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VIA ELECTRONIC MAIL ONLY (comments-southwestern-lincoln-sacramento@fs.fed.us)

Elizabeth A Humphrey
District Ranger
United States Forest Service
P.O.Box 288 (#4 Lost Lodge Road)
Cloudcroft, NM 88317

Re: NMMJM Habitat Projects-Sacramento

Dear Ms. Humphrey:

On behalf of Sacramento Grazing Association ("SGA"), we make these comments in response to your project announcement letter dated February 28, 2017, regarding the New Mexico Meadow Jumping Mouse ("NMMJM") Habitat Improvement Projects Proposal on the Sacramento Grazing Allotment.

SGA owns private property rights inside the fenced enclosure areas described in the project proposal. Those rights include pre-existing water rights, range rights, and right-of-way rights granted to SGA's predecessors by the United States. SGA is also entitled to have its economic interests protected, along with its investment-backed expectations in purchasing the allotment. SGA's rights that will be adversely impacted by the proposed project were granted by various Congressional Acts passed over time.

SGA requires sufficient water from its vested water rights for its cattle operations, and it needs sufficient space to hold its cattle while they are being processed. Your February 28 letter states that "fencing would allow livestock access to water, or to neighboring pastures, through the use of strategically placed water/access lanes where the livestock could cross the stream channel." However, based on past experience, SGA is concerned that the water access lanes constructed by the Forest Service will not be sufficient to ensure access to SGA's water rights required to provide a secure and stable supply of water available for SGA's cattle. Specifically, SGA is concerned that in frequent dry years all of the water access lanes will become dry. Moreover, as the water flow slows inside the enclosures and vegetation continues to consume larger quantities of water, the water available to SGA's cattle will be further reduced. SGA is also concerned about additional stress to its cattle from having to travel long distances to access water sources.

SGA appreciates the Forest Service's recognition of the role elk play in destroying NMMJM habitat. However, the proposed project includes only a portion of the enclosure fencing

designed to keep elk out, while elk will likely be able to access other excluded areas, which SGA cattle will not. As SGA has previously stated, the Forest Service's efforts to lay the burden of protecting the NMMJM entirely at the feet of SGA unfairly targets SGA's family business and its livelihood, in a misguided attempt to solve a problem that is not of SGA's making.

SGA has significant problems with the designation of critical habitat in the Rio Penasco and Wills Canyon areas of SGA's allotment and the BO's conclusions that seemingly all of the problems with the NMMJM are caused by cattle grazing. Not only has the U.S. Fish and Wildlife Service ("USFWS") and the Forest Service fenced off significant portions of the pre-1907 water rights that belong to SGA under New Mexico law, they have also fenced off almost the entire area where SGA must hold its cattle while they are being branded and while they are being processed for shipment. SGA has holding areas or traps both in Wills Canyon and in Rio Penasco. The traps have now been fenced off with electric fences that are incapable of preventing cattle and elk from entering the exclosures. This situation is intolerable and completely in violation of SGA's rights to its water, to its range, to its allotment and to its rights under the grazing permit.

Moreover, the proposed area designated for permanent fenced exclosures is over-inclusive for the purposes of protecting NMMJM habitat, particularly in light of the adverse impact on SGA's operations and private property rights. Your February 28 letter states: "the fencing would focus on areas known to be occupied by the NMMJM and areas that were previously fenced with temporary fencing and showed improvement after being fenced off." However, according to the maps included with your letter, permanent fencing is proposed around large swaths of the allotment *not* occupied by the NMMJM, as well as areas where there is no existing fence.

The U.S. Constitution requires the Forest Service to protect SGA's private property rights as vigorously as it seeks to protect the NMMJM and its habitat. SGA expects the Forest Service to refrain from infringing upon or attempting to diminish SGA's rights on the allotment as it proceeds with the proposed NMMJM habitat improvement project.

Very truly yours,



Michael J. Van Zandt

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