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**Western
Watersheds
Project**

Working to protect and restore Western Watersheds and Wildlife

December 2, 2021

Theresa Mathis, Project Team Lead
Carin Vadala, District Ranger
Newport-Sullivan Lake Ranger District
315 North Warren,
Newport, WA 99156

Electronic submission: <https://cara.ecosystem-management.org/Public/CommentInput?Project=54090>

Re: Sweet-Ione Integrated Resources Improvement Project

Dear District Ranger Vadala and Project Lead Mathis,

Thank you for the opportunity to comment on the Sweet-Ione Integrated Resources Improvement Project. Please accept these comments on behalf of Western Watersheds Project (WWP) and our more than 12,000 members and supporters. WWP works to protect and conserve the public lands, wildlife, and natural resources of the American West through education, public policy initiatives, and litigation. WWP staff and members use and enjoy the public lands in Washington, and its wildlife, cultural, and natural resources for health, recreational, scientific, spiritual, educational, aesthetic, and other purposes. This includes those public lands in the Colville National Forest and the project area specifically.

Failure to Consider Livestock Grazing in the Cumulative Effects Assessment

As described in the EA, NEPA requires the agency to consider the cumulative impact of the action which is defined as the “impact on the environment that results in the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions...”¹ However, livestock grazing is never mentioned as a cumulative impact on the project area despite the fact that 9,562 acres of the Tiger Hill Grazing allotment lie within the project area.² The main area of concern is within the Big Muddy Creek watershed. This area will receive impacts from the proposed action as well as continued impacts from livestock grazing, which are never considered.

¹ 40 CFR 1508.7.

² Rangeland Specialist Report at 1.

Livestock grazing exerts significant pressure on the landscape and riparian areas in particular. For example, in central Washington, “grazing was responsible for changing the physical structure of ponderosa pine forest from an open, park-like tree overstory with dense grass cover to a community characterized by dense pine reproduction and lack of grasses.”³ In addition, “the Oregon-Washington Interagency Wildlife Committee, composed of biologists from several government agencies, concluded that grazing is the most important factor in degrading wildlife and fisheries habitat throughout the 11 western states.”⁴

Riparian areas are disproportionately important on the landscape and although they account for less than 2% of the West’s total land area, they provide habitat for approximately one-third of the plant species. Yet these are the areas most impacted by livestock grazing, largely due to the fact that as much as 81% of the forage in an allotment can come from 2% of the area occupied by a riparian zone.⁵ Cattle spend a disproportionate amount of time in riparian areas and can cause significant degradation from streambank trampling, stream widening, sedimentation, and an increase in stream temperature.

In addition to the direct impacts to streams and riparian areas, livestock grazing can have damaging impacts to water quality. Livestock grazing has damaged 80 percent of the streams and riparian ecosystems in the arid West⁶ and nearly all surface waters in the West contain harmful waterborne bacteria and protozoa such as *Giardia* due to contamination from livestock waste.⁷

Finally, improved forage for grizzly bears and big game is described as a benefit of the proposed project, yet this is also described as a benefit to livestock grazing. However, the interaction between these species that are all supposed to benefit from the same increased forage is not considered. It is well understood that livestock significantly displace certain native ungulates.⁸ In fact, research has found that some deer species are known to avoid cattle.⁹ Additional research has found that elk and deer densities can decline by as much as 92 percent in response to the introduction of livestock.¹⁰ A southwestern Montana study found that, “elk generally avoided pastures being grazed, making relatively greater use of rested pastures and grazed pastures before and after grazing. Elk also used steeper slopes than cattle, apparently as a response to the presence of cattle. Elk avoided meadow sites heavily used by cattle during the previous year during the early summer. Elk were rarely observed in

³ Fleischner, T. L. (1994). Ecological costs of livestock grazing in western North America. *Conservation biology*, 8(3), 629-644.

⁴ Ibid citing: Oregon-Washington Interagency Wildlife Committee. 1979. Managing riparian ecosystems for fish and wildlife in eastern Oregon and eastern Washington. Oregon-Washington Interagency Wildlife Committee, available from Washington State Library, Olympia, Washington.

⁵ Kauffman, Boone. 2002. Lifeblood of the West—Riparian Zones, Biodiversity, and Degradation by Livestock. In *Welfare Ranching: The Subsidized Destruction of the American West* Edited by George Wuerthner and Mollie Matteson.

⁶ Belsky, A. J., A. Matzke, S. Uselman. 1999. Survey of livestock influences on stream and riparian ecosystems in the western United States. *J. Soil & Water Conserv.* 54(1): 419.

⁷ Suk, T., J. L. Riggs, B. C. Nelson. 1986. Water contamination with giardia in backcountry areas in Proc. of the National Wilderness Conference. Gen. Tech. Rep. INT-212. USDA-Forest Service, Intermountain Res. Stn. Ogden, UT: 237-239.

⁸ Wallace, Mark C. and Paul R. Krausman. 1987. Elk, Mule Deer, and Cattle Habitats in Central Arizona. *Journal of Range Management*, Vol. 40, No. 1 (Jan., 1987), pp. 80-83. Society for Range Management. Stable URL: <http://www.jstor.org/stable/3899367>.

⁹ Krämer, August. 1973. Interspecific Behavior and Dispersion of Two Sympatric Deer Species *The Journal of Wildlife Management*, Vol. 37, No. 3 (Jul., 1973), pp. 288-300. Wiley on behalf of the Wildlife Society Stable URL: <http://www.jstor.org/stable/3800119>.

¹⁰ Clegg, Kenneth, "Density and Feeding Habits of Elk and Deer in Relation to Livestock Disturbance." 1994. All Graduate Theses and Dissertations. 969. <https://digitalcommons.usu.edu/etd/969>.

close proximity to cattle.”¹¹ All of this points to the social displacement of deer and elk by cattle, something that is not addressed in the EA.

Of equal concern is the interaction between grizzly bears and livestock if they are drawn to the same forage. The EA describes the project area as somewhere that grizzly bears “may be present” and so it is important to consider the impacts of the project to the grizzly bear population of northeast Washington. However, there are no mentions of grizzly bears in the grazing permit for the Tiger Hill allotment. By considering the increase in forage a benefit for grizzly bears and cattle without considering the interactions of the two species in these small areas is setting both species up for losses, an impact that is not considered.

Despite these well documented livestock grazing impacts, this is never considered during the cumulative effects analysis in the EA. Without including livestock grazing as a cumulative impact in the project area, for vegetation, riparian, and wildlife impacts, this EA is void. This omission must be remedied in future NEPA documents.

The Forest Service Must Prepare an EIS

a. An Agency Must Prepare an EIS If There Are Questions as to Whether Impacts May Be Significant.

NEPA requires federal agencies to prepare a full environmental impact statement (EIS) before undertaking “major Federal actions significantly affecting the quality of the human environment.”¹² The Ninth Circuit agrees.

We have held that an EIS *must* be prepared if ‘substantial questions are raised as to whether a project ... *may* cause significant degradation to some human environmental factor.’ To trigger this requirement a ‘plaintiff need not show that significant effects *will in fact occur*,’ [but instead] raising ‘substantial questions whether a project may have a significant effect’ is sufficient.¹³

The Tenth Circuit agrees. “If the agency determines that its proposed action *may* ‘significantly affect’ the environment, the agency must prepare a detailed statement on the environmental impact of the proposed action in the form of an EIS.”¹⁴

If an agency “decides not to prepare an EIS, ‘it must put forth a convincing statement of reasons’ that explains why the project will impact the environment no more than insignificantly. This account proves crucial to evaluating whether the [agency] took the requisite ‘hard look.’”¹⁵

¹¹ Gniadek, Steve; 1987. Elk and cattle relationships on summer range in southwestern Montana. Master’s Thesis U of Montana.

¹² 42 U.S.C. § 4332(C).

¹³ *Idaho Sporting Cong. v. Thomas*, 137 F.3d 1146, 1149-50 (9th Cir. 1998) (citations omitted) (emphasis original). See also *Ocean Advocates v. U.S. Army Corps of Eng’rs*, 402 F.3d 846, 864-65 (9th Cir. 2005) (“To trigger this [EIS] requirement a plaintiff need not show that significant effects will in fact occur, but raising substantial questions whether a project may have a significant effect is sufficient.” (internal quotations, citations, and alterations omitted)).

¹⁴ *Airport Neighbors Alliance v. U.S.*, 90 F.3d 426, 429 (10th Cir. 1996) (citation omitted) (emphasis added).

¹⁵ *Ocean Advoc.*, 402 F.3d at 864.

“Significance” under NEPA requires consideration of the action’s context and intensity.¹⁶ An agency must analyze the significance of the action in several contexts, including short- and long-term effects within the setting of the proposed action (including site-specific, local impacts).¹⁷ Intensity refers to the severity of the impact and requires consideration of ten identified factors that may generally lead to a significance determination, including:

- (1) Unique characteristics of the geographic area such as proximity to historic or cultural resources, park lands, prime farmlands, wetlands, wild and scenic rivers, or ecologically critical areas;
- (2) whether the action is likely to be highly controversial;
- (3) whether the effects on the environment are highly uncertain or involve unique or unknown risks;
- (4) whether the action may have cumulative significant impacts;
- (5) The degree to which the action may adversely affect an endangered or threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973; and
- (6) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.¹⁸

With respect to the degree to which the environmental effects are likely to be highly controversial, the word “controversial” refers to situations where ““substantial dispute exists as to the size, nature, or effect of the major federal action.””¹⁹

b. Because the Sweet-Ione Integrated Resources Improvement Project Is Likely to Have Significant Impacts, The Forest Service Should Prepare An EIS.

The Sweet-Ione Integrated Resources Improvement Project meets numerous standards for “significance.”

The action may have cumulative significant impacts. As described above, the cumulative effects analysis is lacking in a key area. With livestock grazing overlapping with approximately 47% of the project area, the cumulative impacts must be assessed. The increased forage that is purported to benefit big game and grizzly bears is also cited as a benefit to livestock grazing. However, livestock have negative impacts on big game and grizzly bears and so the increased forage might cause increased

¹⁶ 40 C.F.R. § 1508.27 (2019).

¹⁷ *Ibid* § 1508.27(a).

¹⁸ *Id.* § 1508.27(b)(3)-(5), (7), (9)-(10).

¹⁹ *Town of Cave Creek v. FAA*, 325 F.3d 320, 331 (D.C. Cir. 2003) (quoting *North American Wild Sheep v. U.S. Department of Agriculture*, 681 F.2d 1172, 1182 (9th Cir. 1982)) (emphasis in original). *See also Middle Rio Grande Conservancy Dist. v. Norton*, 294 F.3d 1220, 1229 (10th Cir. 2002) (same); *Town of Superior v. U.S. Fish and Wildlife Serv.*, 913 F. Supp. 2d 1087, 1120 (D. Colo. 2012) (same).

conflict with wildlife. Livestock grazing impacts riparian areas and spreads weeds and in combination with the proposed action, may have significant cumulative impacts.

The action may adversely affect endangered or threatened species or its habitat. With numerous threatened and endangered species and their habitat present in this area, a more thorough assessment of potential impacts is required. Bull trout, lynx, and grizzly bear may all be impacted by construction of new roads, soil compaction, and increased runoff due to logging.

For these reasons, the Forest Service must prepare an EIS.

Thank you for the opportunity to comment on this EA. Please get in touch via the contact information below with any questions and please keep me on the list for future decision documents.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jocelyn Leroux', with a stylized flourish at the end.

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