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Comments: [ATTACHMENT COPIED BELOW. NOTE PDF CONVERSION MAY RESULT IN FORMATTING ERRORS. REFERENCES HAVE BEEN EMBEDDED IN BODY OF TEXT.]

November 26, 2021

Grand Mesa, Uncompahgre, Gunnison NF Ms. Samantha Staley

Forest Planner

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Dear GMUG Forest Plan Team:

Please accept this comment letter on behalf of the Wild Sheep Foundation's (WSF) 10,000+ members, including more than 1,100 members from Colorado. Our Colorado Affiliate, the Rocky Mountain Bighorn Society (RMBS), will be submitting their own detailed comment letter on the GMUG Forest Plan revision.

In a variety of capacities and situations, WSF has been involved for nearly 5 decades with bighorn sheep (BHS) conservation and management on USFS-managed lands in Colorado and across the West. WSF was also closely involved in the 3+-year Colorado Bighorn Sheep/Domestic Sheep Interaction Working Group (IWG), trying to provide a west-wide perspective to the Colorado IWG discussions.

WSF recognizes the complexity and suite of issues, resources, and challenges that a forest such as the GMUG must deal with and manage. Our comments focus specifically on bighorn sheep (both Rocky Mountain and desert) that spend all or a significant portion of the year on GMUG/USFS-managed lands.

Our first and most pressing concern deals with the apparent dismissal of many comments, recommendations, and letters submitted to the GMUG by Colorado Parks & Wildlife (CPW). As the statutory authority for managing Colorado's fish and wildlife for the benefit of Colorado's citizens, CPW has clearly, specifically, and in repeated, detailed letters and in the Colorado Statewide BHS Management Plan (George et al. 2009) articulated their concerns about the management, persistence, and long-term viability of both RMBHS and DBHS in Colorado, and specifically on GMUG-managed lands [George, J.L., R. Kahn, M.W. Miller, B. Watkins. 2009. Colorado Bighorn Sheep Management Plan 2009- 2019. Colorado Parks and Wildlife.] Of particular importance is CPW's June 28, 2021 detailed letter concerning designation of BHS as a Species

of Conservation Concern (SCC) by the USFS Region 2 Regional Forester (RF).

Recent Administrations and court rulings have buttressed the view that states are the primary managers of wildlife (other than those identified as Endangered, Threatened, or governed by other migratory/inter-state legislation), while federal land-management agencies (e.g., USFS, BLM) are the primary managers of that wildlife habitat.

Having identified both RMBHS and DBHS as [ldquo]Species of Greatest Conservation Need[rdquo] (SGCN) in their Statewide Action Plan (SWAP), CPW recommendations and requests to have USFS R-2 include RMBHS and DBHS on the RF[rsquo]s SCC list are biologically justified, based on the criteria for SCC designation clearly spelled out in the USFS Handbook (see below).

In addition to CPW[rsquo]s detailed comments, WSF is aware of more than 100 peer-reviewed scientific publications and manuscripts that discuss and analyze the adverse impacts to wild sheep from pathogen

transmission from domestic sheep. These journal publications reinforce the Best Available Scientific Information (BASI), and the pressing need for effective temporal and spatial separation between domestic sheep and wild sheep. George et al. (2008) spoke to this issue in several Colorado BHS populations following contact with a single domestic ewe [George, J.L., D.J. Martin, P.M. Lukacs, M.W. Miller. 2008. Epidemic pasteurellosis in a bighorn sheep population coinciding with the appearance of a domestic sheep. Journal of Wildlife Diseases 44:388-403.] Clearly, GMUG-managed lands provide abundant, high- quality, well-connected habitat. BHS should be able to utilize those connected habitats, but are often unable to, or suffer adverse impacts, when BHS foray movements intersect USFS-authorized domestic sheep grazing allotments.

WSF believes the 2012 Planning Rule requires management to ensure habitat connectivity. In the case of foraging BHS and authorized domestic sheep grazing allotments, habitat connectivity and BHS movements are compromised; the USFS needs to address and alleviate this restriction on BHS connectivity.

WSF believes that the Code of Federal Regulations (CFRs) (the [ldquo]law[rdquo]) supersedes the USFS Manual and Handbook direction. Our read of the Federal Register notices for the 2012 Planning Rule and the Planning Rule Preamble unambiguously states that for a species to be designated as an SCC, there needs to be clear rationale and justification for inclusion on the RF[rsquo]s SCC list. In our opinion (and we[rsquo]d anticipate court rulings to affirm), we believe CPW has provided clear rationale and justification for including BHS on the R-2 RF[rsquo]s SCC list. While critically important, the USFS Handbook is implementation guidance which does not alleviate the requirement to comply with the actual law.

While some BHS populations on GMUG-managed lands have shown some increase over the past couple

decades (largely due to transplants/reintroductions conducted by CPW), the most important question is the long-term population trend and viability of BHS on GMUG-managed lands. Across the West and specifically in Colorado, there have been repeated significant die-offs of BHS following contact with domestic sheep grazing authorized by the USFS (and BLM). It is that continuing management action by the USFS (and BLM) that results in substantial concern over BHS persistence and long-term viability.

Our read of 36 CFR 219.9's definition of species/population viability shows: A population of a species that continues to persist over the long term with sufficient distribution to be resilient and adaptable to stressors and likely future environments.

36 CFR 219.9 (c) defines Species of conservation concern. For purposes of this subpart, a species of conservation concern is a species, other than federally recognized threatened, endangered, proposed, or candidate species, that is known to occur in the plan area and for which the regional forester has determined that the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area.

We cannot understand how or why the R-2 RF and/or the GMUG NF won't recognize and accept CPW's recommendation and rationale for designating BHS as an SCC. In our view, CPW has made a very compelling case for BHS in Colorado, including identifying BHS as a SGCN in their SWAP.

FSH 1909.12\_Chapter 20 clearly directs USFS decision-makers to:

21.22a (1)(d): Leverage expertise of the public and local, State, Tribal, and other Federal natural resource agencies, for identifying species of conservation concern (pg 15 of 134).

FSH 1909.12\_Chapter 10 (Assessment Chapter, Section 12.52d(3) lists 6 reasons/criteria for SCC consideration; one of the 6 reasons has 4 sub-elements. We cannot find the language nor understand the GMUG interpretation that seemingly requires a species to meet ALL criteria to be eligible for designation as an SCC. Our read clearly shows that Planning Rule authors included 6 different criteria for SCC designation, and never stated or required that each SCC species had to meet all 6 criteria.

In our read, BHS do not meet criteria (a), (b) or (e); however, it is our belief that they clearly do qualify under criteria (c), (d) and all 4 components of (f). Best Available Scientific Information indicates there is a problem (criteria f), and CPW/the State of Colorado has recognized that problem by including BHS in their SWAP as a SGCN (criteria c). The adjacent NF (Rio Grande) that has BHS populations that interact with GMUG BHS populations has designated BHS as an SCC, under criteria (d). You cannot arbitrarily take a list that clearly allows for species to be considered under various criteria and then require a species to meet all criteria.

The 2012 Planning Rule also calls for consistency between planning units, especially those that are connected or adjacent. SCC designation and requisite analysis helps ensure that consistency.

In our read, [ldquo]Persistence[rdquo] is the terminology applied to all species addressed under the [ldquo]maintenance of ecological integrity[rdquo] coarse filter. Viability (and the required analysis and accompanying Forest Plan Standards) does not apply to species addressed under that coarse filter; viability analysis only applies to species designated as SCC. It appears to us that the USFS can (and has) arbitrarily ignore species if those species are analyzed solely under the ecological integrity coarse filter.

If BHS are designated as an SCC (because the best available scientific information indicates substantial concern about the species' capability to persist over the long-term in the plan area 36 CFR 219.9 (c)), all individual BHS must then be considered as part of a single population.

Mere persistence of BHS is not satisfactory; BHS may persist for long periods in small, isolated herds that struggle with chronic/acute respiratory pneumonia, depressed lamb survival/recruitment, and other demographic challenges. Viability is paramount for BHS, and steps must be taken to ensure viability, including designation of BHS as an SCC by the RF and the GMUG NF.

We understand [FSH 1909.12 Chapter 20, 23.13c(3)(d)] that SCC designation also requires the USFS to provide for ecological conditions that support species viability even if there are external factors beyond USFS control (e.g., management on adjacent private and/or public lands) that influence viability. We also understand [36 CFR 219.12; FSH 23.13] that if Forest Plan components are not effective, there is a requirement to closely monitor SCC status, and develop/implement Standards and Guidelines to provide those conditions. In our experience, Guidelines are often ignored, so while Standards raise/set a higher bar to achieve and require more effort by the USFS, it is our belief and recommendation that Forest Plan Standards to address effective separation need to be written and implemented for BHS on the GMUG NF.

[36 CFR 219.12]: The status of a select set of the ecological conditions required under [sect]219.9 to contribute to the recovery of federally-listed threatened and endangered species, conserve proposed and candidate species, and maintain a viable population of each species of conservation concern.

[FSH 23.13]: If the responsible official determines that the plan components[hellip]are insufficient to provide such ecological conditions, then additional, species-specific plan components, including standards or guidelines, must be included in the plan to provide such ecological conditions in the plan area.

There should be a GMUG Forest Plan Standard that says that domestic sheep grazing will be excluded in BHS habitats as opportunities to adjust permitted uses arise. If stated in the Forest Plan, then the required NEPA analysis is already completed, and won[rsquo]t have to be done when the opportunity(ies) arise(s).

WSF recognizes and reminds the GMUG NF that final decisions on the R-2 RF SCC list are not made until the RF, the responsible official for SCC designation, signs off and a Record of Decision (ROD) is signed by the Forest Supervisor, the responsible official for other decisions. Until then, the option to designate BHS as an SCC remains open.

WSF respectfully requests and recommends that R-2 Regional Forester Frank Beum asserts his authority and makes this designation. WSF is aware that when current USFS Chief Randy Moore was RF in California R-5, SCC designation for BHS was authorized on the Inyo NF. Region 2 and the GMUG have the opportunity, and in our view, the obligation, to make a similar SCC designation for Rocky Mountain and desert bighorn sheep. We look forward to our continued involvement with the GMUG NF.

Respectfully,

Gray N. Thornton

Kevin Hurley

President & CEO

Vice-President for Conservation

cc: Dr. Peregrine Wolff, WSF Chair

John Hayter, President, Rocky Mountain Bighorn Society

Terry Meyers, Executive Director, Rocky Mountain Bighorn Society