National Headquarters
1130 17th Street, N.W. | Washington, DC 20036-4604 | tel 202.682.9400 | fax 202.682.1331
defenders.org

November 21, 2026

Amanda Gehrt
Forest Supervisor
Nebraska National Forests and Grasslands
125 North Main Street
Chadron, Nebraska 69337

Submitted electronically via email:
NebraskaComments(Siusda.sov

RE: Nebraska National Forests and Grasslands Plan Amendments 2026 (Project #428615)

Supervisor Gehrt:

On behalf of Defenders of Wildlife ("Defenders") and our more than two million members and supporters, we submit the following comments regarding the United States Forest Service's ("Forest Service") proposed amendments to the Nebraska National Forests and Grasslands ("NNFG") Land Management Plan ("the plan" or "the current plan").[1] The Forest Service proposes to amend or remove 21 components of the current NNFG Land and Resource Management Plan across infrastructure, range management, recreation and special uses, and species management. Among other things, it would expand the use of rodenticides to poison prairie dogs, remove temporal restrictions for mowing that are intended to protect grassland birds, remove pasture size directions designed to promote landscape connectivity, remove limits on new water developments, relax requirements for resting pastures intended to facilitate ecological integrity, and relax directions for managing infrastructure including gates, fences, and pipelines. The Forest Service proposes all of these changes under a categorical exclusion and has prepared no environmental analysis.

Defenders is a nationwide non-profit organization dedicated to protecting and restoring America's wildlife at risk of extinction, advancing a vision of a future in which wildlife thrives, sustained by broad public support and a resilient network of healthy lands and waters. Defenders has worked for more than two decades with federal and state agencies and private landowners on prairie dog conservation and coexistence, including

[1] See U.S. FOREST SERV., LAND AND RESOURCE MANAGEMENT PLAN PROPOSED AMENDMENTS (2026) ["Proposed Amendments"].

through our participation in the U.S. Fish and Wildlife Service's Black-Footed Ferret Executive Committee. On the national grasslands, we have partnered with the Forest Service to fund and implement nonlethal prairie dog management and plague mitigation at Conata Basin on Buffalo Gap National Grassland and Thunder Basin National Grassland. At Conata Basin, we also assist with annual black-footed ferret surveys and have participated in trapping and relocating prairie dogs to enhance habitat and support ferret recovery. More recently, we have offered funding and technical assistance for prairie dog coexistence efforts on Fort Pierre National Grassland, which district staff have accepted. We remain committed to working with the Forest Service to advance prairie dog conservation and coexistence, black-footed ferret recovery, habitat restoration, plague mitigation, and bison conservation.

Defenders finds egregious flaws and omissions with the proposed plan amendments. The changes could substantially harm black-tailed prairie dogs and endangered black-footed ferrets, grassland-nesting birds, and other imperiled species, along with groundwater-dependent ecosystems. Yet the proposal neither analyzes those effects nor cites scientific support for the changes. We therefore urge the Forest Service to withdraw its reliance on the categorical exclusion and prepare an environmental impact statement ("EIS"), or to withdraw the proposed amendments.

We are also deeply concerned with the absence of public notification. Our staff is subscribed to receive emailed project notifications from the NNFG. We did not receive email (or other) notification of the original 30-day comment period; we only received emailed notification of the 15-day extension on November 3, 2026. As a result, the Forest Service has unduly limited public participation in a decision that stands to impact management direction across two national forests and three national grasslands spread across two states. Excluding the public in this way undermines effective planning and is also contrary to the 2012 Planning Rule's direction that the responsible official "use contemporary tools to provide notice to the public." 36 CFR § 219.16(c); *see also* 36 CFR § 219.4(a)(1) (requiring public notification when initiating a plan amendment). We therefore request that the Forest Service either withdraw the proposal or, at a minimum, provide new public notice and a new comment period on a complete proposal that includes environmental analysis. Moreover, because the Forest Service has not included the analysis and documentation that the National Environmental Policy Act ("NEPA"), National Forest Management Act ("NFMA"), and the Department of Agriculture's regulations require, as discussed below, the public has not been provided sufficient information on which to base substantive comments. In this respect, we reserve the right to raise points in relation to the required documentation during the objection period. *See* 36 C.F.R. § 219.53(a).

Below we raise our procedural and substantive concerns about the proposed amendments.

1. The proposed amendments will almost certainly cause significant adverse effects to the National Grassland and its habitats and species.

Because the proposed amendments will almost certainly have significant adverse effects on habitats and species within the NNFG, the Forest Service should conduct an EIS—particularly for the changes affecting groundwater, grassland birds, and the use of rodenticides for prairie dog management. We explain our concerns more fully below.

A. Groundwater and groundwater-dependent ecosystems

The Forest Service proposes to remove the limits on new water developments in the Bessey, McKelvie, and Pine Ridge Geographic Areas, and to delete "no net gain" from the Fort Pierre guideline. Its stated need for change is that "[i]nstallation of reliable water developments is a key objective" for combating undesirable plants and distributing livestock for prairie restoration across the NNFG.[2] Without a cap or other guardrail, the plan would place no limit on the number of developments or on cumulative withdrawals. Yet the agency provides no analysis of effects on groundwater, springs, seeps, or wetlands. The proposed amendments stand to reduce groundwater availability and degrade springs, seeps, and associated habitats, and could concentrate livestock impacts around each new water point as well as in upland areas, with potentially significant effects that warrant analysis in an EIS.

Much of the plan area overlaps the High Plains (Ogallala) Aquifer, whose groundwater and surface water systems are deeply and continuously connected. In the Nebraska Sandhills, groundwater contributes significantly to the surface flow of rivers, and the permeable Sandhills themselves act as a groundwater recharge reservoir.[3] Although groundwater withdrawals for livestock are dwarfed by irrigation,[4] overall High Plains Aquifer losses have been substantial and there are heightened concerns for future groundwater availability.[5] Even where livestock withdrawals are small relative to the aquifer as a whole, spring developments and local pumping can have significant effects on individual springs,

---

[2] *See* Proposed Amendments at 4–5 [in PDF]. We note that nowhere does that Forest Service explain how more water installations will combat undesirable plants or how distributing livestock will advance prairie restoration. We question the validity of this assertion, as described further in Sections 2.E.i and 5.G of these comments.

[3] *See* Xi Chen et al*., Geological and Climatic Controls on Streamflows in the Nebraska Sand Hills*, 39 J. OF THE AM. WATER RES. ASSOC. 217, 217–18 (2003).

[4] *See, e.g.*, STEVEN M. PETERSON ET AL., U.S. GEOLOGICAL SURVEY, GROUNDWATER AVAILABILITY OF THE NORTHERN HIGH PLAINS AQUIFER IN COLORADO, KANSAS, NEBRASKA, SOUTH DAKOTA, AND WYOMING 3 (2020), https://doi.org/10.3133/pp1864.

[5] *See id*. at 1.

seeps, and wetlands. The absence of any limit on new water developments warrants evaluation at both scales, including cumulative effects.

The agency's own guidance for rangeland spring developments states that range improvement projects providing water for livestock or wildlife need to assess effects on springs.[6] The same guidance notes that historic spring developments, which captured flow without considering ecosystem services, often desiccated spring habitats, eradicated aquatic communities, and even led to species extinction.[7] A technical guide by the Natural Resources Conservation Service ("NRCS") acknowledges that "[d]eveloping a spring may cause adverse impacts to fish and wildlife habitat"[8] and that "[t]his should be a last resort practice both from an environmental and reliability standpoint."[9] The same NRCS guide recommends evaluating the effects of consumptive use on riparian health and function, stream flow, water temperature, and local aquifer recharge.[10] This analysis should be done in an EIS.

Artificial watering sites can have significant ecological effects and can increase abundance of invasive plants near the site, particularly in arid and semi-arid ecosystems.[11] Because livestock concentrate around water points, this creates disturbance gradients on the landscape that are more vulnerable to invasion by non-native plants. Combined with the proposed removal of pasture size limits, more water developments could produce more intensively used areas that degrade certain habitats.

An EIS should analyze, at a minimum: 1) the current inventory of water developments by type, source, and location, and the number and type of developments the amendments are intended to enable; 2) effects on groundwater levels, springs, seeps, wetlands, and other groundwater-dependent ecosystems, including cumulative effects; 3) effects on invasive plant establishment and spread around water points; 4) alternatives that do not require new water developments, such as modified grazing regimes and other control methods (see Section 5.C); and 5) effects on listed species that depend on groundwater, including the American burying beetle (see Section 4.B).

---

[6] *See generally* JOSEPH T. GURRIERI, U.S. FOREST SERV., RANGELAND WATER DEVELOPMENTS AT SPRINGS: BEST PRACTICES FOR DESIGN, REHABILITATION, AND RESTORATION GEN. TECH. REP. RMRS-GTR-405 (2020).
[7] *See id*. at 2.
[8] NAT. RES. CONSERVATION SERV., U.S. DEP'T OF AGRIC., CONSERVATION PRACTICE STANDARD: SPRING DEVELOPMENT CODE 574 1 (2026), https://www.nrcs.usda.gov/sites/default/files/2026-11/574-nhcp-cps-spring-development-2026.pdf.
[9] *Id*.
[10] *See id*. at 2.
[11] *See* M.L. Brooks et al., *Effects of livestock watering sites on alien and native plants in the Mojave Desert, USA*, 67 J. OF ARID ENV'TS 125, 125–26 (2006).

B. Grassland birds

The Forest Service proposes to remove the default July 15 mowing date for areas outside developed sites.[12] The current guideline delays mowing until July 15 or later "to protect ground-nesting birds, including their nests and broods."[13] The amendment instead leaves the earliest date to project-level analyses "based on resource protection and project objectives."[14] The Forest Service says that mowing is used for invasive species control, prescribed fire lines, and wildfire breaks.[15] Removing the default date would allow mowing earlier in the nesting season, and the amended guideline no longer states that protecting ground-nesting birds is its purpose, nor does it define what "resource protection" means. It also lets project objectives weigh equally with resource protection.

The existing guideline already refers to project-level analyses, but with a protective default and an explicit purpose. The amendment would remove both.[16] Nothing in the proposal analyzes the effects on grassland-nesting birds. Grassland birds have declined sharply across North America, with a loss of approximately 50 percent over the past half-century.[17] Mowing during the breeding season destroys nests and has contributed to these declines.[18] Removing a forest and grassland-wide temporal restriction to delay mowing until July 15 or later may significantly affect this already imperiled bird assemblage and is also inconsistent with best available science (see Section 2.E.ii). An EIS should evaluate the foreseeable effects of the mowing guideline on grassland birds, relative to species and nesting seasons on each unit, across a range of alternatives.

C. Black-tailed prairie dogs

Black-tailed prairie dogs are a keystone species and ecosystem engineers whose activities sustain the ecological integrity of grassland ecosystems. Their burrows provide shelter, denning, and nesting habitat, while their foraging and digging create vegetation heterogeneity and influence soil processes. Prairie dog colonies support numerous predators, including ferruginous hawks, golden eagles, swift foxes and American badgers. The endangered black-footed ferret depends almost exclusively on prairie dogs for prey and uses their burrows for shelter and reproduction. Poisoning therefore removes both the prey base and functional habitat necessary for ferret recovery. Historical poisoning campaigns

---

[12] *See* Proposed Amendments at 11 [in PDF].
[13] *Id*.
[14] *Id*.
[15] *See id*.
[16] *See id*.
[17] *See, e.g.*, Maureen D. Correll et al., *Quantifying specialist avifaunal decline in grassland birds of the Northern Great Plains*, 10 ECOSPHERE e02523, 2 (2019).
[18] *See* R. L. Stanton et al., *Analysis of trends and agricultural drivers of farmland bird declines in North America: A review*, 254 AGRIC., ECOSYSTEMS & ENV'T 244, 249–50 (2018).

contributed substantially to prairie dog declines, and lethal control remains a threat alongside sylvatic plague and habitat loss.[19]

The proposed amendment to the rodenticide standard would defer application timing to pesticide labels and appears to allow the use of additional rodenticides, including the anticoagulants chlorophacinone (Rozol) and diphacinone (Kaput-D). In South Dakota, the seasonal application window for zinc phosphide extends from July through February, while both Rozol and Kaput-D have application windows extending from October 1 through March 15, subject to applicable label requirements and geographically specific endangered species protections.[20] Deferring to uses and applications prescribed on pesticide labels could substantially expand the period during which prairie dogs may be poisoned and increase risks to associated wildlife.[21]

Anticoagulant rodenticides pose significant risks beyond the direct loss of prairie dogs. In fact, labels issued by the Environmental Protection Agency ("EPA") for both Rozol and Kaput-D state that they are highly toxic to mammals, birds, and fish, and both are categorized as "restricted use" specifically "due to hazard to nontarget" species.[22] These toxicants disrupt blood clotting, causing internal and external hemorrhage and prolonged suffering before death. The EPA reports that prairie dogs may survive for one to three weeks after first consuming anticoagulant bait, during which time they can accumulate additional toxicants in their tissues.[23] As poisoned prairie dogs become increasingly lethargic and debilitated, they become more vulnerable to predation. Predators and scavengers that consume poisoned prairie dogs or their carcasses risk lethal or sublethal secondary

---

[19] *See generally* Steve C. Forrest & James C. Luchsinger, *Past and Current Chemical Control of Prairie Dogs, in* CONSERVATION OF THE BLACK-TAILED PRAIRIE DOG 115–28 (1999); Natasha B. Kotliar et al., *A Critical Review of Assumptions About the Prairie Dog as a Keystone Species*, 24 ENV'T MGMT. 177 (1999); Ana D. Davidson et al., *Potential Landscapes for Conservation of the Black-Tailed Prairie Dog Ecosystem*, 31 DIVERSITY & DISTRIBUTIONS e13945 (2025), https://doi.org/10.1111/ddi.13945.

[20] *See* Nancy H. Golden & Joy Gober, *Prairie Dogs, Pesticides, and Protected Species: Concerns for Anticoagulant Use in a Sensitive Ecosystem*, 24 PROCS. OF THE VERTEBRATE PEST CONF. 181, 182–84 (2010), https://escholarship.org/uc/item/2tp6g6mn; *Anticoagulant Prairie Dog Bait Risk Mitigation Measures to Protect Endangered Species*, ENV'T PROT. AGENCY (June 17, 2026), https://www.epa.gov/endangered-species/anticoagulant-prairie-dog-bait-risk-mitigation-measures-protect-endangered.

[21] *See* Defenders of Wildlife et al., Coalition Comment Letter on the Notice of Intent to Prepare a Supplement to the Final Environmental Impact Statement for the 2002 Nebraska National Forest Revised Land and Resource Management Plan (LRMP) 4–7 (Oct. 30, 2006), https://defenders.org/sites/default/files/publications/prairie_dog_management_supplement.pdf.

[22] *See, e.g.*, U.S. Env't Prot. Agency, Issuance of Registration for Rozol® Field Rodent Bait (EPA Reg. No. 7173-309) 1, 3 (Nov. 1, 2022); U.S. Env't Prot. Agency, Issuance of Registration for Kaput-D® Burrow Builder Pocket Gopher Bait (EPA Reg. No. 72500-12) 2 (Jan. 29, 2024).

[23] *See Anticoagulant Prairie Dog Bait Risk Mitigation Measures to Protect Endangered Species*, ENV'T PROT. AGENCY (June 17, 2026), https://www.epa.gov/endangered-species/anticoagulant-prairie-dog-bait-risk-mitigation-measures-protect-endangered.

poisoning.[24] The EPA further acknowledges that deaths of nontarget wildlife from exposure to anticoagulant prairie dog baits are likely underreported because exposed animals can remain mobile and may seek shelter off-site before dying, making them difficult to detect.[25]

Research documents persistent chlorophacinone residues in prairie dog tissues and significant secondary poisoning hazards to wildlife.[26] Scientists at the Department of Agriculture's National Wildlife Research Center found that acute secondary poisoning risks to nontarget mammals persisted for up to 27 days following exposure and concluded that Rozol should not be used in areas where black-footed ferrets or other sensitive species occur.[27] Songbird intoxication has also been documented following Rozol application in accordance with label directions.[28] While zinc phosphide is not an anticoagulant and generally presents a lower risk of secondary poisoning, it still poses risks to nontarget wildlife and eliminates prairie dogs, reducing the prey base and functional habitat necessary for black-footed ferret recovery. These findings provide compelling scientific justification for a prohibition on anticoagulant rodenticides throughout the NNFG, including within boundary and interior management zones and across landscapes supporting natural ferret dispersal and population expansion.

Defenders successfully challenged the EPA's registration of Rozol for failure to comply with the Endangered Species Act ("ESA") in 2011. *See generally Defenders of Wildlife v. Jackson*, 791 F. Supp. 2d 96 (D.D.C. 2011). Although the EPA's geographically specific restrictions now provide important safeguards, they do not establish that anticoagulant use elsewhere on the NNFG is ecologically acceptable.[29] Black-footed ferrets and other wildlife

---

[24] *See, e.g.*, Nancy H. Golden & Joy Gober, *Prairie Dogs, Pesticides, and Protected Species: Concerns for Anticoagulant Use in a Sensitive Ecosystem*, 24 PROCS. OF THE VERTEBRATE PEST CONF. 181, 182–84 (2010), https://escholarship.org/uc/item/2tp6g6mn; Gary Witmer et al., *Retention time of chlorophacinone in black-tailed prairie dogs informs secondary hazards from a prairie dog rodenticide bait*, 72 PEST MGMT. SCI. 725, 725, 728–30 (2015).

[25] *See Anticoagulant Prairie Dog Bait Risk Mitigation Measures to Protect Endangered Species*, ENV'T PROT. AGENCY (June 17, 2026), https://www.epa.gov/endangered-species/anticoagulant-prairie-dog-bait-risk-mitigation-measures-protect-endangered.

[26] *See, e.g.*, Nancy H. Golden & Joy Gober, *Prairie Dogs, Pesticides, and Protected Species: Concerns for Anticoagulant Use in a Sensitive Ecosystem*, 24 PROCS. OF THE VERTEBRATE PEST CONF. 181, 182–84 (2010), https://escholarship.org/uc/item/2tp6g6mn; Gary Witmer et al., *Retention time of chlorophacinone in black-tailed prairie dogs informs secondary hazards from a prairie dog rodenticide bait*, 72 PEST MGMT. SCI. 725, 725, 728–30 (2015).

[27] *See* Gary Witmer et al., *Retention time of chlorophacinone in black-tailed prairie dogs informs secondary hazards from a prairie dog rodenticide bait*, 72 PEST MGMT. SCI. 725, 729 (2015).

[28] *See generally* Nimish B. Vyas et al., *Evidence of Songbird Intoxication from Rozol Application at a Black-Tailed Prairie Dog Colony*, 4 J. OF FISH & WILDLIFE MGMT. 97 (2013).

[29] *See, e.g.,* U.S. ENV'T PROT. AGENCY, BULLETINS LIVE! TWO - - VIEW THE BULLETINS, "Buffalo Gap National Grassland" (Nov. 19, 2026), https://www.epa.gov/endangered-species/endangered-species-protection-bulletins (attached with comments) (prohibiting the use of several Rozol and Kaput-D products on the grassland).

move beyond designated recovery areas and administrative boundaries, making restrictions limited to those areas insufficient to address all potential exposure risks.

The Forest Service should evaluate the combined effects of expanded poisoning seasons, additional toxicants, sylvatic plague, recreational shooting, and habitat fragmentation on prairie dog populations and associated wildlife. These threats do not operate independently, and their combined effects may undermine colony persistence, ecological function and the long-term viability of prairie dog complexes necessary for black-footed ferret recovery.[30] Occupied acreage alone is an insufficient measure of habitat quality, population viability, or ecological function. Recreational shooting, for example, can diminish habitat quality. The Forest Service must evaluate and disclose the combined effects of recreational shooting, rodenticide use, and sylvatic plague and consider year-round shooting closures within core prairie dog conservation complexes and occupied or potential black-footed ferret recovery areas.[31]

An EIS should analyze, at a minimum: 1) the effect of new rodenticides and the expansion of the time permitted for their use; 2) the risks of anticoagulant rodenticides on prairie dogs and associated wildlife; and 3) the cumulative impacts of poisoning, plague, and recreational shooting on prairie dog populations.

2. The proposed amendments fail to satisfy the requirements of the 2012 Planning Rule and the Administrative Procedure Act.

As discussed more fully below, the proposed amendments violate the Planning Rule implementing the Forest Service's NFMA obligations and are also inconsistent with the Administrative Procedure Act ("APA"). The agency fails to provide the documentation on which it relies, fails to offer a reasonable explanation for the proposed amendments, and fails to supply a reasoned basis for a change in position as required under the APA.

---

[30] *See* Jonathan N. Pauli & Steven W. Buskirk, *Risk-disturbance overrides density dependence in a hunted colonial rodent, the black-tailed prairie dog* Cynomys ludovicianus, 44 J. OF APPLIED ECOLOGY 1219, 1227 (2007), https://besjournals.onlinelibrary.wiley.com/doi/full/10.1111/j.1365-2664.2007.01337.x. *See also* Jonathan N. Pauli & Steven W. Buskirk, *Recreational Shooting of Prairie Dogs: A Portal for Lead Entering Wildlife Food Chains*, 71 J. OF WILDLIFE MGMT. 103 (2007) https://doi.org/10.2193/2005-620.

[31] *See, e.g.*, Appeal of Defenders, et al. of McKenzie Ranger District Prairie Dog Plan 16–18 (2008); Defenders of Wildlife, Comment Letter on the Little Missouri National Grassland (LMNG) Prairie Dog Management Proposed Action, Notice of Scoping 4 (Oct. 5, 2015).

A. The Forest Service has not articulated an adequate basis for amending the current plan's limitations on rodenticide use.

Under the Planning Rule, the responsible official must "[b]ase an amendment on a preliminary identification of the need to change the plan;" that preliminary identification itself "may be based on a *new* assessment; a monitoring report; or other documentation of *new* information, *changed* conditions, or *changed* circumstances." 36 U.S.C. § 219.13(b)(1) (emphasis added). The Forest Service purports to satisfy this requirement by alluding to the EPA labels for certain rodenticides and to South Dakota state law as follows:

> The current language does not align with EPA label directions for the rodenticides commonly used by Forest Service staff or their contractors. Additionally, the dates set within the current standard do not align with State regulations (SDCL 34-20-25) for the use of common rodenticides. This proposed amendment would align on the ground use with EPA labels.[32]

It provides cursory bullet points that purport to illustrate the discrepancy between permissible uses under the rodenticide labels. But the Forest Service has neither specified *which* EPA labels underly the proposed amendments nor provided links or copies. Rather, it alludes to "specific agricultural labels" and when use is "[t]ypically restricted" under the label.[33] This both frustrates public participation and fails to demonstrate a permissible basis for amendment. The Forest Service also does not explain whether or how the existing EPA labels constitute "new information," "changed conditions," or "changed circumstances."

Further, the referenced section 34-20-25 appears to be not a regulation but a codified state law exempting landowners applying poison on their own land from guilt of a Class 1 misdemeanor under some circumstances. *See* S.D. CODIFIED LAWS § 34-20-25 (1939) (exempting from S.D. CODIFIED LAWS § 34-20-24). This provision does not regulate "the use of common rodenticides," nor has the agency explained why it is being invoked in managing federal land. Regardless, here, too, the Forest Service has not given any indication of why this state law, which has been in force (and unchanged) since 1939, supports—much less requires—an amendment to the plan.

B. The Forest Service has not explained its change in position.

Agencies may not "depart from a prior policy," *F.C.C. v. Fox Television Stations, Inc.*, 556 U.S. 502, 515 (2009), or "abandon [a] decades-old practice," without providing a "reasoned explanation . . . for disregarding facts and circumstances that underlay or were

[32] Proposed Amendments at 17 [in PDF].
[33] *See id.*

engendered by the prior policy," *Encino Motorcars, LLC v. Navarro*, 579 U.S. 211, 211–12, 22 (2016); *see also F.D.A. v. Wages & White Lion Investments, LLC*, 604 U.S. 542,569–70 (2025) (requiring a reasoned explanation when an agency changes an existing policy or "acts inconsistently with an earlier position"). Failure to supply a reasoned explanation, and/or failure to consider "an important aspect of the problem," *Motor Vehicle Mfrs. Assn. of the U.S., Inc. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983), renders an agency's change in position arbitrary and capricious. *See id.* at 43, 46; 5 U.S.C. § 706(2)(A).

In the proposed amendments, the Forest Service plans to change multiple standards in the current plan (which are binding), including the existing standard limiting rodenticide use for reducing prairie dog populations to the period between October 1 and January 31 "to reduce risks to migratory birds."[34] But there is no discussion of this amendment's impact on migratory birds except for a cursory assertion that "[t]he intended protection of non-target species would still exists [sic]."[35] This stands in stark contrast to the Forest Service's previous amendments related to rodenticide use for prairie dog management. The 2005 Final Environmental Impact Statement for Amendment 2, for example, set the window for rodenticide applications to October 1 through December 31 and discussed the risks of poisoning to sensitive bird species and other migratory landbirds, with the support of several scientific studies.[36] Moreover, the Forest Service has *never* permitted the use of Rozol or Kaput-D on the grassland before now; the failure to even examine the potential consequences violates the APA.

More broadly, the Forest Service has also not addressed the circumstances, such as recovery of a critically endangered species or compliance with the agency's overarching land stewardship mandates, that may call for restraint or restrictions on rodenticide use beyond the label requirements. The ESA, for example, imposes substantive requirements for each federal agency to "insure" that its actions are "not likely to jeopardize the continued existence of any endangered species or threatened species," 16 U.S.C. § 1536(a)(2), such as the American burying beetle. Similarly, NFMA requires land management plans to provide for multiple uses, including wilderness, wildlife, and fish. *See* 16 U.S.C. § 1604(e)(1). The Bankhead-Jones Act also requires the Forest Service to manage grasslands for multiple uses, including supporting wildlife. *See* 7 U.S.C. §§ 1010-11. The Forest Service has not explained how the expanded use of rodenticides it proposes will affect these mandates.

---

[34] Proposed Amendments at 17 [in PDF].

[35] *Id.*

[36] *See* U.S. Forest Serv., Black-tailed Prairie Dog Conservation and Management on the Nebraska National Forest and Associated Units Including Land and Resource Management Plan Amendment 2 Final Environmental Impact Statement 48–49 (2005).

In addition, the Forest Service's decision not to complete any environmental review process for the proposed amendments, when they have done so for amendments to the Nebraska National Forest land and resource management plan for (literally) decades,[37] also requires a reasoned explanation.

The complete lack of explanation for the changes regarding rodenticide is especially egregious because the proposed amendments appear to authorize the use of Rozol, Kaput-D, and zinc phosphide according to the specifications on their registration labels *without specifying which labels* the new direction refers to.[38] This matters a great deal, because the EPA has issued multiple labels for these poisons, some of which contain conflicting instructions. For example, the EPA issued a label for "Rozol® Prairie Dog Bait" (registration no. 7173-286) in 2017.[39] According to EPA's Bulletins Live!, this specific product's use is prohibited on the Buffalo Gap National Grassland.[40] The EPA also issued a label for "Rozol® Field Rodent Bait" in 2022 (registration no. 7173-309);[41] it states that the product may "only" be used for the pests specified on the label, which are pocket gophers and several types of ground squirrel.[42] This label does not authorize the use of Rozol on prairie dogs.[43] Similarly, the EPA issued a label for "Kaput®-D Prairie Dog Bait" (registration no. 72500-22) in 2017.[44] Bulletins Live! also indicates that this specific product's use is prohibited on the Buffalo Gap National Grassland.[45] The EPA issued another label for "Kaput®-D Burrow Builder Pocket Gopher Bait" (registration no. 72500-12) in 2024.[46] It, too, specifies that the product may only

---

[37] Although the categorical exclusion at issue here has been available since 2006, *see* 71 Fed. Reg. 75481 (Dec. 15, 2006), the Forest Service completed the NEPA process for amendments to the LRMP in 2005 and 2008. *See, e.g.*, U.S. FOREST SERV., BLACK-TAILED PRAIRIE DOG CONSERVATION AND MANAGEMENT ON THE NEBRASKA NATIONAL FOREST AND ASSOCIATED UNITS INCLUDING LAND AND RESOURCE MANAGEMENT PLAN AMENDMENT 2 FINAL ENVIRONMENTAL IMPACT STATEMENT (2005); U.S. FOREST SERV., RECORD OF DECISION (NON-MANAGEMENT AREAS 3.63) FOR NEBRASKA AND SOUTH DAKOTA BLACK-TAILED PRAIRIE DOG MANAGEMENT ON THE NEBRASKA NATIONAL FOREST AND ASSOCIATED UNITS INCLUDING LAND AND RESOURCE MANAGEMENT PLAN AMENDMENT 3 (2008).

[38] *See* Proposed Amendments at 17 [in PDF].

[39] *See* U.S. Env't Prot. Agency, Issuance of Registration for Rozol® Prairie Dog Bait (EPA Reg. No. 7173-286) (Apr. 20, 2017).

[40] *See* U.S. ENV'T PROT. AGENCY, BULLETINS LIVE! TWO - - VIEW THE BULLETINS, "Buffalo Gap National Grassland" (Nov. 19, 2026), https://www.epa.gov/endangered-species/endangered-species-protection-bulletins (attached with comments).

[41] *See* U.S. Env't Prot. Agency, Issuance of Registration for Rozol® Field Rodent Bait (EPA Reg. No. 7173-309) 1 (Nov. 1, 2022).

[42] *See id.* at 3–9.

[43] *See id.*

[44] *See* U.S. Env't Prot. Agency, Issuance of Registration for Kaput-D® Prairie Dog Bait (EPA Reg. No. 72500-22) (Aug. 3, 2017).

[45] *See* U.S. ENV'T PROT. AGENCY, BULLETINS LIVE! TWO - - VIEW THE BULLETINS, "Buffalo Gap National Grassland" (Nov. 19, 2026), https://www.epa.gov/endangered-species/endangered-species-protection-bulletins (attached with comments).

[46] *See* U.S. Env't Prot. Agency, Issuance of Registration for Kaput-D® Burrow Builder Pocket Gopher Bait (EPA Reg. No. 72500-12) (Jan. 29, 2024).

be applied to the pest specified on the label: pocket gophers.[47] For both Rozol and Kaput-D, the specific products with labels authorizing use on prairie dogs are prohibited on the Buffalo Gap National Grassland; conversely, applying products *not* authorized for use on prairie dogs in contravention of their labels violates federal law. *See* 7 U.S.C. § 136j(a)(2)(G) ("It shall be unlawful for any person . . . to use any registered pesticide in a manner inconsistent with its labeling."). The proposed amendments offer no clarification and, indeed, could be read as purporting to allow uses of these rodenticides that are, in fact, illegal.

Relatedly, it is unclear—and the Forest Service has not explained—why the agency must make these substantive and deeply concerning amendments *now*, with no analysis, when the agency has represented that it is in the middle of gathering information in preparation for the process of revising the current forest plan. Before August of this year, the Forest Service's web page for the Nebraska National Forests and Grasslands stated:

> As of January 2025, the Nebraska National Forests and Grasslands will spend the next two to four years collecting data in support of revising its forest plan. Once the revision process starts, it will take several years and include extensive public involvement.[48]

It would make much more sense to consider the effects of expanded rodenticide use during the full process of plan revision, rather than attempting to rush it in now as an amendment.

C. Under NFMA's implementing regulations, the Forest Service must assess substantive requirements related to the plan direction being modified.

The Department's regulations also require the Forest Service to "[d]etermine which specific substantive requirement(s) within §§ 219.8 through 219.11 are directly related to the plan direction being . . . modified . . . by the amendment and apply such requirement(s) within the scope and scale of the amendment." 36 U.S.C. § 219.13(b)(5). The Forest Service

---

[47] *See id.* at 2.

[48] *Planning*, NE. NAT'L FORESTS & GRASSLANDS, U.S. FOREST SERV., (Apr. 2, 2025), https://web.archive.org/web/20260422061824/http://www.fs.usda.gov/r02/nebraska/planning (on file with Internet Archive Wayback Machine, snapshot taken Wednesday, Apr. 22, 2026, 6:18:24 GMT). As of July 2, 2026, the same page no longer contained this language, instead stating that, because "numerous changes to laws, rules, regulations, and guidance have occurred that affect the Plan," "it was determined that multiple administrative changes were required." *Planning*, NE. NAT'L FORESTS & GRASSLANDS, U.S. FOREST SERV., (July 2, 2026), https://web.archive.org/web/20260422061824/http://www.fs.usda.gov/r02/nebraska/planning (on file with Internet Archive Wayback Machine, snapshot taken Monday, Aug. 3, 2026, 19:02:11 GMT). As of August 31, 2026, the Planning page no longer contains any language related to plan updates. *See Planning*, NE. NAT'L FORESTS & GRASSLANDS, U.S. FOREST SERV., (Aug. 31, 2026), https://www.fs.usda.gov/r02/nebraska/planning.

has failed to do this. Some examples of those substantive requirements related to the proposed amendments are listed in Table 1, below:

Table 1. Summary of substantive requirements of the 2012 Planning Rule that are triggered by the proposed plan amendments.

Substantive requirement	**Summary of requirement**	**Nexus with the proposed plan amendments**
36 CFR § 219.8(a) *Ecological sustainability*	Requires the plan to include plan components, including standards or guidelines, to maintain or restore the ecological integrity of the ecosystems in the plan area	The plan direction being modified impacts keystone species, groundwater resources, and mowing and grazing management. See Proposed Amendments at 4-6, 8-10, 11.
36 CFR § 219.8(a)(1) *Ecosystem Integrity*	Requires the plan to take into account the interdependence of terrestrial and aquatic ecosystems in the plan area	The plan direction being modified would remove plan components that currently limit net increases in water developments; this could impact groundwater-dependent ecosystems (terrestrial ecosystems that are supported by groundwater). See Proposed Amendments at 4-6.
36 CFR § 219.8(a)(2) *Air soil and water*	Requires the plan to take into account water resources in the plan area, including ground water	The plan direction being modified would remove plan components that limit net increase in water developments; this could impact groundwater resources. See Proposed Amendments at 4-6.
36 CFR §219.9 *Diversity of plants and animal communities*	Requires plans to provide for the diversity of plant and animal communities, within Forest Service authority and consistent with the inherent capability of the plan area, using a complementary ecosystem and species-specific approach	The plan direction being modified would affect sensitive, focal, and/or threatened and endangered species management. *See* Proposed Amendments at 16-18.
36 CFR § 219.9(a) *Ecosystem plan components*	Requires plan components to maintain or restore the ecological integrity of terrestrial and aquatic ecosystems and watersheds in	The plan direction being modified impacts keystone species, groundwater resources, and

	the plan area and to maintain or restore the diversity of ecosystems and habitat types throughout the plan area	mowing and grazing management. *See* Proposed Amendments at 4-6, 8-10, 11.
36 CFR § 219.9(b) *Additional, species-specific plan components*	Requires species-specific plan components where ecosystem plan components are insufficient to provide for viability	The plan direction being modified impacts potential species of conservation concern (SCC), including black-tailed prairie dogs, which may have species-specific needs such as protection from poisoning, which the amendments could increase. *See* Proposed Amendments at 16-18.
36 CFR §219.10 *Multiple use*	Requires plan components for integrated resource management for multiple use, and requires the responsible official to consider, among other items, habitat conditions for wildlife, fish, and plants, and reasonably foreseeable risks to ecological sustainability	The plan direction being modified impacts infrastructure, range management, recreation, special uses, and wildlife. *See* Proposed Amendments at 1.

D. The Forest Service must determine whether species of conservation concern are present and, if so, ensure that the proposed amendments will ensure the maintenance of a viable population.

For amendments to land management plans developed or revised under an earlier planning regulation that would "substantially lessen protections for a specific species," the responsible official "must determine whether such species is a potential [species of conservation concern ("SCC")], and if so, apply section §219.9(b) with respect to that species as if it were an SCC." 36 C.F.R. § 219.13(b)(6). Under section 219.9(b)(1):

> The responsible official shall determine whether or not the plan components . . . provide the ecological conditions necessary to . . . contribute to the recovery of federally listed threatened and endangered species. . . [or] maintain a viable population of each species of conservation concern within the plan area.

36 C.F.R. § 219.9(b)(1). If the Forest Service finds that the plan, as amended, cannot meet this requirement, then it must add species-specific components to ensure that these necessary ecological conditions exist. *See id*.

The current NNFG plan predates the 2012 Planning Rule and has not identified any SCC. The proposed amendments would substantially lessen protections for several at-risk species. The Forest Service must therefore determine whether each is a potential SCC, and if so, apply section 219.9(b) to it. A species qualifies as an SCC if it is known to occur in the plan area and the regional forester determines that the best available scientific information indicates substantial concern about its capability to persist over the long term in the plan area. *See id*. § 219.9(c).

Expanding the permitted use of rodenticide, and the allowable rodenticides, would "substantially lessen protections for a specific species:" the black-tailed prairie dog. The prairie dog is known to occur in the plan area, and the Forest Service has previously recognized prairie dogs on the Buffalo Gap National Grassland as a "sensitive species."[49] Before adopting the proposed amendments, the Forest Service must make the required determination whether the plan, as amended, would provide the ecological conditions necessary to maintain a viable population of prairie dogs in the plan area.

Prairie dogs are also the prey base and habitat engineers for many other species that could be substantially impacted by expanded rodenticide use. Several plains wildlife experts created a table of species of greatest conservation need associated with prairie dog colonies.[50] This list includes 17 species in Nebraska and 20 species in South Dakota, and these species warrant evaluation as potential SCC.[51] One example is the swift fox, which is state-endangered in Nebraska[52] and state-threatened in South Dakota.[53] Because it both

---

[49] *See, e.g.*, U.S. FOREST SERV., BLACK-TAILED PRAIRIE DOG CONSERVATION AND MANAGEMENT ON THE NEBRASKA NATIONAL FOREST AND ASSOCIATED UNITS INCLUDING LAND AND RESOURCE MANAGEMENT PLAN AMENDMENT 2 FINAL ENVIRONMENTAL IMPACT STATEMENT 49 (2005).

[50] *See generally* E. BALUNEK ET AL., STATE WILDLIFE ACTION PLAN/SPECIES OF GREATEST CONSERVATION NEED LIST OF SPECIES BENEFITTING FROM PRAIRIE DOG AND BLACK-FOOTED FERRET CONSERVATION (2026), https://static1.squarespace.com/static/627ac9c95c7b9d779353ca84/t/6a397caa8664f013671d7009/1782152362684/06-13-26+final+updated+Chart+of+SWAP+Species+of+Concern+Benefitted+by+BFF+%26+PDog+Conservation+Efforts.pdf

[51] *See id*.

[52] *See, e.g.*, *Swift fox*, NEB. GAME & PARKS COMM'N, https://outdoornebraska.gov/learn/nebraska-wildlife/nebraska-animals/mammals/swift-fox/ (last visited Nov. 19, 2026).

[53] *See Threatened and Endangered Species*, S.D. GAME, FISH & PARKS, https://gfp.sd.gov/threatened-endangered/ (last visited Nov. 20, 2026).

predates upon prairie dogs and often uses their dens to raise their young,[54] it stands to be substantially impacted.

Other proposed land management changes also trigger the Forest Service's obligation to evaluate potential SCC, such as the following:

- *Water development limits*. As described below in Section 2.E.i, removing these limits could substantially affect groundwater-dependent species, such as the northern redbelly and finescale dace. Both these species are state-listed as threatened in Nebraska and one of the greatest threats they face is water depletion from the spring-fed streams they inhabit through pumping of groundwater.[55]
- *Pasture size and targeted grazing*. As described below in Section 2.E.i, removing the direction to increase average pasture size, or to avoid net decreases, could enable smaller pastures and more targeted grazing. That could harm species vulnerable to concentrated grazing and trampling, such as Barr's milkvetch (*Astragalus barrii*) and Dakota buckwheat (*Eriogonum visheri*), both regional endemic plants designated as Regional Forester Sensitive Species.[56]
- *Mowing guideline*. As described above in Section 1.B and below in Section 2.E.iii, this change stands to substantially impact ground-nesting grassland birds, an already highly imperiled group. Examples include Cassin's sparrow, chestnut-collared longspur, and sharp-tailed grouse.

E. The Forest Service must use the best available scientific information to inform land management planning.

The 2012 Planning Rule requires the Forest Service to use the best available scientific information to inform the land management plan, including for plan amendments. *See* 36 CFR § 219.3. The Rule also requires the Forest Service to document how that information was used. *See id*. That substantive requirement has not been met here, as detailed in the following subsections.

---

[54] *See, e.g.*, *Swift fox*, NEB. GAME & PARKS COMM'N, https://outdoornebraska.gov/learn/nebraska-wildlife/nebraska-animals/mammals/swift-fox/ (last visited Nov. 19, 2026).

[55] *See, e.g.*, *Northern redbelly & finescale dace,* NEB. GAME & PARKS COMM'N, https://outdoornebraska.gov/learn/nebraska-wildlife/nebraska-fish/northern-redbelly-finescale-dace/ (last visited Nov. 20, 2026).

[56] *See, e.g.*, *Eriogonum visheri Dakota Buckwheat*, NATURESERVE EXPLORER (Oct. 2, 2026), https://explorer.natureserve.org/Taxon/ELEMENT_GLOBAL.2.134512/Eriogonum_visheri; *Astragalus barrii Barr's Milkvetch*, NATURESERVE EXPLORER (Oct. 2, 2026), https://explorer.natureserve.org/Taxon/ELEMENT_GLOBAL.2.130006/Astragalus_barrii.

i. Range management (pasture size and water developments)

The Forest Service proposes removing the objectives and guidelines that direct pasture size increases or prohibit net decreases (Bessey, McKelvie, Fort Pierre, and Pine Ridge Geographic Areas). It justifies this by stating that smaller pastures "may be useful for ecological restoration efforts," such as using targeted livestock grazing to combat invasive species.[57] To inform ecological restoration efforts, the planning process should use scientifically accepted best practices, such as those published by the Society for Ecological Restoration.[58] Instead, the proposal provides no scientific basis for this rationale, which is inconsistent with the Planning Rule's requirement to use the best available scientific information. *See* 36 C.F.R. § 219.3. It does not identify which invasive species create the need for change. It does not show that targeted grazing is the most effective control method compared with alternatives such as herbicide, mechanical treatment, or prescribed fire. Nor does it explain how deleting these plan components would advance restoration or invasive species control. Simply removing these plan components does not meet the stated "need for change" as there would be no safeguards to ensure ecological restoration or reducing invasive species is achieved. Without such sideboards, the proposed amendments risk worsening the problem they are meant to address, since overgrazing can promote invasive plants.[59]

These same concerns apply to the proposal to remove plan components directing no net increase in water developments (Fort Pierre, Bessey, McKelvie, and Pine Ridge Geographic Areas).[60] The Forest Service again cites the need to combat the spread of undesirable plant species, stating that water developments help distribute livestock for prairie restoration.[61] Here too, the agency offers none of the required scientific support, *see* 36 C.F.R. § 219.3, no defined objectives, and no guardrails to ensure that outcome.

The proposed amendments would also compound each other. Removing both limits would allow more and smaller pastures with more water points, which can concentrate grazing and reduce spatial heterogeneity. Research on the Little Missouri National Grassland in North Dakota found that cattle use was higher closer to water developments, and noted that water developments and small pastures often minimize spatial heterogeneity of forage

[57] Proposed Amendments at 8–10 [in PDF].
[58] *See generally* George D. Gann et al., *International principles and standards for the practice of ecological restoration*, 34 RESTORATION ECOLOGY e70441 (2026), https://doi.org/10.1111/rec.70441.
[59] *See, e.g.*, Peter A. Sinkins & Rafael Otfinowski, *Invasion or retreat? The fate of exotic invaders on the northern prairies, 40 years after cattle grazing*, 213 PLANT ECOLOGY 1251, 1256 (2012).
[60] *See* Proposed Amendments at 4–6 [in PDF].
[61] *See id.* at 4.

consumption, leading to uniform vegetative structure.[62] A review paper on restoring heterogeneity of rangelands similarly characterizes "improved water distribution" as a traditional practice that promotes homogeneous grazing, with risks of rangeland deterioration and desertification from decreased water infiltration and increased runoff.[63] This literature supports caution before removing direction that limits infrastructure that homogenizes grazing, and at a minimum it requires the agency to analyze these effects before removing that direction.

ii. Mowing dates

The Forest Service proposes to remove the default date from the guideline that delays any mowing outside developed sites until July 15 or later to protect ground-nesting birds.[64] The amended guideline would also drop the stated bird-protection purpose. No supporting science is provided, and instead the agency merely proposes to defer to project-level analyses.

The scientific literature supports retaining the current plan component to delay mowing until mid-July. Waiting until mid-July or later to mow allows breeding birds to complete at least one nesting cycle and improves bird and nest densities, nest success, and recruitment, which is why conservation programs, including specifically in the Nebraska sandhills, encourage delaying until at least July 15.[65] A recent study on the impacts of land management schedules on grassland bird nests and fledglings found that management, including mowing, during July had the potential to impact 49–52 percent of grassland bird nests, depending on the species.[66] The authors suggest that delaying management until August could be more protective still, so a July 15 default is a conservative baseline, not an excessive one.

iii. Prairie dog management

Consistent with the requirements of the 2012 Planning Rule, *see* 36 C.F.R. §§ 219.3, 219.14(a)(3)), the Forest Service must use the best available scientific information to evaluate competition between prairie dogs and livestock before amending the plan to expand lethal control. The agency must identify the scientific information it relied upon,

---

[62] *See* Andrea L. Fontaine et al., *Effects of distance from cattle water developments on grassland birds*, 57 J. OF RANGE MGMT. 238, 238, 240–41 (2004).

[63] *See* Samuel D. Fuhlendorf & David M. Engle, *Restoring Heterogeneity on Rangelands: Ecosystem Management Based on Evolutionary Grazing Patterns*, 51 BIOSCIENCE 625, 626–27, 630 (2001).

[64] *See* Proposed Amendments at 11 [in PDF].

[65] *See* Matthew P. Gruntorad et al., *Is Hay for the Birds? Investigating Landowner Willingness to Time Hay Harvests for Grassland Bird Conservation*, 11 ANIMALS 1030, 2, 8–10 (2021), https://doi.org/10.3390/ani11041030.

[66] *See* Daniel M. Wolcott et al., *Potential impacts of land-management schedules on grassland bird nests and fledglings*, 47 WILDLIFE SOC'Y BULLETIN e1488, 6 (2023).

explain the basis for its determination that this information represents the best available science, and document how that information informed the proposed amendment.

The Forest Service's proposal to expand rodenticide use appears to be premised, in part, on the assumption that prairie dogs substantially reduce forage available to livestock. However, Miller et al. reviewed the available research and found that dietary overlap alone does not establish adverse competition.[67] Although prairie dogs can reduce standing forage biomass, their activities can improve forage quality. The magnitude of competition varies with precipitation, vegetation productivity, livestock stocking rates, season, and prairie dog colony occupancy.[68] Competition is more likely under conditions of low vegetation productivity and heavy livestock stocking. Drought can further intensify competition by reducing forage availability, particularly where livestock stocking rates are not adjusted to reflect declining forage production. These findings support drought-responsive grazing management rather than expanded reliance on lethal prairie dog control. Miller et al. also identify light to moderate stocking and drought-responsive grazing management as ways to reduce competition between livestock and prairie dogs.[69] The review notes that prairie dogs occupy early or intermediate stages of plant succession at sites including Buffalo Gap and Fort Pierre, and that reduced livestock grazing can increase vegetation height in mixed-grass prairie, limiting colony expansion.

Additionally, the effectiveness of lethal control in preventing prairie dog colony expansion is often limited, particularly where livestock grazing maintains vegetation conditions favorable to prairie dog recolonization.[70] Without effective vegetative or visual barriers, prairie dogs may recolonize previously occupied habitat or expand beyond poisoned buffer zones, necessitating repeated control efforts. Research conducted by the Department of Agriculture's Wildlife Services scientists further suggests that combining physical and vegetative barriers can improve barrier effectiveness in limiting prairie dog colony expansion, particularly when barriers are properly designed, constructed and maintained.[71] These findings underscore the importance of addressing underlying

[67] *See* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2806–07 (2007), https://doi.org/10.2193/2007-041.
[68] *See* David J. Augustine & Tim L. Springer, *Competition and facilitation between a native and a domestic herbivore: trade-offs between forage quantity and quality*, 23 ECOLOGICAL APPLICATIONS 850, 859–82 (2013).
[69] *See* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2806–08 (2007), https://doi.org/10.2193/2007-041.
[70] *See* Lindsey M. Buehler et al., *Exploring the Efficacy of Prairie Dog Boundary Management and its Application Toward Density Control*, 99 RANGELAND ECOLOGY & MGMT. 66, 74 (2025).
[71] *See* Gary Witmer et al., *Evaluation of physical barriers to prevent prairie dog colony expansion*, 2 HUMAN–WILDLIFE CONFLICTS 206, 208–210 (2008).

vegetation and grazing conditions and prioritizing nonlethal coexistence measures over repeated poisoning.[72]

The Forest Service must address these ecological complexities rather than rely on generalized assumptions about competition between prairie dogs and livestock to justify expanding lethal control. The Forest Service has no basis to assume that reducing prairie dog populations will produce a proportional increase in livestock carrying capacity or economic returns.

The economic findings reviewed by Miller et al. are particularly relevant to the management of the NNFG and raise important questions about the cost-effectiveness of lethal prairie dog control.[73] A 1984 economic analysis conducted in Conata Basin found that prairie dog removal resulted in only 51 kg/ha of additional forage, insufficient to make poisoning economically viable without public subsidy.[74] Two decades later, in 2004, the South Dakota Department of Game, Fish and Parks poisoned prairie dogs across 3,110 hectares (approximately 7,685 acres) of Forest Service lands at a taxpayer cost of $24.58 per hectare, representing a total expenditure of approximately $76,442. Miller et al. further calculated that, prorated over three years, prairie dog poisoning cost taxpayers $19.40 per animal unit month ("AUM").[75] Similarly, a six-year study of Colorado shortgrass prairie estimated that cattle weight gains declined by 5.5 percent at 20 percent prairie dog occupancy and 13.9 percent at 60 percent occupancy, with corresponding historical economic losses of approximately $0.88 and $2.20 per acre, respectively. [76]

Collectively, these findings demonstrate that livestock production losses are not necessarily proportional to prairie dog occupancy and that the costs of poisoning may

---

[72] *See, e.g.*, Craig J. Knowles, *Some relationships of black-tailed prairie dogs to livestock grazing*, 46 GREAT BASIN NATURALIST 198, 201–02 (1986), https://scholarsarchive.byu.edu/gbn/vol46/iss2/2; Richard P. Reading et al., *Attributes of Black-tailed Prairie Dog Colonies in Northcentral Montana, with Management Recommendations for the Conservation of Biodiversity, in* THE PRAIRIE DOG ECOSYSTEM: MANAGING FOR BIOLOGICAL DIVERSITY 13–27 (T.W. Clark et al. eds., 1989); David Terrall et al., *Use of Natural Vegetative Barriers to Limit Expansion of Blacktailed Prairie Dog Towns*, 11 WILDLIFE DAMAGE MGMT. CONF. 387, 389–91(2005); Marcus B. Gray, Evaluation of Barriers to Black-tailed Prairie Dog (*Cynomys ludovicianus*) Colony Expansion, Bad River Ranches, South Dakota 60–61 (2009) (M.S. thesis, South Dakota State University).

[73] *See generally* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801 (2007), https://doi.org/10.2193/2007-041.

[74] *See* Alan R. Collins et al., *An economic analysis of black-tailed prairie dog (Cynomys ludovicianus) control*, 37 J. OF RANGE MGMT. 358, 360 (1984).

[75] *See* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2804 (2007), https://doi.org/10.2193/2007-041.

[76] *See* Justin D. Derner et al., *Are livestock weight gains affected by prairie dogs?,* 4 FRONTIERS IN ECOLOGY & THE ENV'T 459, 462 (2006); *See* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2803–05 (2007), https://doi.org/10.2193/2007-041.

exceed the economic value of additional forage. While these historical, site-specific findings cannot be directly extrapolated to current conditions on the NNFG, they underscore the need for the Forest Service to fully analyze and demonstrate that the anticipated economic benefits of expanded lethal control to livestock producers outweigh both the financial costs to taxpayers and the ecological consequences of prairie dog removal.

To justify expanding rodenticide use, the Forest Service needs to conduct a site-specific assessment of forage production and quality, livestock stocking rates and weight gains, drought conditions, prairie dog occupancy and density, treatment and retreatment costs, and monitoring expenses. This assessment must also account for the ecological costs of prairie dog habitat loss, impacts to associated wildlife, and potential setbacks to black-footed ferret recovery. It should also include a comparison of the costs and benefits with those of retaining existing conservation safeguards and investing in nonlethal management. Public expenditures on prairie dog management should be justified by demonstrated benefits consistent with the agency's wildlife conservation and multiple-use responsibilities.

3. The Forest Service should not apply a categorical exclusion to the proposed amendments. As a result, the Forest Service must complete an environmental impact statement for the proposed plan amendments, which entails a 90-day comment period.

A. NEPA does not permit the use of a categorical exclusion under these circumstances.

As discussed in detail above, amending the current plan to allow expanded use of rodenticides for prairie dog management will almost certainly have significant impacts on the grassland. NEPA requires an environmental impact statement for any proposed action "that has a reasonably foreseeable significant effect on the quality of the human environment." 42 U.S.C. § 4336(b)(1). Whatever the Department of Agriculture's NEPA regulations may allow for categorical exclusions, the Forest Service may not apply regulations in contravention of NEPA's statutory requirements.

B. The Forest Service reads the categorical exclusion upon which it relies too broadly.

Attempting to invoke a categorical exclusion under these circumstances is improper. The categorical exclusion itself does not cover the expanded use of rodenticides in the proposed amendments. The text of the categorical exclusion explicitly states that

> [p]roposals for actions that approve projects and activities, or that command anyone to refrain from undertaking projects and activities, or that grant,

> withhold or modify contracts, permits, or other formal legal instruments, are outside the scope of this category [. . .]

7 C.F.R. § 1b.4(d)(38). The proposed amendments' provision on rodenticides appears to permit, with no further process required outside of Management Area 3.63,[77] the use of rodenticides for an extended period of time during the year[78] and the use of two rodenticides that the Forest Service has never previously permitted on the grassland are beyond the appropriate use of a categorical exclusion. Moreover, the proposed amendments' direction to "follow [EPA] label directions"[79] (without specifying *which* EPA labels) also appears to prohibit undertaking certain future actions, which would put it outside the scope of the categorical exclusion the Forest Service invokes. *See* 7 C.F.R. § 1b.4(d)(38). Indeed, using *any* rodenticide in a manner inconsistent with its EPA label violates federal law. *See* 7 U.S.C. § 136j(a)(2)(G). All of these poisons' labels contain restrictions on use with respect to wildlife. The most recent label for "Kaput®-D Prairie Dog Bait" (registration no. 72500-22), for example, requires users to follow the measures specified in the EPA's Endangered Species Protection Bulletin ("Bulletins Live!") for the area in which they are applying the product.[80] (Notably, Bulletins Live! indicates that this specific product's use is prohibited on the Buffalo Gap National Grassland.[81]) There are a number of rodenticides containing zinc phosphide, but one 2022 label issued for "zinc phosphide on oats" instructs users:

> Do not use this product within 7 kilometers (4.34 miles) of any prairie dog town to limit risks to the black-footed ferret from exposure to Zinc Phosphide or destruction of its prey base, unless the colony is an isolated black-tailed prairie dog town less than 80 acres in size or an isolated white-tailed prairie dog town less than 200 acres in size, or unless the town has been appropriate

---

[77] The Plan's Management Area Direction states that, with respect to Management Area 3.63, the use of rodenticides in a colony to reduce prairie dog populations may only occur after consultation and concurrence of the U.S. Fish and Wildlife Service. *See* U.S. FISH & WILDLIFE SERV., LAND AND RESOURCE MANAGEMENT PLAN NEBRASKA NATIONAL FORESTS AND GRASSLANDS: CHAPTER 3: MANAGEMENT AREA DIRECTION 3-26 (2026), https://www.fs.usda.gov/sites/nfs/files/r02/nebraska/publication/03_Chapter%203%20Management%20Areas.pdf. The grassland-wide direction, however, contains no such restrictions. *See* U.S. FISH & WILDLIFE SERV., LAND AND RESOURCE MANAGEMENT PLAN NEBRASKA NATIONAL FORESTS AND GRASSLANDS: CHAPTER 1: GRASSLAND-WIDE AND FOREST-WIDE DIRECTION 1-20 to 1-22 (2026), https://www.fs.usda.gov/sites/nfs/files/r02/nebraska/publication/01_Chapter%201%20Grassland%20%26%20Forest-wide.pdf.

[78] *See* Proposed Amendments at 17 [in PDF].

[79] Proposed Amendments at 17 [in PDF].

[80] *See* U.S. Env't Prot. Agency, Issuance of Registration for Kaput-D® Prairie Dog Bait (EPA Reg. No. 72500-22) 2 (Aug. 3, 2017).

[81] *See* U.S. ENV'T PROT. AGENCY, BULLETINS LIVE! TWO - - VIEW THE BULLETINS, "Buffalo Gap National Grassland" (Nov. 19, 2026), https://www.epa.gov/endangered-species/endangered-species-protection-bulletins (attached with comments).

> surveyed, using methods acceptable to the U.S. Fish and Wildlife Service, and found by the FWS not to be suitable site for ferret reintroductions.[82]

Thus, the proposed amendments fall outside the scope of the categorical exclusion on which the Forest Service relies.

The Forest Service's over-broad reading of the categorical exclusion is also in tension with the requirements of the regulations implementing the 2012 Planning Rule:

> Except for an amendment that applies only to one project or activity, a proposed amendment that *may* create a significant environmental effect and thus requires preparation of an environmental impact statement is considered a significant change in the plan for the purposes of the NFMA and therefore requires a 90–day comment period for the proposed plan and draft environmental impact statement [. . .]

36 C.F.R. § 219.13(b)(3) (emphasis added). It does not make sense to read the categorical exclusion in a way that conflicts with another regulation—the proposed amendments "may" (and, indeed, almost certainly will) create significant environmental effects, thus requiring an EIS.

The Department of Agriculture's own regulations support this reading by making clear that categorical exclusions *cannot* apply where there is uncertainty as to the degree of an action's effects. *See* 7 C.F.R. § 1b.3(f) (If an extraordinary circumstance exists, it "require[s] the action to instead be documented in an environmental assessment (when there is *uncertainty* regarding the degree of effect) or an environmental impact statement (if it is determined that there is a reasonably foreseeable significant impact)." (emphasis added)).[83] And while the agency may claim that the effects of amending a land management plan are difficult to measure and imprecise, "this is precisely the type of determination that only can be intelligently made after the preparation of at least an [environmental assessment]." *Cal. Wilderness Coal. v. Dep't of Energy*, 631 F.3d 1072, 1103 (9th Cir. 2011). Conversely, "if assessing the cumulative impacts of the [CE] as a whole is impractical, then use of the categorical exclusion mechanism was improper." *Or. Wild v. U.S. Forest Service*, 819 F. Supp.

---

[82] U.S. Env't Prot. Agency, Issuance of Registration for Zinc Phosphide on Oats (EPA Reg. No. 4271-16) 2 (Feb. 21, 2025).

[83] This language adheres closely to that of the now-repealed CEQ regulations on which earlier court decisions examining categorical exclusions rely—under 40 C.F.R. § 1508.4, categorical exclusions were defined as activities "which *have been found* to have no [significant] effect [on the human environment];" agencies were required to "provide for extraordinary circumstances in which a normally excluded action *may have* a significant environmental effect." *Id.* (emphasis added). As a result, court decisions examining the uncertainty of a categorical exclusion's effects are applicable to the Department of Agriculture's current NEPA regulations.

3d 1185, 1205 (D. Or. 2026) (quoting *Sierra Club v. Bosworth*, 510 F.3d 1016, 1028 (9th Cir. 2007)).

C. Extraordinary circumstances preclude the application of a categorical exclusion.

Under the Department of Agriculture's regulations, the Forest Service may not apply a categorical exclusion to a project or action that presents extraordinary circumstances. *See* 7 C.F.R. § 1b.3(f) ("USDA subcomponents shall consider relevant resources in the potentially affected environment for which an extraordinary circumstance may exist that would require the action to instead be documented in an environmental assessment . . . or an environmental impact statement . . ."). The regulations define "extraordinary circumstance" as "a unique situation . . . in which actions that normally do not have significant impacts . . . create uncertainty whether the degree of the effect is significant . . . for the relevant resources considered."[84] 7 C.F.R. § 1b.11(a)(17); *see also* 42 U.S.C. § 4336e(1). The Department's regulations also identify impacts to species listed as threatened or endangered under the ESA as a resource to consider in determining whether an extraordinary circumstance exists. *See* 7 C.F.R. § 1b.3(f)(1)(i).

Such a "unique situation" is certainly present here. The proposed amendments' expansion of the use of rodenticides to poison prairie dogs directly threatens the black-footed ferret population within Conata Basin. **There are fewer than 500 black-footed ferrets left in the world.** The Buffalo Gap National Grassland extends across almost 600,000 acres and, of critical importance to any plan amendments, encompasses Conata Basin, the site that has anchored black-footed ferret reintroduction efforts since they began in 1996. In stark contrast to many other reintroduction sites, which have struggled with small and declining populations, the ferret population at Conata Basin has consistently sustained itself on its own—a crucial factor for the species' survival and eventual recovery. The black-footed ferret is completely dependent on prairie dogs as a source of food.[85] Poisoning can quickly decimate prairie dog populations—the Forest Service itself has previously noted that, when zinc phosphide poison grain baits are applied according to directions, "they usually result in an 80 to 90% reduction in prairie dog numbers."[86] Even if prairie dog colonies

[84] This language adheres closely to that of the now-repealed CEQ regulations on which earlier court decisions examining categorical exclusions rely—under 40 C.F.R. § 1508.4, categorical exclusions were defined as activities "which *have been found* to have no [significant] effect [on the human environment];" agencies were required to "provide for extraordinary circumstances in which a normally excluded action *may have* a significant environmental effect." *Id.* (emphasis added). As a result, court decisions examining the uncertainty of a categorical exclusion's effects are applicable to the Department of Agriculture's current NEPA regulations.
[85] *See, e.g.*, U.S. FISH & WILDLIFE SERV., SPECIES STATUS ASSESSMENT REPORT FOR THE BLACK-FOOTED FERRET 31 (*Mustela nigripes*) (2019).
[86] U.S. FOREST SERV., BLACK-TAILED PRAIRIE DOG CONSERVATION ASSESSMENT AND MANAGEMENT STRATEGY FOR THE THUNDER BASIN NATIONAL GRASSLAND 34 (2015).

recover from poisoning, their populations are often reduced to numbers too low to sustain ferrets.[87]

Although existing restrictions prohibit the use of anticoagulant rodenticides within designated black-footed ferret recovery sites, expanding rodenticide use in surrounding areas could reduce prairie dog abundance, fragment suitable habitat, and limit opportunities for natural ferret dispersal and population expansion. At Conata Basin, where considerable resources have been invested in black-footed ferret recovery and plague mitigation, increased prairie dog poisoning could undermine these conservation investments and compromise long-term recovery objectives. Given how close the black-footed ferret is to extinction, any induced depression of the population is significant.

There is great uncertainty about how wildlife will be impacted by the use of two new rodenticides. The proposed amendments purport to not only eliminate temporal limitations on when rodenticide may be used on the grassland but also appear to authorize the use of two new rodenticides, Rozol and Kaput-D,[88] that have never before been authorized under the current plan for Buffalo Gap. These rodenticides do not appear to have *ever been considered for use*—e.g., from the original LRMP to the present, the Forest Service does not appear to have undertaken any environmental analysis of these poisons' effects on the grassland *at all*. These circumstances more than suffice to preclude the application of the categorical exclusion on which the Forest Service relies. *See, e.g.*, *Citizens for Better Forestry v. Dep't of Agric.*, 481 F. Supp. 2d 1059, 1088 (N.D. Cal. 2007) ("all that is required to render the CE inappropriate is the *possibility* of significant effects" (emphasis in original)); *Solar Energy Indus. Ass'n v. Fed. Energy Regul. Comm'n*, 80 F.4th 956, 995 (9th Cir. 2023) ("[W]hen an agency is uncertain about the possible environmental effects of a proposed action, the proper course is to prepare an EA to the best of the agency's ability, not avoid environmental analysis altogether."). *See also Friends of Richards-Gebaur Airport v. FAA*, 251 F.3d 1178, 1186 (8th Cir. 2001) (regulations require consideration of "extraordinary circumstances in which a normally excluded action *may* have a significant environmental effect, thus requiring the preparation of an environmental assessment" (emphasis added, internal quotation marks omitted)).[89]

---

[87] *See, e.g.*, U.S. FISH & WILDLIFE SERV., SPECIES STATUS ASSESSMENT REPORT FOR THE BLACK-FOOTED FERRET 31 (*Mustela nigripes*) (2019).

[88] *See* Proposed Amendments at 17 [in PDF].

[89] As above, the language in the Department of Agriculture's regulations defining "extraordinary circumstances" adheres closely to that of the now-repealed CEQ regulations on which earlier court decisions examining categorical exclusions rely—under 40 C.F.R. § 1508.4, categorical exclusions were defined as activities "which *have been found* to have no [significant] effect [on the human environment];" agencies were required to "provide for extraordinary circumstances in which a normally excluded action *may have* a significant

D. The Forest Service must assess and document its rationale for applying a categorical exclusion.

Under the Department of Agriculture's NEPA regulations, the Forest Service "must determine that one or more categorical exclusions apply to a proposed action and that no extraordinary circumstance exists." 7 U.S.C. § 1b.3(g); *see also id.* § 1b.4(d) (categorical exclusions listed in this subsection require NEPA documentation). Moreover, the Forest Service must "document a finding of applicability and no extraordinary circumstance" if it determines, "based on NEPA review," that these conditions exist. *Id.* § 1b.3(g)(1). In other words, *before* applying a categorical exclusion, the Forest Service must both complete and document a sufficient level of environmental review to show that no extraordinary circumstance would preclude the application of the categorical exclusion. *See, e.g.*, *Citizens for Better Forestry*, 481 F. Supp. 2d at 1082 ("When an agency decides to proceed with an action in the absence of an EA or EIS, the agency must adequately explain its decision."); *California v. Norton*, 311 F.3d 1162, 1176 (9th Cir. 2002) (It is important that the agency be able to point to "a record of decision invoking a categorical exclusion.").

4. The Forest Service must consult on the proposed amendments under Section 7 of the Endangered Species Act.

Under section 7 of the ESA, all federal agencies must ensure that their actions (including actions they fund or authorize) are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat and must do so in consultation with the appropriate wildlife agency (either the Fish and Wildlife Service or the National Marine Fisheries Service). *See* 16 U.S.C. § 1536(a)(2).

An automatically generated Information for Planning and Consultation ("IPaC") resource list from the Fish and Wildlife Service for the NNFG administrative area, included with these comments,[90] shows potential overlap between the proposed plan amendments and several federally listed and proposed species. These include mammals (black-footed ferret, *Mustela nigripes*; northern long-eared bat, *Myotis septentrionalis*); birds (piping plover, *Charadrius melodus*; rufa red knot, *Calidris canutus rufa*; whooping crane, *Grus americana*); fish (pallid sturgeon, *Scaphirhynchus albus*); insects (American burying beetle, *Nicrophorus americanus*; monarch butterfly, *Danaus plexippus*; Suckley's cuckoo bumble bee, *Bombus suckleyi*; western regal fritillary, *Argynnis idalia occidentalis*); and flowering plants (blowout penstemon, *Penstemon haydenii*; Ute ladies'-tresses, *Spiranthes diluvialis*;

environmental effect." *Id.* (emphasis added). As a result, court decisions examining the uncertainty of a categorical exclusion's effects are applicable to the Department of Agriculture's current NEPA regulations.

[90] *See* U.S. FISH & WILDLIFE SERV., IPAC, Resource list for the Nebraska National Forests and Grasslands (NNFG) administrative area (Nov. 17, 2026), https://ipac.ecosphere.fws.gov/ (attached with comments).

western prairie fringed orchid, *Platanthera praeclara*). Below, we highlight a few non-exhaustive examples of where the proposed plan amendments "may affect" these species and therefore trigger the Forest Service's consultation (or, for proposed species, conference) duty under section 7.

A. Black-footed ferret

Black-footed ferrets in the Conata Basin/Badlands area were reintroduced as a nonessential experimental population under section 10(j) of the ESA. Outside National Park System and National Wildlife Refuge System lands, such populations are treated as proposed for listing, so the Forest Service has a duty to confer with the Fish and Wildlife Service under section 7(a)(4) on actions likely to jeopardize the population and to carry out conservation programs under section 7(a)(1). Ferrets that disperse outside any designated experimental area, as at Fort Pierre National Grassland, may be treated as endangered, in which case the consultation requirement of section 7(a)(2) applies. The Forest Service should confirm the status of each population with the Fish and Wildlife Service.

Recovery of the endangered black-footed ferret depends on the conservation and restoration of large, interconnected prairie dog complexes. Miller et al. emphasize that prairie dogs constitute approximately 90 percent of the black-footed ferret's prey and that their burrows provide essential denning and refuge habitat.[91] The authors caution that small, scattered colonies may allow prairie dogs to persist without sustaining their ecological functions and propose black-footed ferret recovery as a benchmark for successful prairie dog conservation. Maintaining sufficient prey and functional, connected habitat is essential at Conata Basin and Fort Pierre National Grassland, as well as other areas with potential for black-footed ferret recovery.

Fort Pierre National Grassland warrants particular attention given its emerging importance to black-footed ferret recovery. Recent field surveys reportedly documented 35 black-footed ferrets on the national grassland, including animals naturally dispersing from the neighboring Lower Brule Sioux Reservation recovery site.[92] This natural expansion represents an important recovery opportunity and underscores the need to protect prairie dog habitat beyond established reintroduction sites.[93]

---

[91] *See* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2807–08 (2007), https://doi.org/10.2193/2007-041.

[92] Telephone call by Chamois L. Anderson with Jaci Baker, Wildlife Biologist, U.S. Forest Serv., Fort Pierre Ranger Dist. (Nov. 17, 2026).

[93] *See, e.g.*, U.S. FISH & WILDLIFE SERV., RECOVERY PLAN FOR THE BLACK-FOOTED FERRET (*MUSTELA NIGRIPES*) 65–66, 97 (2d rev. 2013).

Prairie dog management conflicts at Fort Pierre illustrate the risks of expanded rodenticide use in areas supporting endangered ferrets. The Fish and Wildlife Service's 2012 Biological Opinion on Kaput-D acknowledges that dispersing ferrets may be exposed to secondary poisoning outside established recovery areas.[94] Defenders urges the Forest Service to prohibit anticoagulant rodenticides throughout the NNFG, including boundary management zones, to protect occupied and potential ferret habitat and support natural dispersal.

Fort Pierre also presents an opportunity to advance nonlethal coexistence measures. Defenders has engaged with Forest Service staff and Tribal partners regarding vegetative barriers and livestock management to address prairie dog encroachment while protecting ferret habitat. Research supports the potential effectiveness of properly designed and maintained barriers in limiting prairie dog colony expansion.[95] Defenders urges the Forest Service, in cooperation with the Fish and Wildlife Service and the Lower Brule Sioux Tribe, to recognize Fort Pierre as an emerging ferret recovery site, establish site-specific habitat conservation objectives, and prioritize nonlethal management before authorizing prairie dog poisoning.

Black-footed ferrets do not recognize administrative boundaries. As demonstrated by dispersal from the Lower Brule Sioux Reservation into Fort Pierre National Grassland, ferrets may occupy suitable prairie dog habitat beyond formally designated recovery areas, where they could encounter prey contaminated with anticoagulant rodenticides.

Defenders urges the Forest Service to clarify whether the proposed restrictions on anticoagulant use extend throughout the broader recovery landscape, including quarter-mile boundary management zones, and whether these toxicants could otherwise be authorized in adjacent prairie dog colonies. Restricting anticoagulant use only within designated recovery areas would fail to address an important pathway for secondary poisoning and could undermine opportunities for natural dispersal and population expansion.

To adequately protect black-footed ferrets and other associated wildlife, Defenders recommends prohibiting anticoagulant rodenticides throughout the NNFG, including within

[94] *See* U.S. Fish & Wildlife Serv., Final Biological Opinion For Kaput® Prairie Dog Bait Registered Under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act 62 (2012).
[95] *See, e.g.*, Gary Witmer et al., *Evaluation of physical barriers to prevent prairie dog colony expansion*, 2 HUMAN–WILDLIFE CONFLICTS 206, 208–210 (2008).

boundary and interior management zones, protecting occupied and potential ferret habitat, and maintaining connected prairie dog complexes that facilitate population recovery.

Regardless of experimental population status, the Forest Service should fulfill its affirmative conservation responsibilities under section 7(a)(1) of the Endangered Species Act, *see* 16 U.S.C. § 1536(a)(1), by utilizing its authorities and programs to advance the recovery of the black-footed ferret. As discussed in the Fish and Wildlife Service's 2024 memorandum on federal agency obligations under section 7(a)(1), federal agencies have an affirmative responsibility to carry out conservation programs for listed species, separate from their obligation to avoid jeopardy under section 7(a)(2).[96] Accordingly, the Forest Service should actively manage prairie dog habitat to advance black-footed ferret recovery, rather than simply minimize the adverse effects of lethal prairie dog control.

B. American burying beetle

The federally threatened American burying beetle ("beetle") is a specialized scavenger that relies on small vertebrate carcasses (i.e., carrion) for survival and reproduction. It is believed to be extirpated from 26 states that it historically occupied, and now persists only in nine, including South Dakota and Nebraska.[97] The plan area overlaps the Niobrara River and Sand Hills populations, which are part of the Northern Plains analysis area in the Fish and Wildlife Service's Species Status Assessment ("SSA") for the beetle.[98]

The beetle requires functioning ecosystems with soils that support diverse vegetation, which in turn sustains wildlife populations capable of providing suitable carrion for reproduction.[99] These areas must be large enough to support adequate numbers of beetles, so that individuals can find mates and carrion remains continuously available for breeding and feeding.[100] The proposed plan amendments "may affect" the beetle and its requisite habitat through at least four mechanisms.

First, prairie dogs are a potential carrion source for beetles.[101] Expanding rodenticide use to suppress prairie dog populations could reduce the long-term availability of carcasses on which the beetle depends. The SSA identifies that "reduced availability of appropriate

---

[96] *See generally* Memorandum from Sarah Krakoff, Deputy Solicitor for Parks & Wildlife, to Martha Williams, Director, U.S. Fish & Wildlife Serv., Federal Agency Obligations under Section 7(a)(1) of the Endangered Species Act (2024), https://www.fws.gov/sites/default/files/documents/federal-agency-obligations-under-section-7-a-1-memo-2024-02-06.pdf.

[97] *See* U.S. FISH & WILDLIFE SERV., SPECIES STATUS ASSESSMENT REPORT FOR THE AMERICAN BURYING BEETLE *(NICROPHORUS AMERICANUS)* ES-1 (2019), https://iris.fws.gov/APPS/ServCat/DownloadFile/165011.

[98] *See id.* at ES-2.

[99] *See id.* at 16.

[100] *See id.*

[101] *See id.* at 63.

carcasses is the leading hypothesis for the historical decline in beetle distribution"[102] and that historically dense populations of prairie dogs may have supported beetles.[103]

Second, the SSA characterizes intensive grazing as a risk to beetle habitat.[104] Grazing in Nebraska and South Dakota may pose less risk than in the Southern Plains,[105] but this may be due in part to different carrion sources in the northern area, including prairie dogs.[106] The proposed amendments could reduce those sources by allowing increased rodenticide use.

Third, beetle habitat is threatened by increased irrigation or other ground water uses that exceed recharge rates and lower the water table.[107] The proposed removal of the "no net increase" restriction on water developments could reduce groundwater to an unspecified extent across four geographic areas.[108] The SSA describes this threat as particularly acute in the Sandhills and Niobrara River areas that overlap the plan area, where "[d]eclining aquifer levels would threaten the habitat suitability in this analysis area because soil moisture is maintained by water tables that are relatively near the surface."[109]

Finally, anticoagulant rodenticides can be toxic to invertebrates.[110] Information on the toxicity of diphacinone to invertebrates is limited,[111] but chlorophacinone has been shown to decrease larval emergence in a burying beetle of the same genus as the beetle.[112] The proposed amendment to the rodenticide use standard could increase beetle exposure to

---

[102] *See id*. at 29.
[103] *See id*.
[104] *See id*. at 58, 66–67, 102.
[105] *See id*. at 60, 104, 118.
[106] *See id*. at 63.
[107] *See id*. at 64.
[108] Proposed Amendments at 4–6 [in PDF].
[109] U.S. FISH & WILDLIFE SERV., SPECIES STATUS ASSESSMENT REPORT FOR THE AMERICAN BURYING BEETLE *(NICROPHORUS AMERICANUS)* 64 (2019), https://iris.fws.gov/APPS/ServCat/DownloadFile/165011.
[110] *See, e.g.*, U.S. Env't Prot. Agency, Issuance of Registration for Rozol® Field Rodent Bait (EPA Reg. No. 7173-309) 3 (Nov. 1, 2022).
[111] *See* ANIMAL & PLANT HEALTH INSPECTION SERV., WILDLIFE SERVS., U.S. DEP'T OF AGRIC., HUMAN HEALTH AND ECOLOGICAL RISK ASSESSMENT FOR THE USE OF WILDLIFE DAMAGE MANAGEMENT METHODS BY APHIS-WILDLIFE SERVICES: USE OF DIPHACINONE IN WILDLIFE DAMAGE MANAGEMENT 24 (2023), https://www.aphis.usda.gov/sites/default/files/30-diphacinone.pdf; OFF. OF PESTICIDE PROGRAMS., U.S. ENV'T PROT. AGENCY, RISKS OF DIPHACINONE USE TO THE FEDERALLY THREATENED ALAMEDA WHIPSNAKE (*MASTICOPHIS LATERALIS EURYXANTHUS*), CALIFORNIA TIGER SALAMANDER (*AMBYSTOMA CALIFORNIENSE*), AND THE FEDERALLY ENDANGERED SALT MARSH HARVEST MOUSE, CALIFORNIA TIGER SALAMANDER (*AMBYSTOMA CALIFORNIENSE*) SONOMA COUNTY DISTINCT POPULATION SEGMENT AND SANTA BARBARA COUNTY DISTINCT POPULATION SEGMENT, AND SAN JOAQUIN KIT FOX (*VULPES MACROTIS MUTICA*) 62 (2011), https://www3.epa.gov/pesticides/endanger/litstatus/effects/redleg-frog/2011/diphacinone/assessment.pdf.
[112] *See* PATRICK R. DURKIN, SYRACUSE ENVTL. RSCH. ASSOCS., INC., CHLOROPHACINONE: HUMAN HEALTH AND ECOLOGICAL RISK ASSESSMENT, FINAL REPORT 47 (2015), https://www.fs.usda.gov/foresthealth/pesticide/pdfs/Chlorophacinone.pdf.

these toxins. Indeed, the Forest Service's own prior monitoring report states: "One of the conservation management measures intended to benefit American burying beetles in the Bessey and McKelvie Geographic Areas is the restriction of pesticide use."[113] Eroding this conservation measure through the proposed amendment is a potential mechanism by which the amendment "may effect" the beetle.

C. Blowout penstemon

Blowout penstemon is a federally endangered, narrow endemic plant found only in the Sandhills region of north-central Nebraska and the Ferris Dunes of Carbon County, Wyoming.[114] In Nebraska, it depends on specialized, early successional "blowouts," which are bare-sand depressions that form when wind erodes vegetation from the sides of dunes.[115] The amount of suitable blowout habitat in Nebraska has declined substantially since settlement of the region, and the species' long-term persistence in the state remains highly uncertain.[116] Notably, bison grazing can help create the early successional conditions that favor blowouts, and this can be combined with reseeding of penstemon.[117] We encourage the Forest Service to consider bison restoration as an alternative to targeted grazing by domestic livestock, as discussed in section 5.E below. Doing so would also further the agency's obligation under Section 7(a)(1) of the ESA, *see* 16 U.S.C. § 1536(a)(1), to carry out programs for the conservation of listed species.

Present-day range management practices remain one of the central threats to blowout penstemon.[118] Grazing by domestic livestock can be either benefit or harm the species, depending on the timing and intensity. Spring grazing can reduce reproductive output, whereas fall grazing after seed set can help open blowouts to sand movement and seedling establishment.[119] Removing the direction to increase average pasture sizes in the Bessey Geographic Area,[120] and thus enabling smaller pastures and more targeted grazing,

---

[113] U.S. FOREST SERV., NEBRASKA NATIONAL FORESTS AND GRASSLANDS MONITORING REPORT: 2021 33 (2021), https://www.fs.usda.gov/sites/nfs/files/r02/nebraska/publication/NNF%20Monitoring%20Report%202021.pdf.

[114] *See* U.S. FISH & WILDLIFE SERV., 5-YEAR STATUS REVIEW FOR THE BLOWOUT PENSTEMON *(PENSTEMON HAYDENII)* 2 (2022), https://ecosphere-documents-production-public.s3.amazonaws.com/sams/public_docs/species_nonpublish/3951.pdf.

[115] *See id*.

[116] *See id*.

[117] *See id*. at 3.

[118] *See, e.g.*, U.S. FISH & WILDLIFE SERV., BLOWOUT PENSTEMON (*PENSTEMON HAYDENII*) 5-YEAR REVIEW: SUMMARY AND EVALUATION 19 (2012), https://ecosphere-documents-production-public.s3.amazonaws.com/sams/public_docs/species_nonpublish/1953.pdf (range management practice to promote blowout healing "were a major cause of the species decline in Nebraska and is still the case today").

[119] *See id*. at 18.

[120] *See* Proposed Amendments at 8 [in PDF].

therefore "may affect" blowout penstemon and warrants consultation with the Fish and Wildlife Service.

The proposed amendments also delete the statement that re-establishing a greenhouse propagation facility "may be critical to achieving recovery goals" for blowout penstemon, describing it as "no longer a priority."[121] The proposal does not explain what has changed with respect to the species' recovery needs. The Forest Service should address this change in its Section 7 analysis and in carrying out its section 7(a)(1) obligation to conserve the species.

D. Pallid sturgeon

The Fish and Wildlife Service's IPaC resource list for the NNFG states that water depletions in the Platte River basin may adversely affect the endangered pallid sturgeon.[122] The Bessey Geographic Area lies within the Platte River basin. The proposed amendments would remove the limit on new water developments there. Without a cap, the plan would allow an unspecified number of new wells, pipelines, and other developments, and an unspecified amount of cumulative depletion. The proposal does not estimate the volume of water these developments would use or analyze their effects on downstream flows. Because the amendments may reduce flows within the Platte River basin, they "may affect" the pallid sturgeon, and the Forest Service should consult with the Fish and Wildlife Service under section 7(a)(2).

5. Alternatives the Forest Service should consider

For the reasons outlined above, Defenders urges the Forest Service to withdraw the proposed plan amendments, which lack adequate scientific justification and risk undermining decades of conservation progress. Should the Forest Service proceed with the proposed amendments, it must prepare an EIS that evaluates a reasonable range of alternatives, including those described below.

A. Retain existing rodenticide restrictions and advance prairie dog conservation.

Defenders urges the Forest Service to retain existing seasonal restrictions on rodenticide use and prohibit anticoagulant rodenticides throughout the NNFG. Federal pesticide registration should not serve as a substitute for site-specific wildlife conservation safeguards on our national grasslands or comprehensive environmental analysis.

---

[121] *Id.* at 18 [in PDF].

[122] *See* U.S. FISH & WILDLIFE SERV., IPAC, Resource list for the Nebraska National Forests and Grasslands (NNFG) administrative area (Nov. 17, 2026), https://ipac.ecosphere.fws.gov/ (attached with comments).

The Forest Service has long recognized the importance of prairie dog conservation while addressing conflicts with neighboring landowners. Following the adoption of the 2002 Land and Resource Management Plan for the Nebraska National Forest and Associated Units (now the NNFG), the Forest Service prepared a separate EIS in 2005 addressing black-tailed prairie dog conservation and management, including an alternative relying primarily on nonlethal measures. Importantly, the EIS evaluated the environmental effects of zinc phosphide, not the anticoagulant rodenticides now proposed for use on the NNFG.[123]

More than 20 years later, we have a greater understanding of prairie dog ecology, the risks of anticoagulant rodenticides, the impacts of sylvatic plague and the habitat needs of endangered black-footed ferrets.[124] These advances in scientific understanding warrant a comprehensive environmental analysis of the proposed changes to prairie dog management on the NNFG. Yet the Forest Service is proposing to remove important conservation safeguards through a categorical exclusion.

Defenders has been engaged in prairie dog conservation and management on the NNFG for more than two decades. In our 2006 coalition comments on the proposed supplemental EIS, we urged the Forest Service to protect and expand prairie dog complexes, safeguard black-footed ferret recovery habitat and prioritize nonlethal management, including vegetative barriers and livestock grazing modifications.[125] These recommendations are particularly relevant today given the natural expansion of black-

---

[123] *See* U.S. FOREST SERV., BLACK-TAILED PRAIRIE DOG CONSERVATION AND MANAGEMENT ON THE NEBRASKA NATIONAL FOREST AND ASSOCIATED UNITS INCLUDING LAND AND RESOURCE MANAGEMENT PLAN AMENDMENT 2 FINAL ENVIRONMENTAL IMPACT STATEMENT ii, 6, 48–49, 55 (2005).

[124] *See, e.g.*, Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2801–03 (2007), https://doi.org/10.2193/2007-041; Nancy H. Golden & Joy Gober, *Prairie Dogs, Pesticides, and Protected Species: Concerns for Anticoagulant Use in a Sensitive Ecosystem*, 24 PROCS. OF THE VERTEBRATE PEST CONF. 181, 181–83 (2010), https://escholarship.org/uc/item/2tp6g6mn; *See* U.S. Fish & Wildlife Serv., Final Biological Opinion For Kaput® Prairie Dog Bait Registered Under Section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act 32, 87–89 (2012); Gary Witmer et al., *Retention time of chlorophacinone in black-tailed prairie dogs informs secondary hazards from a prairie dog rodenticide bait*, 72 PEST MGMT. SCI. 725, 725, 725, 728–30 (2015); *Anticoagulant Prairie Dog Bait Risk Mitigation Measures to Protect Endangered Species*, ENV'T PROT. AGENCY (June 17, 2026), https://www.epa.gov/endangered-species/anticoagulant-prairie-dog-bait-risk-mitigation-measures-protect-endangered.; David A. Eads & Dean E. Biggins, *Plague bacterium as a transformer species in prairie dogs and the grasslands of western North America*, 29 CONSERVATION BIOLOGY 1086, 1087–88 (2015); U.S. FISH & WILDLIFE SERV., RECOVERY PLAN FOR THE BLACK-FOOTED FERRET (*MUSTELA NIGRIPES*) 65–66, 97 (2d rev. 2013).

[125] *See generally* Defenders of Wildlife et al., Coalition Comment Letter on the Notice of Intent to Prepare a Supplement to the Final Environmental Impact Statement for the 2002 Nebraska National Forest Revised Land and Resource Management Plan (LRMP) (Oct. 30, 2006), https://defenders.org/sites/default/files/publications/prairie_dog_management_supplement.pdf.

footed ferrets onto Fort Pierre National Grassland and the opportunities to work with neighboring landowners to address prairie dog conflicts.

Endangered black-footed ferrets now inhabiting the Fort Pierre National Grassland should be recognized as a significant recovery achievement to be supported and sustained by the Forest Service, rather than a management conflict to be resolved through the removal of ferrets and the destruction of their habitat. Defenders urges the Forest Service, in cooperation with the Fish and Wildlife Service and the Lower Brule Sioux Tribe, to formally recognize Fort Pierre National Grassland as an emerging black-footed ferret recovery site and develop a site-specific conservation and recovery management plan modeled on the successful recovery program at Conata Basin on Buffalo Gap National Grassland. The proposed NNFG plan amendments provide an important opportunity to establish explicit, enforceable management direction to support the long-term persistence and expansion of this population.

B. Promote partnerships, nonlethal, and conservation management practices.

As documented in the 2008 McKenzie Ranger District appeal by Defenders and WildEarth Guardians, EPA previously recommended consideration of a nonlethal alternative during its review of the Thunder Basin prairie dog management plan.[126] The Forest Service should analyze an alternative that promotes achievement of objectives through increased partnership engagement in nonlethal management practices and require documented consideration of feasible nonlethal alternatives before authorizing lethal control, particularly within occupied or potential black-footed ferret habitat. Where boundary conflicts persist despite the implementation of feasible nonlethal measures, the plan should require a documented decision-making process and ensure that equivalent or improved functional prairie dog habitat is secured before any otherwise permissible lethal treatment occurs.

This alternative would enable the Forest Service to build upon decades of conservation investments and partnerships on our national grasslands. As we did 20 years ago, Defenders continues to offer funding and technical assistance to address prairie dog conflicts through nonlethal measures. Rather than spending more taxpayer dollars on prairie dog poisoning, the agency should apply the best available science and work with conservation partners and neighboring landowners to implement nonlethal solutions that benefit both wildlife and livestock producers.

[126] *See* Appeal of Defenders, et al. of McKenzie Ranger District Prairie Dog Plan 4–6 (2008).

Nonlethal approaches include trapping and conservation translocation, visual and vegetative barriers, and grazing and vegetation management designed to discourage colony expansion into conflict areas. Proactive plague mitigation should complement these measures to maintain healthy prairie dog populations and support black-footed ferret recovery.

Defenders has funded and implemented these types of conservation and coexistence measures in partnership with the Forest Service at Conata Basin and Thunder Basin and has offered funding and technical assistance to Fort Pierre National Grassland staff, who have accepted the offer. The Forest Service should strengthen the use of these tools through explicit plan direction rather than leaving their consideration entirely to project-level discretion.

C. Examine conservation incentives and alternative grazing strategies.

The Forest Service should analyze an alternative that promotes conservation incentives and alternative grazing strategies. Miller et al. recommend redirecting public expenditures from prairie dog poisoning toward positive incentives for prairie dog conservation, including grass banks and drought-responsive reductions in livestock stocking rates.[127] This alternative would operationalize their recommendations. Such measures could address localized forage concerns while maintaining the ecological functions of prairie dog colonies and reducing reliance on publicly subsidized lethal control.

D. Eliminate poisoning of prairie dogs and use nonlethal wildlife management practices.

Effective prairie dog conservation requires an affirmative commitment to habitat restoration and population recovery, not merely passive tolerance of existing colonies. Defenders recommends that the NNFG identify the funding, staffing, and partnerships necessary to implement conservation translocations, install artificial burrows where appropriate, enhance habitat, and conduct preventive plague mitigation. These efforts should be supported by monitoring to evaluate their effectiveness and inform adaptive management.

E. Establish an advisory group.

The Forest Service should analyze an alternative that establishes a collaborative advisory working group representing local and national conservation interests, Tribal Nations, affected livestock producers, wildlife agencies, and other conservation partners,

[127] *See* Brian J. Miller et al., *Prairie Dogs: An Ecological Review and Current Biopolitics*, 71 J. OF WILDLIFE MGMT. 2801, 2806–08 (2007), https://doi.org/10.2193/2007-041.

consistent with applicable advisory committee requirements.[128] Such collaboration could facilitate the development and implementation of science-based coexistence strategies, identify funding opportunities, and build support for long-term prairie dog conservation and black-footed ferret recovery.

Defenders remains committed to working with the Forest Service and neighboring landowners to advance practical, science-based solutions that address legitimate management concerns while maintaining the ecological integrity of our national grasslands. The proposed alternatives provide an opportunity to strengthen these partnerships and establish a more proactive approach to prairie dog conservation, rather than expanding reliance on lethal control.

F. Consider bison restoration.

The Forest Service should analyze an alternative that restores the grassland ecosystems using Plains bison *(Bison bison bison),* a native keystone species that evolved alongside the plant and animal communities of the Great Plains, as an important component of grassland restoration. Buffalo Gap National Grassland within the Fall River Ranger District offers good bison restoration opportunities. The proposed plan amendments identify prairie restoration, vegetation management, and the reduction of undesirable plant species as reasons for modifying existing range management direction. Bison restoration would advance these objectives.[129] Specifically, this would include:

- Utilizing bison restoration as an alternative for achieving native grassland restoration and vegetation management objectives.
- Retaining or establishing plan directions that maintain large, interconnected grassland landscapes capable of supporting native grazers.
- Installing wildlife-friendly fencing, animal health protocols, grazing management and monitoring necessary to support successful bison restoration.
- Engaging Tribal Nations and other conservation partners in developing and implementing bison restoration opportunities.

The proposed plan amendments provide an opportunity to incorporate management direction that supports the restoration of native grazers and the ecological processes they

---

[128] *See* Defenders of Wildlife, Comment Letter on the Little Missouri National Grassland (LMNG) Prairie Dog Management Proposed Action, Notice of Scoping 5, 8 (Oct. 5, 2015).

[129] See *generally* CURTIS FREESE ET AL., AMERICAN PRAIRIE RESERVE BISON GRAZING PROPOSAL - SCIENTIFIC BASIS AND REFERENCES (2018).

sustain. Such direction would complement existing prairie dog conservation, black-footed ferret recovery, and native grassland restoration efforts more broadly.

Bison and black-tailed prairie dogs evolved together on the Great Plains, and their ecological interactions contribute to the maintenance of functioning prairie ecosystems. Bison preferentially graze on portions of prairie dog colonies, particularly along colony margins, where vegetation may have higher nutritional quality, including elevated nitrogen concentrations, compared to surrounding uncolonized grasslands.[130] Indeed, bison historically played a significant role in maintaining the biological diversity and ecological function of prairie ecosystems. Their grazing patterns create a mosaic of vegetation heights and composition, while their wallowing, trampling, and nutrient redistribution contribute to habitat diversity. These ecological processes benefit numerous grassland-dependent species.[131] Research conducted at Wind Cave National Park in South Dakota also documented that bison and prairie dogs have both similar and independent effects on plant community structure. Their combined grazing activities influence vegetation composition, productivity and diversity.[132] These interactions demonstrate the importance of managing native grassland species as interconnected components of an ecosystem rather than in isolation.

Although cattle and bison share similarities in their forage requirements, important differences in grazing behavior, movement patterns, habitat selection, and seasonal use of vegetation can influence ecological outcomes.[133] Research conducted in the Northern Great Plains documented that bison moved 50–99 percent faster than cattle and selected substantially larger foraging patches.[134] Other research has demonstrated that bison are less

---

[130] *See, e.g.*, M. Silvia Cid et al., *Vegetational responses of a mixed-grass prairie site following exclusion of prairie dogs and bison*, 44 J. OF RANGE MGMT. 100, 102–04 (1991); CURTIS FREESE ET AL., AMERICAN PRAIRIE RESERVE BISON GRAZING PROPOSAL – SCIENTIFIC BASIS AND REFERENCES 17 (2018).

[131] *See, e.g.*, David C. Hartnett et al., *Effects of bison grazing, fire, and topography on floristic diversity in tallgrass prairie*, 49 J. OF RANGE MGMT. 413, 417–19 (1996); Alan K. Knapp et al., *The Keystone Role of Bison in North American Tallgrass Prairie*, 49 BIOSCIENCE 39, 42–44, 46–48 (1999); Joe C. Truett et al., *Managing Bison to Restore Biodiversity*, 11 GREAT PLAINS RSCH. 123, 129–34 (2001), https://digitalcommons.unl.edu/greatplainsresearch/541/.

[132] *See generally* M. Silvia Cid et al., *Vegetational responses of a mixed-grass prairie site following exclusion of prairie dogs and bison*, 44 J. OF RANGE MGMT. 100 (1991).

[133] *See, e.g.*, CURTIS FREESE ET AL., AMERICAN PRAIRIE RESERVE BISON GRAZING PROPOSAL – SCIENTIFIC BASIS AND REFERENCES 6–7 (2018); Brady W. Allred et al., *The role of herbivores in Great Plains conservation: comparative ecology of bison and cattle*, 2 ECOSPHERE art26, 8 (2011), https://esajournals.onlinelibrary.wiley.com/doi/10.1890/ES10-00152.1; Michel T. Kohl et al., *Bison Versus Cattle: Are They Ecologically Synonymous?*, 66 RANGELAND ECOLOGY & MGMT. 721, 726–29 (2013), https://doi.org/10.2111/REM-D-12-00113.1.

[134] *See* Michel T. Kohl et al., *Bison Versus Cattle: Are They Ecologically Synonymous?*, 66 RANGELAND ECOLOGY & MGMT. 721, 726 (2013), https://doi.org/10.2111/REM-D-12-00113.1.

constrained by distance to water and spend less time in riparian areas than cattle.[135] These characteristics, together with their adaptations for year-round grazing, warrant consideration in developing management strategies that restore native vegetation, protect riparian resources and maintain heterogeneous grassland habitats.

Federal land management agencies have previously evaluated the ecological benefits and management considerations associated with bison restoration on public grasslands. The Bureau of Land Management's 2021 Environmental Assessment for American Prairie's Change of Use evaluated a proposed transition from cattle to bison grazing, including potential effects on vegetation, wildlife habitat, and other natural resources.[136] This analysis provides a useful reference for the Forest Service in evaluating bison restoration as an alternative for achieving its grassland restoration and vegetation management objectives on the NNFG.

The environmental assessment recognized the ecological role of bison in maintaining prairie biodiversity and examined potential benefits to vegetation, wildlife habitat, prairie dogs, and riparian resources. It also evaluated practical management considerations, including wildlife-friendly fencing, animal health, grazing capacity, public access, and monitoring.

This assessment provides a useful example of how federal land managers can evaluate bison restoration alongside other resource management objectives. Defenders encourages the Forest Service to consider this experience when evaluating opportunities for bison restoration on the NNFG.

G. Consider alternatives for reducing invasive plants.

The Forest Service should analyze an alternative that the proposed amendments focus narrowly on "using targeted livestock grazing as a vegetation management tool"[137] without demonstrating that this control method is most appropriate for the relevant invasive species or considering other control methods. The NNFG's 2021–2023 Monitoring Report identified Canada thistle and nodding plumeless thistle as the most common invasive plants on the Nebraska National Forest.[138] Newer species of concern included bull thistle,

---

[135] *See, e.g.*, Brady W. Allred et al., *The role of herbivores in Great Plains conservation: comparative ecology of bison and cattle*, 2 ECOSPHERE art26, 8 (2011), https://esajournals.onlinelibrary.wiley.com/doi/10.1890/ES10-00152.1.

[136] *See* BUREAU OF LAND MGMT., ENVIRONMENTAL ASSESSMENT AMERICAN PRAIRIE RESERVE BISON CHANGE OF USE (DOI-BLM-L010-2018-007 EA) 3-10 to 3-11(2021).

[137] Proposed Amendments at 8 [in PDF].

[138] *See* U.S. FOREST SERV., BIENNIAL MONITORING EVALUATION REPORT FOR THE NEBRASKA NATIONAL FORESTS & GRASSLANDS 31 (2024), https://www.fs.usda.gov/sites/nfs/files/r02/nebraska/publication/2024-08-07%202023%20BMER%20NNFG%20Signed.pdf.

burningbush, and charlock mustard.[139] The report found that trends for noxious weeds, invasive species, and animal damage were moving away from forest plan targets. It recommended changing management to emphasize "prevention, rapid detection and response, and [a] wider variety of control methods," and noted that an EIS was underway.[140]

That EIS was finalized in August 2024 as the Final EIS ("FEIS") for the Undesirable Plant Management ("UPM") Project.[141] It evaluates targeted grazing as one of several control methods alongside (1) biological control, including host-specific natural enemies; (2) chemical control, including aerial and ground application of approved herbicides; (3) mechanical treatment, such as mowing, cutting, or pulling; and (4) prescribed fire under project-specific burn plans.[142]

The UPM FEIS defines "targeted grazing" as "the specialized use of livestock grazing or browsing at a specified time, duration, intensity, and frequency to achieve defined vegetation and landscape management goals or objectives."[143] It states that targeted grazing differs from other grazing systems because its objective is to meet defined management goals rather than livestock productivity.[144] The proposed amendments contain no such goals or objectives. The FEIS also commits that future plan amendments and revisions will consider the UPM project and incorporate applicable requirements for undesirable species and native vegetation monitoring.[145] The proposed amendments neither consider the UPM project nor explain why they do not.

We support reducing invasive plants and providing grazing regimes that create more dynamic, heterogeneous habitat. However, simply removing plan components for pasture size does not accomplish either goal. If the intent is to align the plan with the UPM project, we recommend replacing the current components with a guideline that has a clear purpose and allows project-level flexibility. As an example: "To facilitate landscape connectivity, allow no net decrease in the average pasture size, except where temporary or virtual fencing is needed for targeted grazing to manipulate rangeland vegetation to reduce invasive species and increase native species."

---

[139] *See id.*
[140] *Id.* at 39.
[141] *See generally* U.S. FOREST SERV., UNDESIRABLE PLANT MANAGEMENT PROJECT FINAL ENVIRONMENTAL IMPACT STATEMENT (2024), https://usfs-public.app.box.com/v/PinyonPublic/file/1612879492139.
[142] *See id.* at 18.
[143] *Id.* at 22.
[144] *See id.* at 42.
[145] *See id.* at iv.

The Forest Service should also analyze whether new water developments are scientifically supported for improving livestock distribution, restoring prairie, and combating invasive species. That analysis should cover the trade-offs, including effects on grazing heterogeneity and grassland birds, and alternatives that do not require new water developments, such as grazing regime modifications and other control methods. If the analysis shows that new water developments provide a net ecological benefit, we recommend replacing the current components with two components that articulate clear goals and guardrails: (1) a standard: "Maintain no net loss in brood habitat for waterfowl and sustainable fisheries;" and (2) a guideline: "To conserve groundwater resources and avoid homogenizing grazing, allow no net increase in the number of water developments, except where temporary water developments are needed to combat invasive species and increase native species."

6. Recommendations and conclusion

Defenders urges the Forest Service to withdraw the proposed plan amendments or substantially modify them. At a minimum, the agency should do the following:

1. Withdraw its reliance on the categorical exclusion at 7 C.F.R. § 1b.4(d)(38) and prepare an environmental impact statement, with a 90-day comment period on the proposed amendments and draft EIS.
2. Retain the seasonal limits on rodenticide use and prohibit anticoagulant rodenticides throughout the NNFG, to protect black-tailed prairie dogs and endangered black-footed ferrets.
3. Retain the pasture size, water development, and July 15 mowing components, or replace them with guidelines that state a clear purpose and include safeguards.
4. Document the need for and basis of each amendment and apply the substantive provisions of the 2012 Planning Rule, including those with respect to species of conservation concern, using the best available scientific information.
5. Consult or confer with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act.
6. Analyze alternatives, including nonlethal prairie dog management, bison restoration, and invasive plant control methods other than targeted grazing.
7. Establish measurable prairie dog habitat conservation and recovery objectives that maintain large, interconnected, and ecologically functional prairie dog complexes, and evaluate the cumulative impacts of lethal control, recreational shooting, sylvatic plague, and habitat fragmentation on prairie dogs and associated wildlife.
8. Prioritize nonlethal prairie dog management before authorizing lethal control, including the establishment of vegetative and visual barriers, translocation, and

collaborative coexistence measures with neighboring landowners and grazing permittees.

9. Formally recognize Fort Pierre National Grassland as an emerging black-footed ferret recovery site and, in cooperation with the U.S. Fish and Wildlife Service and the Lower Brule Sioux Tribe, develop site-specific conservation and recovery management direction modeled on the successful recovery program at Conata Basin.
10. Ensure that prairie dog management and rodenticide restrictions protect not only established black-footed ferret recovery sites but also surrounding habitats that support natural dispersal, population establishment, and expansion.
11. Evaluate opportunities for plains bison restoration on the NNFG, particularly within the Fall River Ranger District, and incorporate management direction that supports the restoration of native grazers and the ecological processes they sustain.

Our recommendations are consistent with Defenders' previous comments on national grassland management, including our July 8, 2008 joint appeal with WildEarth Guardians of the McKenzie Ranger District prairie dog management plan and our October 5, 2015 Little Missouri National Grassland scoping comments.[146] Both submissions emphasized that resolving boundary conflicts must occur within a broader framework of prairie dog ecosystem restoration and black-footed ferret recovery.

Defenders remains committed to working collaboratively with the Forest Service, Tribal Nations, wildlife agencies, grazing permittees, and neighboring landowners to advance nonlethal prairie dog management, black-footed ferret recovery, bison restoration, and native grassland ecosystem restoration. Through our existing conservation partnerships, we have demonstrated our commitment to providing funding, technical assistance, and on-the-ground support for these efforts. We welcome the opportunity to expand these partnerships across the NNFG.

Our national grasslands represent some of the most important remaining opportunities to conserve and restore the biological diversity and ecological integrity of the Great Plains. We urge the Forest Service to ensure that these plan amendments advance, rather than undermine, the long-term conservation and recovery of native grassland species and the ecosystems upon which they depend.

[146] *See generally* Appeal of Defenders, et al. of McKenzie Ranger District Prairie Dog Plan (2008); Defenders of Wildlife, Comment Letter on the Little Missouri National Grassland (LMNG) Prairie Dog Management Proposed Action, Notice of Scoping 4 (Oct. 5, 2015).

Sincerely,

Chamois L. Anderson, *lead commenter*
Senior Representative
Rockies and Plains, Field Conservation
DEFENDERS OF WILDLIFE
candersen@defenders.org

Keats Conley
Senior Policy and Planning Specialist
DEFENDERS OF WILDLIFE
kconley@defenders.org

Deirdre N. Dlugoleski
Staff Attorney
DEFENDERS OF WILDLIFE
ddlugoleski@defenders.org

on behalf of

DEFENDERS OF WILDLIFE
1130 17th Street NW
Washington, D.C. 20036
P: 202.682.9400
https://defenders.org/