and directed the agency to regulate the use and occupancy of the forests to protect them from destruction.

Today, there are grazing allotments on nearly half of all National Forest System lands, approximately 90 million acres of land in 34 states. The Forest Service administers approximately 8800 allotments, with over 9000 livestock permits, and about 9.7 million animal unit months of grazing by cattle, horses, sheep, and goats. Nearly all this permitted grazing is located in the Western states (99%), with only about one percent occurring in the Eastern forests.

GRAZING PERMIT ADMINISTRATION

On June 25, 2003, before this Subcommittee, the Administration testified about the Forest Service's progress to implement Section 504 of Public Law 104-19 (the "Rescissions Act"). Section 504 directed the Chief to identify grazing allotments that needed NEPA analysis and to "establish and adhere to" a schedule for the completion of that analysis. The end date established in the schedule was 2010. The Rescissions Act was needed because the Forest Service faced a daunting challenge in 1995 to complete the NEPA process on 6,886 allotments, with approximately ½ of these Forest Service grazing permits due to expire.

The 2003 Consolidated Appropriations Resolution, Public Law 108-7 (as amended by the 2003 Emergency Wartime Supplemental Appropriations Act) directed the Secretary of Agriculture to renew grazing permits for those permittees whose permits expired prior to or during fiscal year 2003, as the Forest Service was behind the schedule established for the Rescissions Act and was dealing with pending lawsuits. NEPA analyses will still have to be completed on these allotments and the terms and conditions of the renewed grazing permit will remain in effect until such time as the analysis is completed.

The 2004 Interior Appropriations Act (P.L. 108-108) further directed the Secretary to renew grazing permits that expired are transferred or waived between 2004 and 2008, and directed the Secretary to report to Congress beginning in November 2004, and every two years thereafter, the extent to which analysis required under applicable laws is being completed prior to the expiration of grazing permits.

As the years have progressed, the Forest Service has continued to complete NEPA analyses on those grazing allotments that are listed on the schedule. As of February

2004, approximately 2300 allotments have NEPA analysis completed. An additional 368 allotments are scheduled for completion of NEPA analysis this fiscal year. The Forest Service remains committed to completing the environmental analysis on the remaining allotments by the 2010 deadline without disrupting permitted livestock grazing activities. In May 2004, I submitted a letter to Regional Foresters outlining this commitment and we are on track to report to Congress in November on our progress.

GRAZING PERMIT EFFICIENCIES

The Department has testified previously before this Subcommittee that the current decision-making procedures to authorize livestock grazing or other activities on rangelands administered by the Forest Service are inflexible, unwieldy, time-consuming, and expensive. For several years, the Forest Service has evaluated alternative procedures that would satisfy our legal obligations, provide the agency with management flexibility, shorten the decision-making time, and reduce the cost to the taxpayer associated with rangeland management decisions. The agency is continuing dialogue with our colleagues at the Bureau of Land Management and the Council on Environmental Quality (CEQ) to discuss the challenges of complying with NEPA in a timely and effective manner. In addition, the agency is working on methods of prioritization through the development and use of qualitative tools that assess rangeland health and sustainability through the use of indicators that are linked to existing monitoring data.

EFFICIENT AND EFFECTIVE NEPA ANALYSIS AND RANGELAND DECISIONS

This-year the Forest Service updated and clarified direction in the Forest Service Handbook dealing with rangeland management decision-making and how NEPA is implemented. The direction clarifies existing policies on how to develop efficient and effective range NEPA and apply adaptive management on a given allotment and highlights successful practices currently in use that can serve to extend the life of the NEPA document. This new directive will help the agency move forward in completing environmental analysis in an expedited manner on those allotments still remaining on the 1996 Rescission Act schedule.

With this updated process adaptive management is built into the proposed action by defining the maximum limits of what will be allowed on the grazing allotment in terms of the appropriate timing, intensity, frequency, and duration of livestock grazing. Standards are set that can be checked with implementation monitoring to determine if prescribed actions have been followed or if management changes are needed. Carefully focused monitoring will allow for adjustments.

MONITORING

The ecological conditions of rangelands often affect the social and economic stability of many rural communities. To assure these lands are capable of providing sustainable products for future generations, the ecological conditions of these lands are monitored against specific standards. Implementation and effectiveness monitoring are the two types of monitoring that the Agency uses. Implementation monitoring is an annual measurement of rangeland resources, such as vegetation use, to assure permit compliance with written instructions. Effectiveness monitoring is long-term (5-6 years) where rangeland resources are monitored to assess whether prescriptions and objectives set forth in Forest Plans, allotment management plans or other relevant documents are being met.

Some National Forests and National Grasslands have established programs that encourage the grazing permittee to conduct much of the implementation monitoring. In some instances the permittee, working in conjunction with the Forest Service, other Federal agencies, universities and rangeland consultants, has developed a successful, collaborative monitoring program.

An example of this type of effort is in the Southwestern Region where the Forest Service is developing cooperative agreements with New Mexico State University and the University of Arizona focused on collaborative monitoring. The goal of the agreements is to utilize expertise at State institutions to help the agency develop monitoring strategies for rangelands. For example, the agreement with the University of Arizona will focus on improving monitoring data collection and analysis related to natural resource management; developing collaborative opportunities between the Forest Service and non-governmental entities and organizations to monitor the ecological trends of national forest rangelands in Arizona; establishing uniform monitoring protocols that everyone understands; enhancing data collection processes, training, and reporting methods; and increasing the number of national forest allotments being monitored.

The Forest Service has worked with industry representatives over the years regarding implementation and effectiveness monitoring. This year we signed a national Memorandum of Understanding (MOU) with the Public Lands Council of the National Cattlemen's Beef Association (NCBA) for the implementation of a cooperative rangeland monitoring program. This program establishes a framework for voluntary, collaborative work between grazing permittees and the Forest Service to improve the quality and quantity of short- and long-term allotment level monitoring on National Forest System rangelands.

Also, the Forest Service and NCBA in April 2004 signed a joint letter that was delivered to Forest Service personnel and permittees requesting volunteers to establish pilots for cooperative monitoring under this MOU to facilitate the process and lead the way for others to follow. This is a great opportunity for both entities to collaborate on long-term goals and objectives for rangeland resources.

The House report accompanying the Department of the Interior and Related Agencies Appropriations Act of 2002 directed the Secretary of the Interior and the Secretary of Agriculture to prepare a report on how the Departments would address the long-term monitoring, ecological classification of vegetation and soil survey work which is needed to efficiently address rangeland conditions. This report is still being drafted.

DROUGHT

For the past 6 to 8 years drought has persisted over much of the Western United States. Predictions for this year call for more dry weather throughout most of the West. Although there has been some winter and spring precipitation over wide areas, in particular in New Mexico, Arizona, and the Southern Rockies, much of the West continues to have a significant water deficit. It will take a number of years of higher than average rainfall to recover from the drought. In 2002 and 2003, significant reductions in grazing use on National Forest System lands occurred throughout the West and the Western Great Plains. Although it is still too early to know the full effects of the drought, reductions in grazing use for 2004 could still occur.

The Forest Service has actively coordinated drought management with Federal, State, and local government agencies and officials. The agency is actively participating on national, State, and local drought task forces coordinating drought relief to our permittees. We are working closely with industry representatives to provide up-front information about what we are doing and seeking input from them.

Locally, the Forest Service is managing drought impacts on a case-by-case basis. Local officials are communicating early to ensure the permittee is informed and has enough time to implement temporary changes or along-term strategy. The Agency is coordinating with universities and user groups to best address the concerns at the local level.

COLLABORATION EFFORTS

The Forest Service has been working with our partners in the livestock industry to improve coordination and communication, in particular since the drought has affected rangelands in the Interior West and Southwest. The agency recognizes that ranching is an important component of the economies of many western rural communities as well as the contribution of livestock production.

Recently, a unit in the Forest Service implemented a different process to work with the ranching community to incorporate the values and economic needs of the ranching industry consistent with sound range administration. Over the years, as the drought and other range management issues have increased, reductions in the number of livestock that could be sustained on Federal lands has been seriously reduced due to very little forage or water. On the Tonto National Forest in Arizona, this has meant up to an 80% reduction of annual grazing use has occurred. As livestock were removed, the agency recognized that a process needed to be developed to ensure all parties interested in grazing management were involved in coordinating the restocking of allotments when conditions allowed livestock to return.

Through a collaborative effort between the Forest Service (the Tonto National Forest and the Southwestern Region), the Arizona Cattle Growers Association, and the Gila County Cattle Growers Association, the Tonto Restocking Process was developed to allow the return of livestock as drought conditions improved. Implementation of this process reaffirms the Forest Service's commitment to multiple-use management. The process offers an opportunity to rebuild trust between the agency and the ranching industry and provides a broader perspective for the agency to administer National Forest lands collaboratively with important forest stakeholders.

INVASIVE SPECIES

Rangelands are an important component of ecosystem diversity at a national scale. Key factors to rangeland health are sustainable use and proper management. The Forest Service works with other land managers to ensure rangelands are productive for current and future use.

Invasive species has been identified by the Chief of the Forest Service as one of the four significant threats to our Nation's forest and rangeland ecosystems. Invasive species have been characterized as a "catastrophic wildfire in slow motion." Thousands of invasive plants, insects, and other species have infested hundreds of million of acres of land and water across the Nation, causing massive disruption to ecosystem function, reducing biodiversity, and degrading ecosystem health. Invasive organisms not only affect the health of America's forests and rangelands but also the health of wildlife, livestock, fish, and humans.

To address its role in this issue the Forest Service recently assessed its capacity in forest research and forest and rangeland health. The agency has found the best opportunity for contributing to success is managing the agency's invasive species efforts will come from working strategically using all of our scientific, management, and partnership resources. Soon, the Forest Service will release a National Strategy and Implementation Plan for Invasive Species which will outline short and long term goals for their management and control. The agency is working collaboratively with our partners to improve the capacity for handling invasive species across landscapes and streamline procedures so actions can be taken quickly before the invasion spreads rapidly.

As the agency implements this national strategy, our actions will be proactive rather than reactive, holistic across multiple jurisdictions and ownerships, and collaborative in nature. Invasive species management is more than just a forest or rangeland issue, it is an ecosystem and biodiversity issue, and therefore the Forest Service will work with all who are interested to help promote the eradication or control of invasives wherever they occur.

This concludes my statement. I want to thank the Committee for their interest in rangeland management in the Forest Service. I would be pleased to answer any questions that you may have.

Senator CRAIG. Well, thank you both very much. I do have some questions. I will proceed through those as rapidly as I can.

To both of you, have the push by Congress and the resulting effort on your parts, as it relates to dealing with the backlog of processing permits, in any way diminished the ability of the agency to conduct other aspects of the range management programs that you have?

Mr. THOMPSON. Obviously, we have a limited number of people and the effort that is going on on the NEPA side is taking away from people being able to do monitoring and do other work that needs to be done. There have been big challenges in stretching the people that we have, and we have fewer people in the range program today than we had 10-20 years ago, for sure. It is stretching people thin. Certainly the effort that is put into lawsuits and other things also detracts from the ability to do monitoring, to do range administration on the ground.

Mr. HUGHES. I think that is a good synopsis for the BLM also. We have our range people involved in our regulation reform. We have them involved in the sage grouse effort that we are trying to help to prevent a listing. We have our people involved in a national vegetative EIS study that is ongoing that will allow us to better attack invasive weeds. All of these put a strain on the work force. I cannot give them anything more to do. There are a lot of innovative things. People come to us with ideas that we just do not have the manpower to do because they are busy doing this or they are in court or they are preparing environmental assessments.

Senator CRAIG. Well, the BLM has moved ahead with reasonable speed. Your numbers are down substantially from where they were.

Tom, let me ask you a similar question. You have indicated that from 1995 through the end of this year, the Forest Service will have completed about 2,668 out of the 9,000 permits, which equates to a little over 266 permits per year, if you average that out. If I am doing my math correctly, you have approximately 6,332 more permits to complete by 2010, and at the rate of 368 permits per year, I think you know where I am going. It will take you approximately 17.2 more years to clear the expected backlog.

Would you mind telling me exactly what steps you have taken or will take to ensure that by 2010 you can guarantee me and this committee and the Congress that the agency will meet the commitment you just made in your testimony today?

Mr. THOMPSON. I can tell you what steps we have taken. I am going to be short on guarantees. What I will say is we are committed to doing the NEPA that we need to do.

We have been working hard at trying to improve the permit decision-making process. We have just issued chapter 90 which describes approaches that help the field folks better stage and understand how they can use adaptive management and monitoring and understand the levels of decisions that need to be made.

There are process issues involved here, and to a large extent, I think the complexity of some of the forested lands where we have rangeland permits at the same time adds to that complexity. The land differences between a lot of the BLM and most of the Forest Service adds a level of complexity. I suppose one could also understand that there is a certain level of increased scrutiny that comes from that. So the pressures to produce and get more specific with that complexity are great.

I think we have two main issues. One is process. The other one are the resources, the people to accomplish the work. Obviously, the drought has diverted a lot of that attention. Lawsuits have diverted some that attention. All of those things are out of our control.

We are working hard. Our folks are working hard. Some regions are making more progress than others. But we are working hard to meet the schedule, but your math is not wrong.

Senator CRAIG. Well, is 2010 unrealistic? We ought to know that sooner rather than later.

Mr. THOMPSON. On the schedule that we are on, it is not likely that we will be able to meet all those completed, but we are putting all of our energy forth to try to do everything that we can. We hope that we can make some gains in process that would allow us to increase the numbers that we would be able to accomplish in the next few years.

Senator CRAIG. Well, in your testimony you said that the agency is continuing a dialog with our colleagues at the Bureau of Land Management and the Council on Environmental Quality to discuss the challenges of complying with NEPA in a timely and effective manner. In addition, the agency is working on methods of prioritizing through the development and use of qualitative tools that assess rangeland health and sustainability through the use of indicators that are linked to existing monitoring data.

I guess when I read statements like that—I did not know that this is a new science that we are just developing. I thought the

science was somewhat complete, while it evolves a little bit, and I understand complexities. I am a bit frustrated. How much time is being spent and how many people are being spent in that last statement versus just getting on with the business of, if you will, moving this process?

Mr. THOMPSON. Well, again, Mr. Chairman, the folks in the field have been using the processes as best they can and as best they knew. For example, when I spoke of chapter 90, I think it helped the field to understand how to sort through the process better. It does not answer all the questions. They still have to go through the process for all permits. What we were trying to do and what I hope that we may be able to do would be to sort through those and in some cases do a lesser amount of analysis than others. Those kinds of tools, though, have got to be worked out collaboratively, and I think certainly we would encourage and be pleased to work with not only the BLM but the committee in trying to identify what some more of those might be.

Senator CRAIG. Has the Chief laid down hard targets to be met on an annualized basis that drive you toward the 2010 number?

Mr. THOMPSON. Early on, we had a schedule, obviously, and that was what was laid out. There has been, obviously, a lot of slippage in that schedule. We have attempted each year to do what was reasonable given the people that we had to accomplish, and I think the numbers that we have this year are certainly not what they should be to get back on schedule, but they are what we think we could reasonably do this year.

Senator CRAIG. Have requests been made for more money and more personnel specific to meeting goals and targets, and driving toward a 2010 number?

Mr. THOMPSON. I could share what our schedule is as far as accomplishment and what we expect in a number of different forms, by region, by forest. I do believe that funding is an issue.

Senator CRAIG. If funding is an issue, have you requested more funding specific for this purpose?

Mr. THOMPSON. Let me maybe ask Director Kaiser if she would like to talk a little bit about this target issue because she might be able to answer it better.

Senator CRAIG. Surely.

Ms. KAISER. I think what the agency is struggling with is a matter of priorities. I think that the last submission, last budget request, was slightly down, and that just has to do with priorities. We continue to try to raise the issue within the agency and balance those priorities.

As you know, we are dealing with Healthy Forests initiatives and we just came through the Healthy Forest Restoration Act legislation, and we are again trying to double our efforts to meet those demands. Those have to be worked out in terms of priorities.

Senator CRAIG. Well, it obviously is very frustrating to me and to a good many people. We have got substantial demands out there. We have got lawsuits. We have begged off from those and addressed these problems with some of our colleagues by what we put in budgets and what we put in for time lines for completion and commitments, public commitments, for this purpose. If priorities get skewed in the absence of resources, then you really need to

help us by giving us tools with which to argue for additional resources. Whether we get it or not, that is partly our burden, but if we do not get those numbers, if it is a matter of shifting around inside the agency and we do not meet these targets, then are we really going to solve some of the other resource problems that probably some of my friends out in Idaho are going to want to meet you in court with? I say "friends" with some degree of question mark behind it. But the reality is there are a lot of critics out there, and I would much prefer being a friend than a critic in helping you facilitate what I see as a substantial problem because of not only the absence of the permit renewal, but the process and therefore the liability that grows.

Mr. THOMPSON. Mr. Chairman, I have spoken with nearly each of the regional foresters the last few days that have the bulk of this issue, and they are all very concerned with the ability to be where we need to be by 2008 or 2010. We are talking about different approaches and different ways to step up and try to do it, but it is a balance between what we have the capability to do right now and the processes that we are saddled with to go through across the board. And the diversions that are happening, as Ms. Kaiser said, with other priorities that seem to be ringing in. And obviously, even a number of our range people in the last few years are on overhead, fire crews, and get called off when we shut down basically everything in the agency for a month or 2. It is very difficult. It is a difficult time.

Senator CRAIG. Well, we are going to continue to work with you and push you.

Mr. THOMPSON. Thank you. We look forward to working with the committee.

Senator CRAIG. Jim, I want to talk about wild horses and burros for a moment. First, please explain what you mean by a holding facility.

Mr. HUGHES. I think we have what I would call three types of holding facilities. First, we have corral facilities, where we bring the animals in from the field. They are looked over for which ones will be adopted and which ones may have health problems. We have vets look at them.

From there, they may go to long-term holding facilities. Some people call them sanctuaries. We have several of those in the Midwest and elsewhere. I happened to visit one recently in the tall grass prairie country. We have seven of those. We have 2,000 head on each of those, and we are trying to contract for three more.

Then we also have training facilities.

Senator CRAIG. 2,000 head on how many acres?

Mr. HUGHES. Ed?

Mr. SHEPARD. These are approximately 15,000- to 20,000-acre ranches.

Senator CRAIG. Ranches, not public land, but ranches that have been leased for this purpose?

Mr. SHEPARD. Private land contracted out for this purpose.

Senator CRAIG. How much are those ranchers getting per animal?

Mr. SHEPARD. Depending on which contractor, it is between $1.22 and $1.25 per day.

Senator CRAIG. Per day. Sounds like a good business.

Mr. HUGHES. And then we also have what we call our training facilities. We have six. Five are prison facilities and one is a private contract facility. They hold between 50 and 200 horses each. Typically at the training facilities, those horses are adopted directly right from the training facility.

Senator CRAIG. What is the rate of adoption compared with 10 years ago?

Mr. SHEPARD. The average over time has been somewhere around 7,000 animals per year. We are down a little bit. Last year I think it was 6,100 and we are looking somewhere in that neighborhood again for this year.

Senator CRAIG. What is the rate of increase in those that are not adopted out? Are you holding yourselves even?

Mr. SHEPARD. No.

Mr. HUGHES. No.

Senator CRAIG. You are not. That is right.

Does the BLM have any other means of dealing with managing horse populations other than gatherings, adoptions, and holding facilities?

Mr. SHEPARD. About the only other method that we have is fertility control, and we are looking at that in a research capacity now. That is long-term, looking into the future. That does nothing to get excess animals off of the range now, but in the future, once we do get down to appropriate management levels, fertility drugs will help us keep the herds down and help us manage to stay within the appropriate management levels.

Senator CRAIG. I understand and you have mentioned in your testimony you have reprogrammed money because you are running out of money for this purpose.

Mr. HUGHES. That is correct. One of the problems we face, Senator, is if we do not get those numbers down, with the reproduction rate of the horses, we go back almost to base one. We are actually extremely close right now to getting to that break-even point, where if we can get these excess horses down to the appropriate management levels, then our adoption program, as well as our fertility control program, will keep that level in the out-years. We are probably as close as we have ever been to hitting that mark, but that may take us 2 or 3 more years of heavy removal of horses.

Senator CRAIG. Excuse me.

Mr. HUGHES. That may take us 2 or 3 years to get to that appropriate management level, but we are probably as close as we have ever been in this program since the passage of the act.

Senator CRAIG. We really need to resurrect the image of—was it Wild Horse Mary or Annie?

Mr. HUGHES. Annie.

Senator CRAIG. She might become a friend of mine and a critic of yours because I do not think this was her vision, that all of a sudden you would grow into the business of warehousing horses, all in the romantic idea that somehow they were floating across the Western rangeland as this awesome image of great open spaces now that you are inventorying them on ranches and paying ranchers to warehouse them.

Well, you are not to be criticized. We are for creating a silly law that has put you where you are with this. Maybe it is time we review this. I do not mind tackling it a bit. Probably the numbers on the open ranges ought to be reduced substantially too.

One thing about a horse. It is more destructive to rangeland than a wildfire because they are there all the time, and just simply grind it into the ground and we know that. Now we are spending literally tens of millions of dollars a year warehousing horses.

Well, I am not going to be critical of you, but I have been to your holding facilities. I have been to your corrals. I have seen a phenomenal waste of resource and good human talent simply to feed a bunch of hay-burners. That is really a public policy run amok. If we could resurrect the image of Wild Horse Annie, she would probably agree with me. She might not agree on the end result I would propose, but she might agree with me on the envisionment or at least the reality of the program to where it has taken us today.

Well, enough of that. You have spent a good deal of time with us. I have got a couple of more questions that I will submit to you in writing. To all of you, thank you very much for taking time with us today.

The issue of timely permit processing is not going to go away. We have got to get this work completed, and if we cannot complete it timely, then come to us and ask for resources and we will see if we cannot get there. I understand diversions. I understand fires. I understand the situation we have caused ourselves to be in with our forested lands and what we have tried to do through Healthy Forests to facilitate that. But draining resources away that ultimately create another liability that might put in jeopardy our livestock producers that are trying to do a good job out there is really not a way to run a business. I do believe you are in the business of marketing grass. I think that is a responsible part of resource management.

Thank you all very much for being here today. We appreciate it.

The subcommittee will stand adjourned.

[Whereupon, at 5:37 p.m., the hearing was adjourned.]

[The following letter was received for the record:]

THE WILDERNESS SOCIETY,
BUREAU OF LAND MANAGEMENT PROGRAM,
Washington, DC, June 25, 2004.

Hon. PETE V. DOMENICI,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Hon. JEFF BINGAMAN,
Ranking Member, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

DEAR SENATOR DOMENICI AND SENATOR BINGAMAN: Attached is a copy of the comments submitted by The Wilderness Society to the Bureau of Land Management on March 1, 2004 regarding the Bureau's proposed changes to 43 CFR Part 4100, published on December 8, 2003.

We request that our comments on the BLM's proposed grazing rules be incorporated into the hearing record of the Public Lands and Forests hearing on June 23, 2004 regarding the livestock grazing programs of the USDA Forest Service and Bureau of Land Management

Thank you for your attention to this request.

Sincerely,

DAVID ALBERSWERTH,
Director.

[Enclosure.]

THE WILDERNESS SOCIETY,
BUREAU OF LAND MANAGEMENT PROGRAM,
Washington, DC, March 1, 2004.

DIRECTOR,
Bureau of Land Management, Eastern States Office, Springfield, VA.

Re: Proposed changes to 43 CFR Part 4100, proposed on December 8, 2003

TO WHOM IT MAY CONCERN: These comments are submitted on behalf of The Wilderness Society.

In general, we are not persuaded from the information provided by the Bureau of Land Management in either its "supplementary information" accompanying the above referenced proposal, or in the accompanying Environmental Impact Statement, that any of the changes proposed to the current livestock gazing rules are warranted. No demonstrable hardships on the beneficiaries of the BLM's current grazing program are documented anywhere in the proposal. Nor is there any documentation that the current rules, adopted less than ten years ago, have been in place for a sufficient time to demonstrate verifiable progress toward meeting the goals of rangeland health which are articulated in the 1995 program.

The 1995 rules provide a balanced management framework for the grazing of livestock on the public lands, while assuring that grazing occurs only under conditions that protect the ecological integrity of those lands. On the other hand, the proposed rule changes taken together appear to: (1) weaken the BLM's commitment to ensuring the restoration of healthy range ecosystems by lengthening the timeframes and opportunities for range improvement initiatives to be implemented, and apparently raising the evidentiary burden on the BLM to verify the necessity of management changes that are required to insure rangeland health; (2) give away one of the public's most valuable assets occurring on the public rangelands—water—to the beneficiaries of the grazing program; (3) open the door to future "takings" claims by permittees by allowing the private ownership of permanent range improvements on public lands; (4) cut the public out of important decision-making opportunities in a variety of ways; and, as a consequence of these proposed changes, (5) unnecessarily raise controversies over livestock grazing policies which were settled to the satisfaction of the federal courts in *Public Lands Council* v. *Babbitt*, 929 F.Supp.1436. Our specific comments on several aspects of the proposal follow.

Timeframes for decision making and monitoring—4180.2(c)—Under the proposal, it appears that the BLM cannot mandate any changes in management practices for 2 years after it is determined that changes are needed to comply with rangeland health standards. Subsequently, adjustments in grazing use must be phased in over a 5-year period. In addition, it appears that the BLM has unnecessarily raised the burden of proof on itself to justify management changes by requiring years of monitoring data before management changes can be mandated.

The history of restoring damaged public rangelands as a consequence of abusive grazing practices has been characterized by its glacial pace. For decades the Bureau has recognized that far too much of the BLM's rangelands and ecological values therein have not recovered from the damaging effects of grazing practices that took place many decades ago, as well as at the present time. For example, the EIS accompanying the proposed rule documents the disappointing results of the Bureau's efforts to date with regard to meeting the 1990 Riparian Wetland Initiative goal of having 75 percent of these areas in proper functioning condition by 1997. According to the EIS, only 42 percent of the BLM's "lotic" areas were classified as in proper functioning condition as of 2001 (BLM, *Proposed Revisions to Grazing Regulations for the Public Lands, Draft Environmental Impact Statement*, DES 03-62, p., 3-20, December 2003.). One might expect from these disappointing results that the BLM would propose measures to accelerate the improvement of these critically important areas of the public lands, rather than proposing, as it does here, a relaxation of its program to assure the restoration and proper management of these key ecological values.

The 1995 rules struck a balance between the need to manage livestock grazing in a manner that led to the restoration and maintenance of healthy range ecosystems, while mitigating the impacts on permittees who depend on their BLM grazing permits to maintain their livestock operations. Unfortunately, that balance is now being upset, and the impact of the changes proposed here will be to slow down and diminish any progress that can be made in improving the condition of public rangelands since the current rules went into effect.

Moreover, as a consequence of the insertion of new language and the deletion of existing language at 4180.2(c), the BLM has made it more difficult for itself to mandate changes in management to secure range condition improvement. Under the

new formulation, the BLM can take action only "through standards assessment and monitoring". Does this mean that in instances where contemporaneous and immediate photographic documentation demonstrates clearly that the cause of degradation to a particular area—say, for example, a spring or riparian area—was caused by livestock (i.e., heavy trampling, denuded vegetation, excessive amounts of cattle excrement, bloated or desiccated livestock carcasses, etc.), that the BLM must rely instead on extensive "monitoring" data gathered over a lengthy period of time in order to justify remedial or corrective action?

In summary, these changes will lead to unnecessary delays in the restoration of range and riparian ecosystem health, and we ask that the BLM reject the proposed changes and stick with the present program.

Water Rights—Sec. 4120.39 proposes to remove the requirement that water rights for livestock grazing on the public lands be held exclusively by the United States, and allow instead those rights to be acquired by the permittee. The proposal is analogous to allowing a tenant of a private ranch to acquire the water rights to that ranch (without compensation to the property owner!), and concurrently prohibiting the owner of the ranch from establishing water rights on her property.

As stewards of the public trust, the BLM should not allow this policy to go forward. Water is a precious natural resource, especially in the arid and semi-arid regions of the western U.S. where livestock grazing on the public lands takes place. The owners of these lands—U.S. citizens—as a matter of policy should maintain the sole right to establish rights to water on these lands. The establishment of federal rights to water on the federal lands does not preclude the use of that water by livestock permittees. But BLM, as stewards of this public trust, should not adopt a program that allows this resource to be acquired by those who do not own these lands.

The establishment of private water rights on public rangelands will complicate the BLM's ability to manage these lands in the future, especially in situations where it becomes necessary to take enforcement actions against permittees who are not in compliance with permit terms, by providing such permittees an opportunity to assert their belief that their acquisition of a water right on these lands has effectively vested them with a property right to the lands themselves. We are unaware of any State government that allows state livestock permittees to acquire water rights on State lands. Nor does the USDA Forest Service. The United States government should not allow this practice on lands managed by the BLM, either.

Ownership of Range Improvements—The BLM has proposed at 4120.3 that permittees may be granted ownership of permanent range improvements. As with the proposal to allow water rights to vest with permittees, this ownership of permanent range improvements by permittees is a "foot in the door" to the conveyance of public lands into private hands. The ownership of temporary improvements to facilitate the handling of livestock is not a problem. But if permittees are allowed to acquire title to permanent improvements such as stock tanks, fences, corrals, etc., the BLM is placing itself in an awkward situation in cases where violations of range management rules and statutes by a permittee who has acquired the water rights and owns permanent improvements argues that his eviction from the allotment warrants compensation for the "taking" of his property. The BLM should drop this proposal.

Public Participation—The 1995 rules provided for important opportunities for the public—that is, the landowners—to participate in key management decisions regarding grazing on the public lands. Unfortunately, the proposed rule eviscerates these opportunities for public participation in range management decisions. Ironically, this comes at a time when Secretary of the Interior Norton seldom misses an opportunity to express her "policy" that public land management should be guided by the "4 C's": "Consultation, Cooperation, and Communication in the cause of Conservation." According to the Supplementary Information, however, the BLM will no longer be bound to offer the public opportunities to comment on: (1) adjustments to allotment boundaries; (2) changes in grazing preference; (3) emergency closures; (4) renewal or issuance of permits and leases; (5) modifications to permits and leases; (6) the issuance of temporary and non-renewable grazing permits. We strongly urge that the BLM reconsider its proposal to so severely constrain the opportunities for Americans to participate in these decisions. We are especially concerned that the public will not be afforded opportunities to participate in decisions involving changing in grazing preference, renewal and issuance of permits and leases, and modification to permits and leases.

Conservation use—Finally, a word about the removal of any reference to the concept of "conservation use" in the proposed rule. We understand that the courts have ruled against the legality of the "conservation use" program, as articulated in the 1995 rule. However, the BLM has missed an opportunity to put forth a legally viable alternative proposal to allow the voluntary purchase of animal unit months for purposes of their permanent retirement. Such arrangements, where permittees will-

ingly sell their AUMs to conservation organizations or individuals who wish to retire them, can have substantial economic and environmental benefits for all the parties involved in such transactions, including the BLM. Since the BLM missed the opportunity here to offer alternatives to the "conservation use" provisions of the existing rule, we recommend-that the BLM convene a forum representative of permittees, conservationists, and agency representatives to explore regulatory options that may be considered in order to take facilitate "willing seller/willing buyer" grazing permit retirement opportunities when they arise.

Sincerely,

DAVID ALBERSWERTH,
Director.

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