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U.S. Forest Service

Director

Forest Management

210 14th Street SW, Suite 3SE

Washington, D.C. 20250-1124

Re: U.S. Forest Service Rangeland Management Directives #ORMS-2514

To whom it may concern:

American livestock producers play a pivotal role in the management of hundreds of millions of acres of both private and public lands throughout the United States. As groups representing members who produce food and fiber on private, state, and federal lands, the Public Lands Council (PLC), the National Cattlemen's Beef Association (NCBA), the American Sheep Industry Association (ASI), together with our respective affiliates (all collectively identified as "the groups") wish to provide comment on the U.S. Forest Service (USFS) proposed changes to the Forest Service Manual (FSM) 2200, Forest Service Handbook (FSH) 2209.13, and FSH 2209.16 (herein collectively identified as "the directives") that affect permitted grazing on forest and grassland units of the National Forest System (NFS).

The PLC is the sole national association whose singular focus is to represent the interests of approximately 22,000 cattle and sheep producers who hold federal grazing permits throughout the West; NCBA is the nation's oldest and largest trade association representing cattle producers; and ASI is the national organization representing the interests of more than 100,000 sheep producers located throughout the United States.

Our organizations, and the producers we represent, are committed to the long-held tradition of resource management that not only keeps lands and waters healthy but improves the condition of these resources over time. These management principles are applied to both the private lands and to the federal allotments managed by the producers we represent. Cattle and sheep producers who hold federal grazing permits are the primary stewards of approximately 250 million acres across the West. Their livestock and the carefully-managed grazing activities they undertake help to ensure those landscapes are resilient in the face of events like catastrophic wildfire, drought, and flood. Over large areas of land on a wide variety of allotments, grazing activities reduce fuel loads, stimulate native plant growth, and are a critical part of the natural ecosystem.

Grazing is also a highly-effective tool to apply in targeted approaches where intervention is needed to achieve a specific outcome; grazing can be prescribed for fuels treatments, applied to target invasive species at the ideal time during the plant's growing cycle, and can be used to incorporate organic matter into the soil as a way to increase soil health. As part of the U.S. Forest Service's (USFS) efforts to update and revise their guidance documents related to range management and grazing activities, we urge the agency to adopt a wholesale recognition that grazing is both a permitted activity and a tool to improve resource conditions, and can be applied as both without conflict.

As a general matter, the comments contained herein speak to the perspective of permittees who hold grazing permits to graze in federal forests and grasslands, and permittees who are part of grazing associations on

national grassland who are part of grazing associations. While grazing associations can exist in the forest context as well, these comments repeatedly reflect that not all construction of term grazing permits applies to grasslands permittees if indeed their grazing authorization comes from a grazing association.

Throughout, the groups recognize that USFS is in receipt of comments from state affiliates of the undersigned organizations that request a delineation of regulatory processes for administration of grazing activities on national grasslands to provide parity for USFS grazing activities on land administered under Bankhead-Jones Farm Tenant Act precedent. At the minimum, the handbooks and directives should be explicit about which sections apply (or fail to apply) to grasslands in cases where drafting is unclear.

#### General Comments

These updates to the directives are a welcome modernization of the agency's procedures. While some statutory guidance for land management has received incidental updates, the documents that have guided administration of grazing on forests and grasslands have failed to keep pace. Whether on land managed as part of the NFS or on private land, the permittees and lessees we represent prioritize land and livestock management that: optimizes the health of the land resource for current and future generations; recognizes the dynamic nature of natural resources and makes management adjustments based on the need of the ecosystem; and maximizes the opportunity for land and water resources to have value for a variety of land users. Each of these are done in a way that supports biodiversity, is nimble in the face of diverse and swift resource changes, recognizes the complexity of land management/ownership, and creates landscapes that are more resilient in the face of any number of challenges.

As posted on the USFS website, the proposed changes were easily accessible, however it is our recommendation that in the future, the agency consider a clearer, more direct comparison of existing text with new, proposed text in order to provide for timely feedback. Our associations and the permittees we represent all appreciated the series of webinars conducted by key agency staff that outlined proposed changes and provided an opportunity for direct response to stakeholder inquiry. These sessions were key to provide clarity some of the changes where there were multiple references to the same section for a single change, or where there was a chain of references that intended to lead to a single location. We address this issue more completely in the comments below.

Further, we appreciate the 60-day extension to the comment period, as the original comment period deadline fell during peak calving and lambing season. The extension and the ongoing outreach to permittees, represent a real and meaningful effort by the agency to ensure that their process was inclusive and productive for those who are directly involved in stewardship of the forest lands and grasslands concerned.

#### Monitoring

As evidenced in the long-held Memorandum of Understanding among the Public Lands Council and the USFS, Bureau of Land Management, and other land management agencies, monitoring is a key component of sound resource management and should inform the vast majority of decisions associated with adjustments or ongoing future use. Long-term, structural changes should not be made to permits based on short-term monitoring findings or limited information; actions that would result in a decrease in authorized use must be supported by the long-term monitoring data that indicates a resource trend, rather than a resource condition at a single point in time. This, of course, does not exclude the potential for management flexibility year-on-year to adapt use to the resource needs.

We appreciate the agency's efforts to ensure permittees are present at allotment inspections, whenever possible (FSH 2209.16, 12.21), as well as the direction to provide permittees with copies of annual inspection reports (FSH 2209.16, 12.23). Further clarification or guidance is needed however, in outlining the extent to which monitoring done by the agency or by permittees may inform the decisions of the appropriate authorized officer or rangeland management specialist related to changes in authorized grazing activities. This is especially true when

determining incidents where determinations of non-compliance may be made. While the directives correctly authorize the rangeland management specialist or appropriate authorized officer to make certain determinations about range condition during assessments, the directives should provide greater clarity about the role of permittee/lessee monitoring data in order to avoid a situation where a decision is made about an allotment in its entirety that may not include all relevant monitoring data as a result of limited personal knowledge of the allotment.

Further clarification may be required in FSH 2209.16, 12.2 related to the National Rangeland Ecosystems Analysis, Inventory, and Monitoring Handbooks (which the directives reference as FSH 2209.21), where state or regional monitoring protocols may be more relevant. In cases where monitoring may not be conducted by the agency, or is not conducted as regularly as monitoring done by the relevant permittees, the agency should prioritize and include the available monitoring data in decision making to achieve the most relevant, appropriate conclusions.

With respect to adaptive management, USFS should prioritize monitoring models that incorporate monitoring techniques and recorded findings that both adhere to agency rules and regulations, and clearly justify any decisions made as a result of data collected. Further comment related to monitoring can be found in comments regarding Chapter 90 - Rangeland Management Decisionmaking.

#### Succession

We appreciate the agency's efforts to increase the ability of multi-generational livestock operations to ensure continuity of operations. Improvements to the succession authorizations included in these directives will provide for long-term certainty and sustainability in cattle and sheep operations across the country. In order to maximize the usefulness of these provisions, the undersigned groups recommend revision of timeframes for transfer of livestock, base property, and other assets. In cases where successional transitions occur, the time to transition entire operations can vary. As such, we recommend confirmation of the suitability that leased ground and other non-permanent assets may be considered during qualifying scenarios.

#### FSM 2200 - Rangeland Management Manual

##### Zero Code

##### Reference statutes

We urge the agency to carefully review the list of statutes included in the regulations for relevancy and whether they have the force and effect of law. Several statutes that have been repealed - either in whole or in part - are included in the list of reference points and while contents may have previously informed development of provisions in the directives, we urge the agency to streamline reference points. For example, citation of the Homestead Act of 1862 and the Organic Administration Act of 1897 are certainly relevant in terms of USFS history, however the accompanying narratives need to be further refined.

Further clarification is needed for statutes that do not have the same force and effect of law on grasslands as they do on national forest lands. If the agency proceeds with handbooks that address forest and grassland management in a collective fashion, authorities and relevant management directives must be clarified.

#### Definitions

Some of the items proposed in 2205 represent a novel description of terms, and can have different meanings as a result of consolidation of handbook texts. It is important to note that typically, strict definitions are typically adopted through rulemaking or enactment of statute. It is likely more accurate to call this section "Descriptions" or "Key Terms" rather than "Definitions" to avoid legal ambiguity that would be likely to result in punitive action for the agency and for the permittee.

The undersigned groups recommend clarification in the following terms:

Base Property - The sentence following this term should account for the fact that base property, in some cases

may be leased. The description/definition included in 2205 limits land and improvements to those "owned and used by the permittee", not "owned or used". Further refinement should be sought.

Best Management Practices for Water Quality - USFS lacks authority to develop, implement, or enforce BMPs for water quality, as other state and federal agencies have delegated authority. While we recognize this definition is included with reference to other agencies' authorities under the Clean Water Act, we recommend clarification either in the "Definitions" section as a whole, or to conform all definitions with the associated agency's strict responsibilities.

Compliance Inspection - The reference to Annual Management Planning and Annual Operating Instructions does not universally apply to grasslands permittees, so this description should be inclusive of all processes, if included at all. Other terms would be more useful here.

Critical area - This description appears to put "critical areas" in conflict with statutory and regulatory terms, like "critical habitat" for Endangered Species, "Areas of Critical Environmental Concern", etc. In this, and all places, USFS should avoid introducing confusion in introducing "definitions that are unnecessary. This description should be compared against "Key Species" for utility.

Frequency vs. Grazing Occurrence - These terms appear to be in conflict.

Grazing Permit - As is discussed in a number of places outside of FSM 2200, the description of a grazing permit, a term grazing permit, and other kinds of grazing authorizations are referenced in several different places among the three documents. The groups recommend a more consistent, simplified citation process to ensure agency professionals and permittees alike are not in the position to choose between or among potentially conflicting "definitions".

This is not an exhaustive list but intended to provide specific examples that would put the agency in direct conflict with later sections of their own handbooks, or worse, in direct conflict with their own statutory and regulatory directions. Agency personnel should carefully review all "definitions" for accuracy, authority, and need. Many of the definitions are superfluous, at best, and at worst will result in inconsistencies across USFS units because of variations in use of general terms that the agency has now here "defined". Further, the lack of a "definition" or "description" of preference or a preference right is glaring here.

#### Chapter 2240

##### 2240.3 - Policy

The groups recommend revising the use of the term "journey level" related to rangeland expertise on management decisions in favor of agency-specific terminology to ensure authorizations are appropriately elevated.

With respect to rangeland improvements, authority and responsibility to maintain range improvements is repeatedly assigned to permittees, of all permit types and durations. The guidance fails to address maintenance of improvements in the absence of an authorized permittee. Too often when an allotment becomes vacant or is otherwise unutilized by the agency or a permittee, range improvements are degraded. Over time, degraded improvements render an allotment difficult or impossible to use, as a permittee would enter the allotment at a deficit with range improvements to fix, rather than simply maintain. It has been the policy of the USFS to treat range improvements, de facto, as a USFS asset as the handbook directs USFS personnel to "not convey exclusive rights to use a rangeland improvement or the land on which the improvement is located". As such, the agency should provide for management of permanent range improvements in the absence of a permittee.

##### 2240.6 - Livestock Intrusion

The following paragraph should be stricken in its entirety:

'Despite the legal Federal position regarding boundary fence policy, authorized officers are frequently finding themselves in situations of controversy, accused of being bureaucrats and "poor neighbors," and often attempting to get polarized parties together to fix legal dilemmas that no one wants to accept responsibility for, including State and county elected officials.'

By the agency's own assertion, "Manual (FSM) chapters generally contain information and direction on the laws and regulations that the Forest Service is charged with implementing in the management of NFS lands. Handbook (FSH) chapters contain the policies and procedures necessary to carry out those responsibilities in an orderly and proper manner on NFS lands." (FSM 2230.6). The paragraph above is not legal or regulatory direction, nor is it policy or procedure. Subjective assertions about motivation to accept responsibility for situations - many of which are under the primary authority of the USFS - is inappropriate.

#### 2242.1 Vegetation Management

Inclusion of cattle in the "animals such as..." list is appropriate here. As outlined originally, the USFS must use all tools at its disposal in vegetation management.

#### 2245 - Conservation Practices on National Grasslands

The first paragraph in this description is potentially inconsistent with the "definition" found in Zero Code.

#### FSH 2209.13 Grazing Permit Administration Handbook

##### Chapter 12 - Eligibility and Qualification Requirements for Term Grazing Permits

We appreciate the agency's work to expand the nature and type of entities eligible for grazing permits and agreements. Further expansion of the kinds of entities eligible to hold permits (outside limited liability companies, family limited partnerships, etc.) would more accurately represent the identity of entities who currently hold grazing permits and their future enterprise objectives. Because the long interval between revisions of these handbooks and manuals, the undersigned groups recommend inclusion of language that would allow for classifications of business operations that may not currently exist, but may develop over time, to be included as qualifying entities to hold permits. The handbook and manuals should not unnecessarily preclude inclusion of future legal or financial classifications. Any future flexibility must be accompanied by the other underlying qualifications to ensure that permit holders are engaged in business activities and are viable, productive, active livestock and grazing operations.

We suggest further clarification of the agency's acceptance of the use of leased property as qualifying base property for a term grazing permit. The manuals and handbooks are inconsistent in mentions of leased base property, so conformance is critical to ensure consistency across NFS units. Chapter 12.21 outlines that "Leasing base property, where not specifically authorized by a grazing agreement or rules of management (See section 24.11), does not satisfy the base property ownership requirement and can result in the rejection of a term grazing permit application." Given the evolving nature of the industry and those directly involved in land stewardship, more clear direction that the agency may consider leased property, in specific scenarios, when considering eligibility for a grazing permit would be beneficial.

Finally, we recommend flexibility be found in the specific requirements for the uniformity between the discrete identities found on permit applications, base property ownership, and other relevant documents. Due to the diverse nature of operations across NFS lands, the agency must be able to verify the identity of a permit holder, but should not exacerbate administrative issues if there is disparity between a producer name/operation name/company name.

#### Chapter 13.6-13.61 - Forage Reserve Allotments

The groups acknowledge that the agency will have occasion to recognize vacant allotments as entering forage reserve status. As a general practice, the groups believe the USFS has a responsibility to pursue issuance of

permits in cases where an allotment become vacant as a result of a permit waiver or other loss of permitted grazing. While the handbook does recognize that forage reserve allotments may be analyzed in order to allow grazing to occur affirmatively, the groups would recommend the agency first assess the impact of the loss of grazing activity if a permit or permits was not reissued on the allotments and the presence of livestock grazing was eliminated or severely curtailed. Not only is this important from a fuels management perspective, but from the perspective of range improvement maintenance. Maintenance is addressed in 13.61, outlining that the USFS "may be responsible for maintenance of structural or nonstructural range improvements", but that maintenance will be assigned to any permittee who uses the forage reserve. In the absence of a permittee, the USFS makes clear in several other locations in the handbooks that range improvements and their rights and interests are property of the agency. Therefore, management responsibility in the absence of a permittee, lies with the USFS.

Both here and with respect to agency authorizations for vacant allotments, we request flexibility for the use of temporary infrastructure when making allotments available to permittees on a short-term basis. Use of corrals, temporary fencing, and other non-permanent infrastructure can vastly increase the likelihood that a forage reserve allotment or a vacant allotment will be able to be used by a permittee. Available is one thing, it is another thing entirely to be usable.

#### Chapter 16 - Changes in Term Grazing Permits

As a general statement of principle, any changes to a grazing permit should be made in concert with, and with the consideration of all factors related to, a permittee and their respective grazing needs. Further, USFS should prioritize management that addresses causal factors - as addressed above, USFS must be able to determine that the modifications suggested (especially as in the case of grazing reductions) are factually related to grazing activities, rather than other factors like prairie dogs, invasive species, recreation, etc.

#### Chapter 16.2 - Suspension or Cancellation of Grazing Permits Due to Non-Compliance with Permit Terms and Conditions

The handbook clarifies that if certain conditions are "occasional" and the permittee is responsive in correcting the situation, the issue will not necessarily constitute a violation of permit conditions. Agency personnel should be mindful that conditions they identify in this section - gates left open, fences cut, water tanks vandalized - can all be informed or mitigated as part of larger USFS policies for other multiple use on forest lands and grasslands. With respect to the recreation comments outlined in FSH 2209.16 Chapter 15.54, factors outside of the permittees control affect resource conditions that are outlined in a grazing permit and the agency should not pursue punitive action against a permittee strictly for incidents outside the permittee's control. USFS should endeavor to address potential use conflicts under their purview in a way that does not affect the utility or authorization of the allotment to be used for grazing.

#### Chapter 16.36 - Repeated Incidents of Non-Compliance

With relation to repetitive notices of noncompliance for a single permittee, there should be a process for a notice of non-compliance to "expire" from a file after a certain period of time and compliance. Notices of non-compliance can occur decades apart and yet still have the cumulative effect that contribute to a suspension or cancellation in the eyes of the agency. The undersigned groups would support a timeliness consideration similar to the agency's process related to letters of reprimand, particularly given the significant repercussions of permit cancellation or suspension.

#### Chapter 16.6 - Permit Cancellation to Devote the Lands to Another Public Purpose

With respect to the inclusion of "documented contacts with bighorn sheep" as one of the reasons where permits may be cancelled in whole or in part, the groups would recommend removal of the reference due to jurisdictional conflicts. State wildlife agencies have primary authority to manage wildlife species and outright authority to cancel grazing permits, rather than reaching some widely-supported alternative among federal agency, state agency, and livestock interests creates unnecessary conflict.

#### Chapter 20 - Treatment of Grasslands; Recognition of Bankhead Jones Authorities

Generally, the proposed changes require significant revision and clarification with respect to the treatment of grasslands and the relevant authorities provided by the Bankhead-Jones Farm Tenant Act. While there are significant disparities in management, stewardship, and process between administration of forest units and grasslands units, some of the changed proposed here unnecessarily complicate administration of the latter.

#### Chapter 22 - Grazing Agreements and Chapter 23 - Issuance of Grazing Agreements

In the many years of conversation leading up to the proposed changes, permittees/lessees, agency officials, and state authorities had entered into a variety of agreements (with varying formality) in order to streamline administration of grasslands. These agreements were intended to more clearly delineate USFS responsibilities, grazing association responsibilities, and outline the availability of state support services in a way that was more consistent and efficient for all. The proposed changes in (FSH 2209.13, 23.1) step back from the agreements that were forged, and should be updated in the final version to recognize the more efficient and complete process represented through these state agreements. While it appears that the agency made all efforts to streamline the process to create predictability in grazing program administration, the proposed changes would change some of the roles of the grazing associations and their ability to interface with their members, and with the agency.

The role and attributes of grazing associations vary across the West; some grazing associations hold grazing agreements and administer the grazing activities of their members, while other grazing associations own qualifying land and livestock themselves and therefore have their own grazing agreements accordingly. The proposed revisions here confuse the references for the "qualified" entity of term grazing permit, the difference between a term grazing permit and a grazing agreement, and who may qualify for each. With reference to the above comments about clarity and clear reference to other sections, this section is in need of significant clarification. At least three reference points are required to move through the analysis of who is eligible for a term grazing permit, what a term grazing permit is, and how - if at all - a term grazing permit may differ from a grazing agreement. While many of these activities may indeed result in similar operations - laying out the terms and context for grazing activities in the NFS - these are indeed separate documents and should be addressed as such in the regulations. Some of the undersigned groups have submitted independent comments requesting separate regulations be developed for the administration of grazing agreements and grasslands; we recommend the agency take this recommendation under consideration and develop a clear series of definitions and directive language that distinguishes grazing agreements (grasslands) from term grazing permits (forest lands).

Further clarification is also needed in the roles and responsibilities of the agency when a grazing association takes action during the administration of a grazing permit as part of the association's management structure. For example, the proposed regulations contain conflicting language that simultaneously appear to require association members to have certain qualifying attributes (like base property) while at the same time not having access to the same kind of relationship that is afforded during the administration of a grazing agreement or term grazing permit. The directives should clarify that grazing associations may issue association grazing permits, and that associations may administer their own internal process, so long as that process is consistent with the terms and conditions set forth in the association's agreement with the USFS. While the proposed changes recognize this relationship and have clarity in some places, conflicting references appear later in the chapter.

#### Chapter 30 - Temporary Grazing and Livestock Use Permits

In Chapter 32.2 the directives outline that "Applicants for temporary grazing permits and livestock use permits are not required to own either base property or the livestock to be grazed unlike applicants for term grazing permits." Further clarification should be provided to identify that these circumstances should be limited to those that would provide for specific resource outcomes: addressing invasive species like cheatgrass and ventenata, providing for targeted application of grazing animals for fuel breaks, and the link. The entire waiver of base property or livestock should not be blanket terms.

#### Chapter 33 - Temporary Grazing Permits

Temporary and short-term use of grazing allotments is an important tool in emergent situations where livestock

are in need of alternate forage as a result of drought, catastrophic wildfire, infestation, flood, landslide, or other natural event that precludes the ability to graze in a given year. Other conditions exist that would be suitable for authorization of a temporary grazing permit, however, including attempts by the agency to prevent certain detrimental resource conditions. Authorization of temporary grazing permits or use of grazing as a tool to address invasive species, excessive fuel loading, undesirable fuel accumulations, or to create fuel breaks would also be beneficial for the resource. When authorizing temporary grazing permits, USFS should be aware of and responsive to local issues; temporary use should first be available to permittees in nearby areas to reduce potential use conflicts before being offered to other permittees.

#### Chapter 56 - Administration of Cow camps

FSH 2209.13, 56.4 asserts that cow camps that exceed 50 years of age shall be evaluated under the National Historic Preservation Act (NHPA) for inclusion in the National Register of Historic Places (NHRP). This evaluation will likely necessitate discussions of maintenance standards that might be required, at the sole responsibility, cost, and liability of the permittee. While all groups here recognize and value the significant historic and cultural attributes of cow camps and other facets of grazing allotments, management of these assets under NRHP requirements should not impede the utility of the facility as a functional part of grazing management. While the directives do recognize this potential conflict, the agency should make every effort to limit the burden borne by permittees as a result of potentially onerous requirements under the NHPA. Therefore we request inclusion of the following statement, or a similar statement, in Chapter 56:

Any issues related to the use and maintenance of a cow camp or other historic structure on the allotment should not affect the USFS administration or the permittees' use and management of the allotment, nor should any violations or disagreements under NHPA affect a permittee's grazing permit.

#### Chapter 73 - Waiver of Interest in Permanent Range Improvements

The proposed revisions outline that "... compensation cannot be made to persons who are no longer permittees nor can it be made to permittees presently using the allotment and associated permanent range improvements that were placed or constructed by former permittees." (Chapter 73). The groups recommend a more equitable consideration of compensation based on maintenance or range improvements; even if a permittee is not the individual who constructed the initial range improvement, subsequent permittees can make significant investments in keeping up range improvements, especially in cases where range improvements may have fallen into disrepair prior to the permittee accessing the allotment.

#### Chapter 81.7 - Excess Livestock Use

Many of the undersigned groups have submitted comments throughout the USFS's regulatory process to address excess and unauthorized use. FSH 2209.13 should reflect those sentiments, found attached here as Appendix A.

#### Chapter 81.82 - Impoundment and Disposal of Unauthorized Livestock

We appreciate the reference to contact with the appropriate county sheriff's personnel and local brand inspectors. In cases of impoundment or other detainment of livestock, USFS should prioritize use of local law enforcement and local jurisdictional authorities.

#### Chapter 94.3 - Annual Operating Instructions (AOIs) or Other Similar Documents

While there are numerous locations in the proposed changes where USFS should more clearly delineate between provisions that affect (or do not affect) grasslands permittees, this section is of particular interest.

Further, the proposed changes identify that on one hand, the AOI "is an administrative action... and is not an appealable decision". Conversely, the permittee does not have to sign the AOI - but will still be evaluated against performance against the contents of the AOI. The groups obviously readily support good working relationships among agency personnel and permittees, but believe that additions here increase uncertainty. We do appreciate, however, the confirmation that outside individuals should not participate in AOI meetings or similar meetings. Further clarity should also be provided related to the annual instructions that inform grazing associations'



administration of association permits (in grasslands scenarios).

#### Chapter 95.3 - Permittee Monitoring

The handbook is correct in the assertion that the Public Lands Council "continues to emphasize and initiate an MOU every five years" for cooperative monitoring. It is the position of the groups that if cooperative monitoring is to be done on forest or grassland allotments, the PLC-USFS cooperative monitoring MOU should be the guide and standard for monitoring. Further, USFS should emphasize the cooperative monitoring agreement with forests and grasslands authorized officers to ensure agency consistency. PLC and the undersigned groups commit to emphasize the monitoring processes with our respective memberships as well.

#### FSH 2209.16 Allotment Management Handbook

##### AUM conversions

Revision is needed to conform AUM conversions between Chapters 10 and 20. Other errors in conversion or disparate conversion calculations seem likely across the chapters. For instance, FSH 2209.16, 16.4 Exhibit 1 lists the conversion rates as Bull = 1.5 AUMs and a Horse = 1.2 AUM, while FSH 2209.15.3, Exhibit 2 switches those figures. While these may be used as reference points only, consistent conversion factors should be adopted prior to finalization.

#### Chapter 10.13 - Forage Reserve Allotments

The groups fully appreciate the recognition that "challenges to the management of forage reserve allotments include maintenance of rangeland improvements such as fences, spring developments, and livestock working facilities since no permittee may be assigned the maintenance responsibility when the forage reserve is not being used." This is why we have repeatedly urged USFS to apply their earlier assertion that range improvements are USFS-owned to the concept of management as well. Upkeep of range improvements will benefit wildlife and other users, in addition to maintaining the utility of forage reserve allotments for future use.

#### Chapter 10.15 - Closed Allotments

While the handbook outlines that "a decision to close an allotment does not preclude a future environmental analysis and decision to open the area in whole or in part to livestock use and occupancy...", in practice that is rarely the case. USFS should include a mention here (as is done in 10.2) that due to the significant resource considerations when closing an allotment, closure should be avoided in all possible circumstances.

#### Chapter 10.16 - Wild Horse and Burro Territories

The statement here that "Management can become very complex and controversial when wild horse and burro territories and grazing allotment boundaries overlap." In all cases of horse or burro presence, USFS should prioritize range health and identify causal factors for range degradation. Where allotments overlap with horse territories, USFS should take care to not take punitive action against permittees when the failure to manage overpopulated horse herds is the causal factor.

#### Chapter 10.52 - Changing Vacant or Forage Reserve Allotments Back to Active Allotments

While the directives directly address the process to change "vacant or forage reserve allotments back to active allotments" (FSH 2209.16, 10.52), the directives do not adequately address the process by which a closed allotment can be reopened. We appreciate the agency's acknowledgement that allotments should be closed rarely, and that context such as third-party buyouts of permits are not a reason to close allotments, however the directives should provide agency guidance on how to reopen a closed allotment, when appropriate. Inclusion of a section parallel to 10.51 or 10.52, with further process guidance, would be appropriate.

While the proposed revisions outline a succinct process for reopening allotments or reissuing permits on closed allotments, the directives should be revised to provide further guidance on the process to reinstate a permit that has been partially cancelled, particularly since reference in the FSM 2205 outlines that cancellation can be in whole or in part. Agency staff should have the flexibility to provide conditions under which a partially cancelled

permit may be able to be restored in order to provide continuity in resource management. For example, in the case where parents held a series of grazing permits and a permit was partially cancelled or AUMs were significantly decreased as a result of non-compliance, when that permit is transferred to the children or other producer, the child or subsequent permittee should have the opportunity to pursue reinstatement of the original permit conditions, provided the resource can sustain similar conditions. Further clarification in the directives would be needed to provide for such a scenario.

#### Chapter 13.3 - Unauthorized Livestock Use

Please see comments related to FSH 2209.13, Chapter 81.7.

#### Chapter 13.4 - Impoundment and Disposal of Unauthorized Livestock

Please see comments related to FSH 2209.13, Chapter 81.82.

#### Chapter 15.43 - Cooperation with Permit Holders

Rangeland improvements and the ability of permittees to engage in cooperative agreements to construct range improvements is an important component of this chapter. This section seems to primarily discuss utilization of Range Betterment Funds (RBF). Further clarification should be added in this section that the funds discussed are RBF, not Conservation Practices (CP) funds related to grasslands.

With respect to cost share, the proposed changes continue the 50/50 cost share agreement. The groups recommend inclusion of some flexibility on when and how those costs are divided. If upfront payment is required, for example, we encourage the agency to make all efforts to provide their portion of the funds at the same time to ensure the project is able to get underway, rather than placing a significant burden on the permittee to facilitate upfront costs. While this may not be applicable in every scenario, flexibility may benefit the agency and the resource in key areas.

#### Chapter 15.54 - Recreation

While not addressed fully in this handbook, recreation has the ability to significantly affect rangeland conditions and the ability of permittees to undertake basic stewardship of the land and their livestock. We urge the agency, through coordination of these directives and administration of recreation programs across NFS lands, to ensure that recreation programs are consistent with objectives outlined in grazing programs and that neither land health nor general allotment condition are negatively impacted in a way that would ultimately cause the agency to attribute damage inappropriately to the permittee/lessee.

#### Conclusion

We thank you for the opportunity to engage in ongoing dialogue about the best management of grasslands and forest lands that are integral to the lives and livelihoods of those we represent. We look forward to further refinement and offer our continued support for a cooperative, productive relationship between public lands permittees and the agency, not only represented in the Public Lands Council cooperative monitoring agreement memorandum of understanding, but in the daily interactions between agency personnel and our members.

Sincerely,

Public Lands Council  
American Sheep Industry Association  
National Cattlemen's Beef Association  
Association of National Grasslands  
Arizona Farm and Ranch Group  
California Cattlemen's Association  
Colorado Cattlemen's Association

Colorado Wool Growers  
Idaho Cattle Association  
Idaho Public Lands Council  
Idaho Wool Growers Association  
Montana Association of State Grazing Districts  
Montana Public Lands Council  
Montana Stock Growers Association  
Montana Wool Growers  
Nevada Cattlemen's Association  
Nevada Wool Growers  
New Mexico Cattle Growers Association  
North Dakota Stockmen's Association  
Oregon Cattlemen's Association  
Oregon Public Lands Council  
South Dakota Cattlemen's Association  
Washington Cattlemen's Association  
Washington State Sheep Producers  
West Virginia Shepherd's Foundation  
Wyoming Stock Growers Association  
Wyoming Wool Growers Association