



WILDERNESS WATCH

Keeping Wilderness Wild

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September 5, 2025

Objection Reviewing Officer

HUWDSA

USFS Intermountain Regional Office, Room 4403,
324 25th Street
Ogden, UT 84401

RE: Objection High Uintas Wilderness Domestic Sheep Analysis Draft Record of Decision (DROD) and Final Environmental Impact Statement (FEIS)

Objection Submitted Electronically:

<https://cara.fs2c.usda.gov/Public/CommentInput?Project=44503>

Wilderness Watch, Yellowstone to Uintas, Western Watersheds Project, Western Wildlife Conservancy, WildEarth Guardians, and Sage Steppe Wild submit this objection letter on the “**High Uintas Wilderness Domestic Sheep Analysis**” as detailed in the **Final Environmental Impact Statement (FEIS)** and **Draft Record of Decision (DROD)** pursuant to 36 C.F.R. § 218. This objection is focused on the impacts to the High Uintas Wilderness. For the purpose of this objection, Wilderness Watch is the lead objector.¹ The responsible officials are Kelly Orr (Forest Supervisor, Uinta-Wasatch-Cache National Forest) and Kristy Groves (Forest Supervisor, Ashley National Forest). The project is scheduled to occur in mainly in the High Uintas Wilderness.

Wilderness Watch is a national wilderness advocacy organization, headquartered in Missoula, Montana, dedicated to the protection and proper administration of the National Wilderness Preservation System. Wilderness Watch members use and value, and will continue to use and value, the High Uintas Wilderness for personal and professional pursuits, including hiking, plant and wildlife viewing, and plant and wildlife study. Wilderness Watch members also value the High Uintas Wilderness for its own sake. Wilderness Watch members value knowing that Wilderness is protected as Congress intended, whether or not they ever set foot inside the Wilderness boundary. As more fully described below, the Forest Service’s proposed action would adversely affect Wilderness Watch’s organizational interests, as well as its members’ use and enjoyment of the Wilderness.

Wilderness Watch, Yellowstone to Uintas, Western Watersheds Project, Western Wildlife Conservancy, WildEarth Guardians, and Sage Steppe Wild submitted joint or individual organization-detailed comments detailed comments, or both, in comment periods on scoping, on the Draft EIS, and on the Supplemental Draft EIS. These comments raised topics now addressed below in this objection.

¹ Wilderness Watch is also joining objections from others listed here as they are doing on this objection.

Although we incorporate our comments by reference, we also include excerpts from our comments to illustrate the objection points. As such, our objection complies with 36 C.F.R. § 218.

Sincerely,

A handwritten signature in dark ink, appearing to read 'mp', followed by a long horizontal flourish.

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The FEIS and DROD fail to recognize that grazing is a harmful (though allowable) use of Wilderness. This failing has biased the analysis because the FEIS (e.g. at FEIS at 277 and 278 and FEIS Appendix C1-100) and supporting documents premise that that grazing is fully compatible with wilderness preservation or has negligible impacts rather than a nonconforming, harmful exception specifically and limitedly allowed by the Wilderness Act and the Congressional Grazing Guidelines.

Our scoping comments stated:

Domestic livestock grazing in Wilderness is a nonconforming use that is allowed to occur where it currently exists in Wilderness... This fact is well documented in various agency publications dealing with monitoring of wilderness. *Monitoring Selected Conditions Related to Wilderness Character: A National Framework* states:

Section 4(d) of the Wilderness Act contains several special provisions allowing activities that **would typically be prohibited in wilderness, such as mining and commercial livestock grazing**, or landing of aircraft or use of motorboats, where these uses were already established before wilderness designation. (Emphasis added).²

Yet, the Wilderness Recreation Report on page 12 implied that grazing is “in keeping” with wilderness qualities:

Therefore, Congress did not intend that livestock grazing be viewed as inherently “not in keeping” with wilderness qualities. In addition, Section 303 of the Utah Wilderness Act of 1984 noted that recreation conflicts alone would not be the determining factor in the removal of livestock from those newly established Wilderness Areas...” (USDA Forest Service 2003a, Appendix B9-3).

Omission of first quotation mark in second quote in original.

Contrary to this statement, the Forest Service and Congress recognize that grazing doesn't conform with protecting Wilderness, though it is allowed. In addition, the reference to Section 303 of the Utah Wilderness Act, in the Wilderness Recreation Report, is a serious error. Nowhere does the Utah Wilderness Act or in the Congressional Grazing Guidelines state that “recreation conflicts alone would not be the determining factor in the removal of livestock from those newly established Wilderness Areas...”³

Further Forest Service guidance, *Technical Guide for Monitoring Selected Conditions Related to Wilderness Character*, clearly explains that livestock grazing in Wilderness has negative impacts on the Wilderness:

- 2 See page 114 in *Landres et al. 2009*, Technical Guide for Monitoring Selected Conditions Related to Wilderness Character, USDA Forest Service, GTR WO-80, June 2009, submitted with this comment. Regardless of the shortcomings with the wilderness character monitoring protocol, which the agency inappropriately uses as a surrogate for proper analysis in NEPA and as a point-tallying system in the Minimum Requirements Analysis Framework (MRAF), the documents relating to this protocol do recognize the negative impacts of livestock grazing on Wilderness. We address the faults with the misuse of the monitoring protocol later in this document.
- 3 Section 303 doesn't state that grazing is consistent with wilderness, either. Section 303 merely allows nonconforming uses up to the Wilderness boundary. The Forest Service still has a duty to consider how those outside uses impact Wilderness.

Grazing allotments introduce large nonindigenous herbivores such as domestic cattle, horses, and sheep in a wilderness. By their grazing and trampling activities, these nonindigenous herbivores may significantly diminish the natural quality of wilderness character by directly altering habitat for wildlife, reducing populations of rare or at-risk plants, introducing disease and other pathogens, increasing soil erosion, and altering hydrologic flow regimes (Belsky and Blumenthal 1997, Belsky and others 1999, Fleischner 1994). A decrease over time in the number of acres of grazing allotments with authorized use in a wilderness would indicate an increase in the natural quality. Conversely, an increase over time of the number of acres of grazing allotments with authorized use would indicate a decrease in the natural quality.⁴

The Forest Service also recognizes grazing as a wilderness threat akin to overuse by recreationists.⁵ The agency also recognizes, “prohibited’ or **nonconforming**’ uses (Section 4(c) of the Wilderness Act), ... [and that] [s]ome of these uses are allowed by **special provisions** required by legislation.” (Emphases added).⁶

Thus, the Forest Service itself recognizes legislative special provisions, such as grazing, as nonconforming or normally prohibited uses that are nevertheless allowed under certain circumstances. The grazing of domestic sheep and cattle is a commercial enterprise, generally prohibited in Section 4(c) of the Wilderness Act.⁷ Thus, the response to comments on page C1-100, which alleges that the statement in our comments about grazing being a nonconforming use was inaccurate, is itself in error. The history of the Wilderness Act and the agency's own wilderness monitoring documents prove that our statement is accurate. Because our statement was accurate, the agency did not consider or meaningfully respond to this comment or their biased premises, and the agency has not considered an important aspect of the issue in basing their analysis on an inaccurate premise that will degrade Wilderness characteristics. For those reasons, the agency has violated the National Environmental Policy Act and the Wilderness Act, supplemented by the Congressional Grazing Guidelines.

REMEDIES: Select the no grazing alternative or withdraw the DROD and FEIS.

The grazing of domestic sheep in in the project area does not conform with existing plans and threatens bighorn sheep, and amending the forest plan is justified with arbitrary reasons. The Forest Service has chosen to amend the Wasatch-Cache National Forest Plan to remove the viability requirement for bighorn sheep and weaken the plan's protection of bighorns. The Forest Service alleged that it cannot meet a viability requirement in Wasatch-Cache Forest Plan since bighorns may use private or other federal land. That is an arbitrary justification.

Bighorns populations are far more threatened by domestic sheep present on national forest land than anywhere else. The maps modeling acreage and observations on the FEIS (pages 138-143) clearly

4 See page page 19 in Landres et al. 2005, *Monitoring Selected Conditions Related to Wilderness Character: A National Framework*, USDA Forest Service, RMRS-GTR 151 April 2005. Document attached.

5 See page 27 of Landres et al. 2008, *Applying the Concept of Wilderness Character to National Forest Planning, Monitoring, and Management*, RMRS-GTR-217WWW, December 2008. It is also attached. We also discuss recreation and grazing later in this objection.

6 See page 11 of Landres et al. 2015, *Keeping it Wild 2: An Updated Interagency Strategy to Monitor Trends in Wilderness Character Across the National Wilderness Preservation System*. RMRS GTR-340, October 2015. It is also attached.

7 Congress also used the term nonconforming use to apply to grazing in the Special Provisions section in a version of the Wilderness Act introduced in 1956. See attached.

demonstrate that a majority and far greater chance of contact between bighorns and domestic sheep happen on national forest land, including within the national forest sheep allotments. Those same maps also show concentrated overlap within the eastern sheep allotments in this analysis. Eliminating the viability requirement would impact the entire population and leave them more vulnerable to the activities threatening their survival.

The best available science, discussed in other objections, in our comment letters (e.g. pages 5 and 6 of the April 21, 2016 letter), and in the FEIS itself suggest a buffer of non-grazing be applied between bighorn populations and grazing allotments. The Payette and Nez Perce-Clearwater National Forests closed sheep allotments in the Salmon River region in Idaho based on that science. It should be noted that private lands exists in the Salmon River area, and some of those parcels have domestic sheep use. The Forest Service nonetheless closed the allotments because that action significantly reduced the chance of contact. The same should happen here.

Much like the Forest Service's decision in the Payette and Nez Perce-Clearwater National Forests, the Forest Service closed sheep allotments in the Uintas just outside the Wilderness, in an area recommended by the Forest Service to be part of the High Uintas Wilderness in RARE II. This fact is documented in the FEIS and DROD:

The Ashley National Forest published a final EIS and a record of decision entitled *Future Management of the Chepeta Lake, Whiterocks River and Lakeshore Basin Allotments* in which the concern over the potential conflict between bighorn and domestic sheep was highlighted. Domestic sheep grazing was eliminated on these allotments to provide additional habitat for BHS.

DROD at page 5.

The Forest Service is treating the sheep allotments in the High Uintas Wilderness as unamendable and allotments it cannot close. Outside of Wilderness in the Uintas⁸ the agency will close allotments for wildlife protection. In Wilderness, just as outside, the agency has the discretion to close allotments for reasons other than wilderness designation, such as wildlife protection. Rather than take the proven approach for bighorn sheep, the Forest Service's decision will drive eventual extirpation of the bighorn sheep herd at Hoop Lake because this is the herd that mainly if not exclusively uses the High Uintas Wilderness.

The MOU cannot solve the problem of domestic sheep and bighorn overlap. Rather, the MOU allows killing of bighorns that have allegedly come into contact with domestic sheep. This exacerbates bighorn recovery, exclusively in the Wilderness. Our SDEIS comments addressed this on page 35 (bullet omitted):

It is clear that the goal of the MOU and this SDEIS is to artificially maintain the bighorn sheep herd through continual augmentation from Antelope Island (SDEIS at 179), by killing cougars (SDEIS at 187), and even allowing ranchers to kill bighorns in the Wilderness if they come close to domestic sheep (SDEIS at 179) rather than make the logical decision to close the sheep allotments. The signatories to the MOU, including the Forest Service, agreed to help implement the State's 2018 bighorn plan (SDEIS at 33). Killing cougars is a disgustingly significant part of the 2018 Utah State bighorn plan. The SDEIS ignores the profound negative impacts to

⁸ See also our SDEIS comments on pages 62 through 64.

Wilderness and non-wilderness lands from this cougar killing pogrom and from the augmentation program (presumably done by helicopter if done in the Wilderness).

In sum, rather than follow the normal process as directed to do it Wilderness, including compliance with the Wasatch-Cache National Forest Plan, the agency is proposing to weaken the plan for the bighorns that use the Wilderness. Indeed, Wilderness is being treated differently and with less protection than other grazed allotments. For the above reasons, amending the forest plan is arbitrary and the agency has not appropriately considered or evaluated less drastic alternatives that could benefit both Wilderness preservation and bighorn population. Amending the forest plan would violate the National Environmental Policy Act, the National Forest Management Act, the Wilderness Act, and the Grazing Guidelines.

REMEDY: Select the no grazing alternative in the final ROD.

The MOU conflicts with Wilderness and its implementation will harm to Wilderness and wildlife.

We raised concerns about the bighorn sheep MOU with Utah and its impacts in our SDEIS comments on page 36. The MOU prioritizes helicopter collaring and killing of mountain lions in the Uintas. These actions are antithetical to preservation of Wilderness. In our SDEIS comments, we said the following:

The MOU was established without public input. It is a backroom deal, done before completion of the NEPA analysis, in which the state agency and the Forest Service appear to have privately agreed to prioritize domestic sheep grazing on public lands over the conservation of bighorn sheep (and other native wildlife) by agreeing that actions in pursuit of the latter won't restrict the former. This approach to decision-making betrays unlawful predetermination and undermines the public engagement and transparency goals of statutes such as NEPA. ...

Similarly, the MOU requires the Forest Service "to develop habitat projects" for bighorns to the east of sheep allotments and to "coordinate with UDWR" in efforts to collar and/or capture bighorns. SDEIS at 178. The SDEIS does not analyze the impacts of these efforts on Wilderness, assuming they might be contemplated in Wilderness. Given the proposal to capture bighorn sheep via helicopter in the Wilderness a few years ago, this seems likely to involve collaring and possibly augmentation. Helicopters and habitat manipulation are antithetical to Wilderness.

The FEIS (e.g. C-158 and 169, response to comments) also indicates that UDWR is pursuing an aggressive mountain lion killing program in the Uintas as per Utah's bighorn plan. The MOU supports this highly manipulative plan. Intentionally manipulating populations is inconsistent with Wilderness.

The Forest Service's wilderness administration guidance directs the Forest Service to "[p]rovide an environment where the forces of natural selection and survival rather than human actions determine which and what numbers of wildlife species will exist." FSM 2323.31(1). Any proposal to potentially utilize prohibited activities in the High Uintas Wilderness, such as collaring bighorns with helicopters and killing mountain lions in excess of a normal hunting season (though the FEIS is not clear to what degree UDWR is conducting direct killing, as opposed to hunting, as indicated on page 161 of the FEIS) are an attempt to intensively manage and manipulate herds for population targets for big-game hunting are problematic in Wilderness:

In contrast to other public land management statutes, which typically authorize agencies to consider and weigh diverse values through exercise of their scientific and policy expertise, the

Wilderness Act required certain areas to be managed predominantly for one use: wilderness preservation....

Unlike all other land-management statutes, the Wilderness Act's basic purpose was not to delegate authority to expert agencies, but rather, to exclude certain lands from the application of the agencies' specialized expertise, to restrain agency flexibility, and to protect (with limited, narrow exceptions) certain lands from the impact of the sort of policy choices land managers typically make.⁹

Ultimately, "whatever 'wilderness character' means, it cannot be something that depends upon the active manipulations of humans."¹⁰ Sean Kammer, *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 86 (2013). Restraint and humility are important values underpinning the Wilderness Act, and "[l]and managers should exercise this same humility in dealing with wilderness areas, lest they lead us down a path to where there are no longer any places that are truly 'wild,' no places beyond the control of human institutions and cultural imperatives."¹¹

In sum, the MOU promotes aggressive predator killing, killing of bighorns near domestic sheep, and motorized equipment use, all of which are not compatible with Wilderness or the Wilderness Act. For these reasons, relying on this MOU from which the allotment proposed decision will flow violates the National Environmental Policy Act because the MOU is programmatic and has not undergone public comment, and it violates the Wilderness Act for motorized activities, manipulative activities, collaring, and every other incompatible activity in Wilderness.

REMEDIES: Select the no grazing alternative or withdraw the DROD and FEIS.

Domestic sheep grazing has negative impacts on wildlife, soils, watersheds, and vegetation in the Wilderness and outside.

While the FEIS analysis is geared toward a predetermined decision, in violation of NEPA (e.g. see DROD page 5), the favored approach will not resolve other problems. Some examples follow.

There are unsuitable acres in the driveway, though the FEIS claims (e.g. C-107 and C 174) that these areas are small, about 27 acres. Even one acre of unsuitable range is a problem because of the severe damage the photos in our coalition comments. The sheep driveways have been problems for decades. By way of analogy, it is useful to point out that 27 acres could have a significant impact. For example, a hypothetical Forest Service road that is 16 miles long would cover only 27 acres.¹² Areas that are in unsatisfactory condition, sacrifice zones, need to be closed to use. Rerouting the sheep driveway may only spread the impact to more areas.

Recreation impacts are concerning, but applying the same analysis, domestic sheep impacts far exceed recreation impacts. The Forest Service is rightly concerned about recreation impacts to the High Uintas

9 See Kammer 2013. *Coming to Terms with Wilderness: The Wilderness Act and the Problem of Wildlife Restoration*, 43 ENVTL. L. 83, 100-101 (2013).

10 Id. at 86

11 Id.

12 Information about the width of Forest Service roads can be found in the Forest Service Handbook 7709.56 42.4 Exhibit 2. Such a hypothetical road would be suitable for passenger cars and travel of 30 miles per hour or more. In other words, a small acreage impact can have serious consequences.

Wilderness. The Ashley National Forest Website¹³ has this to say about the High Uintas Wilderness:

The High Uintas Wilderness is a deceptively fragile place and is being literally “loved to death” by a growing number of visitors. With increasing use and impacts to natural resources, many visitors are also having difficulty finding the wilderness experiences they seek. Please [Leave No Trace](#) of your visit, respect restrictions, and help keep the wilderness wild for future generations.

Using data from the FEIS and specialists reports and comparing them to the stated concern over recreation reveals some similarities and one striking contradiction. The dispersal of recreationists and sheep are similar: The FEIS notes that sheep use the driveways (concentrated use in specific areas) but also disperse over a small fraction of the area. Visitors concentrate along trails but usually limit themselves to about 31,000 acres of the project area. The contradiction is that in terms of actual numbers. While there are between 4320 and 4346 visitor days in the project area in the Wilderness (Appendices E and C of Recreation and Wilderness Report), sheep use days are astronomically greater. Not counting sheep use days in the Fall Creek Allotment, FEIS Appendix A reveals 550,900 sheep (animals) days in the project area. The FEIS and supporting materials combined with the agency's concern over recreation use in the Wilderness leads to the impossible conclusion that over ½ million sheep days cause significantly less damage than just under 5,000 recreation visitor days.

For example, the average Rambouillet ewe, the most common sheep on public lands and national forests in the West weigh between 140 and 200 pounds, about the same as a human. Human visitors usually bring their own food while sheep eat alpine vegetation. Both bed down,

The FSM states, “Predacious mammals and birds play a critical role in maintaining the integrity of natural ecosystems.” FSM at 2323.33c. A wolverine was found in 2014 and the area is within lynx habitat. Also, there is no mention in the DEIS about bears or coyotes. The only mention of mountain lions is in conjunction with bighorn sheep.

Nothing has changed in the FEIS. Rather, the only mention black bears, for example, is in the Wildlife Report. What is missing, even from the Wildlife Report, is an analysis of all predator control—that done by herders, ranchers, and UDWR. We do get an idea of what APHIS has done and hunting results, but only from the Wildlife Report and not the FEIS itself. There is no explanation, however, of whether control such as bear hunting is occurring in the project area or at much lower elevations in the Uintas. Without this information, the analysis is not informative. We do know predators are killed in the High Uintas Wilderness and that poison eggs are apparently used according to the Wildlife Report on page 47. The Forest Service Manual states at 2323.33c regarding Wilderness, “Poison baits or cyanide guns are not acceptable.”

The FEIS has not considered important aspects of grazing impact to wildlife, soils, watersheds and vegetation. Specifically, it has minimized or failed to discuss impacts from sheer numbers of sheep, damage to soils and vegetation along the driveway, and predator control as a result of allowing continued grazing. The agency also has arbitrarily minimized significantly higher impacts from grazing while analyzing comparable recreation impacts to a different standard. For these reasons the analysis is insufficient and has violated NEPA. For these reasons a decision based on this analysis will degrade the wildlife, soil, watershed, and vegetation qualities in Wilderness.

13 See <https://www.fs.usda.gov/r04/ashley/recreation/high-uintas-wilderness>

REMEDIES: Select the no grazing alternative or withdraw the DROD and FEIS.

The FEIS fails to adequately reveal the extent of permanent structures in the Wilderness associated with sheep grazing.

Our DEIS comments addressed structures in Wilderness on page 15. The FEIS (C1-101) states, “Construction and maintenance of permanent structures is prohibited.” This statement and FEIS page 279 could lead the reader to conclude there are no permanent structures associated with grazing. However, other pages (e.g. FEIS pages 65, 270, and 273) could lead a reader could infer there may be one permanent structure that would remain, even under the no grazing alternative. Under the no grazing alternative such a structure would not be needed for grazing and should be removed.

Further, as our DEIS comments pointed out, some of the so-called temporary structures, are actually permanent according to agency definitions in the Forest Service Manual. We cited and quoted that section of the Manual. Here is again, FSM 2320.5 Definitions “5. Permanent Improvement. A structural or nonstructural improvement that is to remain at a particular location for more than one field season. Permanent improvements include such items as trails, toilet buildings, cabins, fences, tent frames, fire grills, and instrumentation stations.” These grazing structures remain in place for more than one season and include tent frames and fire grills. Because structures the agency calls “temporary” are actually permanent, when the agency suggests authorizing three more similar structures, these structures will also be permanent. The agency has not supported how the structures would minimize impacts to Wilderness or more efficient management of Wilderness as opposed to supporting increased grazing numbers—increasing grazing numbers is what is happening at the Fall Creek Allotment. For these reasons, this analysis violates NEPA and the permanent structures for grazing violate the Wilderness Act and the Congressional Grazing Guidelines.

REMEDIES: Select the no grazing alternative or withdraw the DROD and FEIS.

Fall Creek Allotment

We discussed the Fall Creek Allotment on pages 14, 15, and 17 of our DEIS comments. Page 21 of our SDEIS comment states, “The SDEIS (p8) also cites a provision from the Ashley NF Plan that states, 'Sheep allotments that remain unutilized for a period of 5 years may be considered for conversion to another class of stock or closed (IV-32).' The Fall Creek allotment meets this criterion many times over.”

The Fall Creek Allotment has not been used for nearly 50 years, 1977. The FEIS does not offer much explanation as to how an allotment could still be under permit and not used as three years is the maximum nonuse that can be taken. There is a hint on page 80 of the FEIS, “The Fall Creek Allotment is designated to be grazed by the Ute Tribe under an agreement.” However, there is no explanation of what this means or how this agreement can deviate from Forest Service policy. Since it was last grazed seven years before passage of the Utah Wilderness Act, there is also a question of whether it can be grazed now. In addition, it seems the Ute Tribe does not intend to graze this allotment.

Page 20 of the FEIS states:

Some tribal members have expressed concerns with disease transfer between domestic sheep and BHS in these meetings; however, the Ute Tribe has not taken a formal position on the project and so could be considered neutral or against. Although the Ute Tribe holds the permit to graze the Fall Creek allotment, they have not stocked the allotment in over 45 years.

The FEIS also states:

It is recognized that the Fall Creek Allotment has not been grazed with domestic sheep for over 45 years and there are currently no plans to restock this allotment. The existing conditions on the allotment reflect this. The proposed action, however, does authorize grazing on this allotment and no other environmental review would be required to restock the allotment if the agency's preferred action alternative were selected. It is anticipated that the impacts on the allotments would increase an additional 15.5 percent based on the animal days spent on the allotment divided by the total animal days across the 10 allotments. A driveway would have to be established to move sheep to the Fall Creek Allotment and the exact route is unknown at this time.

FEIS at 267.

Since the Forest Service has no idea where any driveway would be located and the Ute Tribe has not been interested in using this allotment anyway, it makes no sense to include this allotment in this project. Rather, a separate analysis is needed because the FEIS contains no meaningful information upon which to base a decision. In the unlikely event the Tribe would want to use the allotment in the future, an analysis would need to occur at that time, including cumulative effects from occasional illegal cattle grazing ("drift," FEIS p. 233), which the agency failed to analyze.

"It is recognized that the Fall Creek Allotment has not been grazed with domestic sheep for over 45 years and there are currently no plans to restock this allotment. The existing conditions on the allotment reflect this." The "existing conditions" of an ungrazed allotment, compared to a grazing allotment, is a tacit admission that grazed areas are not in the same good condition as the ungrazed allotment. Aside from even occasional illegal cattle use (FEIS p. 233) the allotment has no other impacts from grazing.

Furthermore, FEIS Appendix C1-106 makes a serious error in selecting the date from which to calculate when grazing may occur in Wilderness. It states the following:

The Wilderness Act of 1964 explicitly states in Section 4(d)(4)(2) "the grazing of livestock, where established prior to September 3, 1964, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture." Fall Creek was an established allotment and was being grazed prior to September 3, 1964 and up to 1977. Since 1977, grazing has not occurred at the choice of the permittee; the allotment is still considered active.

The mistake is that the effective date of the Utah Wilderness Act is 1984, not 1964. Section 103 (b) Of the Utah Wilderness Act states, "with respect to any area designated in this Act, any reference in such provisions to the effective date of the Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act." That provision means that "1984" is substituted for 1964 in terms of when grazing may continue. At the time of designation, the allotment hadn't been grazed for seven years.

For the reasons above, the analysis is insufficient on the Fall Creek Allotment and violates NEPA. For the reasons above, reintroducing grazing onto this allotment when it wasn't grazed at the time of Wilderness designation violates the Wilderness Act.

REMEDY: Segregate this allotment from the project decision.

***Keeping it Wild 2* is not the appropriate tool for NEPA analysis and decisionmaking.** Our DEIS comments on page 16 raised this concern.

As discussed below, the Wilderness Act does not state that there are five qualities of Wilderness nor does it provide conflicting definitions for wilderness qualities. The Forest Service has also acknowledged in other project analyses that these “qualities are not specifically mentioned in the law,” and it has provided definitions of “untrammeled” (as “areas essentially unhindered and free from human manipulation”) and “natural” (as “areas with ecological systems largely separate from direct human influence.”). Forest Service, Olympic, Mt. Baker-Snoqualmie, and Okanogan-Wenatchee National Forests, *Minimum Requirements Analysis Mountain Goat Removal from Olympic National Forest Wilderness Areas*, 2016. These complementary definitions provide a coherent reading of the Wilderness Act where natural conditions generally flow from untrammeled conditions. To the extent that there is an administrative conflict between various uses of wilderness and preservation of wilderness, the statute and the agencies’ regulations and management guidance provide direction for resolving those conflicts in favor of wilderness preservation. *See, e.g.*, 16 U.S.C. § 1133(b); 36 C.F.R. § 293.2(c); FSM 2320.6.

The notion of five wilderness qualities came about in Landres’ *Keeping it Wild* protocols—internal agency guidance documents that have not gone through formal notice and comment rulemaking. These documents are the subject of much disagreement and controversy largely because they promote—intentionally or not—an interpretation of the Wilderness Act that is internally inconsistent and will result in management actions that are antithetical to Wilderness preservation.¹⁴ While initially envisioned as a tool to help agencies measure wilderness character, on the ground it has had the unintended consequence of agencies (including the Forest Service here) using the documents to justify active management paradigms that are predominant outside of Wilderness.

A prime example of a rapidly growing consequence from *Keeping it Wild* is the erroneous idea that managers can assess various components of wilderness character so narrowly, thereby reducing the Wilderness Act to a point tallying system rather than a substantive law with cohesive goals and stringent prohibitions (e.g. FEIS at 277 and 278). This management mindset effectively and unlawfully repeals and rewrites the Wilderness Act.

For this reason, using the tallying system from *Keeping it Wild* when it has never undergone NEPA and not had public input fails to adequately assess the impacts to Wilderness and Wilderness character, allowing the degrading of Wilderness character and deciding on a path that will likely lead to more proposals for activities that violate the Wilderness Act. For these reasons, the final EIS violates NEPA and the Wilderness Act, including the agency’s mandate to preserve wilderness character.

REMEDY: Withdraw the DROD and FEIS.

Other problems exist with the FEIS. The Forest Service has already made a decision, prior to doing NEPA, which violates NEPA. The DROD on page 5 mentions an informal letter from the Forest Service in 1998 that seems to be controlling this process: “The letter references a meeting held with permittees and Summit County Commissioners to ‘assure them that no permits would be cancelled to accommodate the re-introduction, and that no permits would be in jeopardy of cancellation in the future.’” Just like allotments outside of Wilderness, the Congressional Grazing Guidelines state that

¹⁴ *See, e.g.* Cole, et. al. 2015.

decisions about grazing in Wilderness “should be made as a result of revisions in the normal grazing and land management planning and policy setting process, giving consideration to legal mandates, range condition, and the protection of the range resource from deterioration.” The Forest Service made an unlawful promise and started this analysis with the intent of reaching that conclusion. This violates NEPA.

The FEIS and supporting materials are Inconsistent on whether the Gilbert Peak Allotment is in or out of condition class 1. The map in Figure 49 (FEIS page 263) depicts an allotment that looks to be outside of condition class 1. Figure 2, of the Wilderness Recreation Report, however, shows this allotment within condition class 1. Because condition class 1 has no grazing in the High Uintas Wilderness Management Plan, this is needs to be resolved. If condition class 1 has a criterion that includes no grazing, and this decision would authorize grazing there, then this decision would violate the High Uintas Wilderness Management Plan. The lack of clarity, given the possible violation, is an insufficient analysis under NEPA.

The recreation analysis (e.g. FEIS C1-104) seems based on the idea that if visitors don't see sheep, everything is alright. The signs of sheep use are quite evident in an area, even to a casual observer, when sheep are not seen. Any layperson who has walked areas that have many hoofprints or, in not looking down, has stepped in sheep dung can tell you that. The recreation analysis should have considered that visitors may see domestic sheep, see evidence from domestic sheep, and experience less opportunities to view wildlife that have been displaced by sheep.

There is a strange comment in the Wildlife Fish and Plants BA on page 10:

Timber harvest occurred in some of the UWCF allotments prior to wilderness designation in 1985. Nearly all acres (90%) of the 10 allotments being analyzed occur within this designated wilderness area. Because of wilderness designation there has been no timber harvest within this wilderness designation on these ten allotments since then, and no timber harvest will occur on these allotments within wilderness in the future.

There was no logging in what is now the High Uintas Wilderness as that would have likely precluded designation. The only possible exception would be few areas of tie hacking that occurred over 100 years ago. This statement leads one to assume there was logging not long before wilderness designation and perhaps conclude that the High Uintas Wilderness isn't very special or real Wilderness; therefore sheep grazing is no big deal. Such errors bias the FEIS analysis, contrary to NEPA requirements.

For the reasons above, the analysis doesn't take a hard look or consider all of the impacts to Wilderness, and violates NEPA.

REMEDY: Withdraw the DROD and FEIS.