Data Submitted (UTC 11): 9/2/2025 6:00:00 AM
First name: Jonathan
Last name: Ratner
Organization: Sage Steppe Wild
Title: Director
Comments: Re: Objection of the High Uintas Wilderness Domestic Sheep ROD issued by the Ashley and Uinta-Wastach-Cache National Forests
by Forest Supervisors Kelsha Anderson and Kristy Groves

Dear Objection Reviewing Officer,

Jonathan Ratner of Sage Steppe Wild is the lead objector. The other objectors are 1) Dr. John Carter of Yellowstone to Uintas Connection 2) Dagny Signorelli of Western Watersheds Project 3) Chris Krupp of Wild Earth Guardians 4) Kirk Robinson of Wester Wildlife Conservancy 5) George Nickas of Wilderness Watch.

Unless otherwise noted, the issues raised in this objection follow the exact order they were raised in our SFEIS comments.

The National Forest Management Act and its Implementing Regulations

16 USC 1604(i) requires:

1. Consistency of resource plans, permits, contracts, and other instruments with land management plans; revision

Resource plans and permits, contracts, and other instruments for the use and occupancy of National Forest System lands shall be consistent with the land management plans. (emphasis added)

Flowing from statute are the regulations implementing statute. 36 CFR 219.15(b) requires:

(b) Application to projects or activities authorized after plan decision. Projects and activities authorized after approval of a plan, plan amendment, or plan revision must be consistent with the plan as provided in paragraph (d) of this section.

(d) Determining consistency. Every project and activity must be consistent with the applicable plan components. A project or activity approval document must describehow the project or activity is consistent with applicable plan components developed or revised in conformance with this part by meeting the following criteria:

1. Goals, desired conditions, and objectives. The project or activity contributes to the maintenance or attainment of one or more goals, desired conditions, or objectives, or does not foreclose the opportunity to maintain or achieve any goals, desired conditions, or objectives, over the long term.

1.
1. Standards. The project or activity complies with applicable standards.
2. Guidelines. The project or activity:

1. Complies with applicable guidelines as set out in the plan; or

2. Is designed in a way that is as effective in achieving the purpose of the applicable guidelines ([sect] 219.7(e)(1)(iv)). (emphasis added)

36 CFR 219.7 describes the purpose and parts of a Forest Plan and their interrelationships:

1. Management areas or geographic areas. Every plan must have management areas or geographic areas or both. The plan may identify designated or recommended designated areas as management areas or geographic areas.
2. Plan components. Plan components guide future project and activity decision making.

The plan must indicate whether specific plan components apply to the entire plan area, to specific management areas or geographic areas, or to other areas as identified in the plan.

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1. Required plan components. Every plan must include the following plan components:

1. Desired conditions. A desired condition is a description of specific social, economic, and/or ecological characteristics of the plan area, or a portion of the plan area, toward which management of the land and resources should be directed. Desired conditions must be described in terms that are specific enough to allow progress toward their achievement to be determined, but do not include completion dates.
2. Objectives. An objective is a concise, measurable, and time- specific statement of a desired rate of progress toward a desired condition or conditions. Objectives should be based on reasonably foreseeable budgets.

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1. Standards. A standard is a mandatory constraint on project and activity decision making, established to help achieve or maintain the desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.
2. Guidelines. A guideline is a constraint on project and activity decision making that allows for departure from its terms, so long as the purpose of the guideline is met. ([sect] 219.15(d)(3)). Guidelines are established to help achieve or maintain a desired condition or conditions, to avoid or mitigate undesirable effects, or to meet applicable legal requirements.

Compliance with Plan components is mandatory and these Plan components are both Forest-wide as well as Management Area specific, in order to achieve the emphasis of the Management Area.

1. Objection [ndash] The ROD does not provide complete rationale regarding Forest Plan consistency, as required above. In further sections, we will delve into the lack of consistency further. Remedy: Fully comply with the applicable Forest Plans. FSH 2209.21-93-1 R-4 Amendment reiterates these requirements at 14.22

Consistency of the AMP with the Forest Plan is determined by comparing direction in the AMP with Forest Plan direction stated in terms of forest-wide and management area standards and guidelines. The AMP and grazing permit must be consistent with the Forest Plan.

1. Objection [ndash] The SFEIS and ROD fail to provide the AMP[rsquo]s so there is no way consistency could

be determined. Remedy: Provide the AMP[rsquo]s along with the Forest Service[rsquo]s rationale documenting consistency so that can be reviewed.

This process failed to put in place management needed to recover the FS Sensitive Species, including bighorn sheep. We provided a range of Forest Service handbooks and manuals and other direction documents, highlighted in the applicable sections, to help insure compliance, in our previous comments, but it appears that the Forest Service ignored them. For example, In FSH 2209.13 please specifically note 92.11.

The so-called [lsquo]desired conditions[rsquo] in the FEIS continue to propagate degraded conditions by setting these at a very low bar, below the level needed to proper physical and biological function.

I provide as attachments from a project on the Bridger-Teton National Forest where the range con is attempting the same normalizing degraded conditions.

1. SummaryOfGroundCoverIssues 2-26-19.pdf
2. SummaryOfPlantSppCompIssue.pdf

The range cons created [lsquo]desired conditions[rsquo] based on livestock production values not from ecosystem and Wilderness values.

The FEIS states:

Desired conditions for range vegetation for the WCNF include the following:

* Greenline Ecological Status: (G7) Manage Class 1 Riparian Area Greenlines for 70% or more late-seral vegetation communities as described in Intermountain Region Integrated Riparian Evaluation Guide (USDA Forest Service, 1992). Manage Class 2 Riparian Area Greenlines for 60% or more late-seral vegetation communities. Manage Class 3 Riparian Area Greenlines for 40% or more late-seral vegetation communities.
* Ground Cover: (S7) Allow management activities to result in no less than 85% of potential ground cover for each vegetation cover type.
* Desired Plant Communities (Cameron and Huber, 2018) Plant communities are dominated by native species of moderate to high value for watershed protection (or erosion control). Dominance is defined as 60% or more of composition as determined by ocular cover, weight, or other methods that define composition. This includes both woody and herbaceous species. Documentation associated with photography and other notes as well as measurements from studies are sources for determination of dominance. Values of plants for watershed protection are listed in the Region Four Range Analysis Handbook (December 9, 2005) and in a supplemental document by the Ashley National Forest (Goodrich, 2015-03-12).

Desired conditions for range vegetation on the Ashley are described below.

* The Forest will maintain a quality range program, managed to optimize the production and use of forage on all suitable range to the extent it is cost effective and in harmony with other resource uses (ANF- Forest Plan, IV-3).
* Livestock grazing is recognized as an appropriate use of wilderness. Results of livestock grazing are consistent with desired condition of water, soils, wildlife, and vegetation (ANF [ndash] Forest Plan, Amendment 12, p. 3).

So as long at the action meets these low bars, that look at the ecosystem as essentially a private feedlot, then everything is OK. Most of the project area is designated Wilderness, which does not have a livestock production emphasis despite the range cons efforts to make it that way. Clearly these [lsquo]desired conditions[rsquo] do not implement the wide range of Wilderness management requirements discussed here.

Merely reciting sections of Forest Plan does not mean the FEIS complies with them. Clearly, as an example,

authorizing domestic sheep, in Wilderness, on top of bighorn sheep could not be considered in any rational sense [ldquo]in harmony with other resources uses[rdquo]. The FS just ignores anything that is inconvenient to its rush to satisfy the two permittees.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements defining [ldquo]desired conditions[rdquo] in FSM and FSH. Remedy: Fully comply with the applicable requirements.

In FSM 2320 specifically note Section .2 which requires:

1. Maintain wilderness in such a manner that ecosystems are unaffected by humanmanipulation and influences so that plants and animals develop and respond tonatural forces. (emphasis added)
2. Minimize the impact of those kinds of uses and activities generally prohibited by the Wilderness Act, but specifically excepted by the Act or subsequent legislation.

2320.3

The FEIS fails to complies with these requirements.

1. Where there are alternatives among management decisions, wilderness values shall dominate over all other considerations except where limited by the Wilderness Act, subsequent legislation, or regulations.
2. Manage the use of other resources in wilderness in a manner compatible with wilderness resource management objectives.
3. In wildernesses where the establishing legislation permits resource uses and activities that are nonconforming exceptions to the definition of wilderness as described in the Wilderness Act, manage these nonconforming uses and activities in such a manner as to minimize their effect on the wilderness resource.
4. Cease uses and activities and remove existing structures not essential to the administration, protection, or management of wilderness for wilderness purposes or not provided for in the establishing legislation.

2323.21

The FEIS fails to complies with these requirements.

Manage wilderness range in a manner that utilizes the forage resource in accordance with established wilderness objectives (36 CFR 293.7)

The FEIS fails to complies with these requirements. 2323.31 is particularly applicable here:

1. Provide an environment where the forces of natural selection and survival rather than human actions determine which and what numbers of wildlife species will exist.

1. Consistent with objective 1, protect wildlife and fish indigenous to thearea from human caused conditions that could lead to Federal listing as threatenedor endangered.

1. Provide protection for known populations and aid recovery in areas of previous habitation, of federally listed threatened or endangered species and their habitats.

2323.32

The FEIS fails to complies with these requirements. The most gross example of these violations is in relationship to bighorn sheep.

1. Apply the "Policies and Guidelines for Fish and Wildlife Management in Wilderness and Primitive Areas," developed jointly by the Forest Service, Bureau of Land Management, and the International Association of Fish and Wildlife Agencies in a practical, reasonable, and uniform manner in all National Forest wilderness units. Use the guidelines as a foundation for or as addendums to State or individual wilderness cooperative agreements.

2323.33C

The FEIS fails to complies with these requirements.

Predacious mammals and birds play a critical role in maintaining the integrity of natural ecosystems. Consider the benefits of a predator species in the ecosystem before approving control actions. The Regional Forester may approve predator control programs on a case-by-case basis where control is necessary to protect federally listed threatened or endangered species, to protect public health and safety, or to prevent serious losses of domestic livestock. Focus control methods on offending individuals and under conditions that ensure minimum disturbance to the wilderness resource and visitors. Poison baits or cyanide guns are not acceptable.

Poison bait collars may be approved.

The U.S. Fish and Wildlife Service or approved State agencies shall carry out control programs. The Forest Service is responsible for determining the need for control, the methods to be used, and approving all proposed predator damage control programs in wilderness (FSM 2650).

Only approve control projects when strong evidence exists that removing the offending individual(s) will not diminish the wilderness values of the area.

The FEIS fails to complies with these requirements.

The FEIS throws out the red herring excuse [ldquo]The analysis will not address the general appropriateness of livestock grazing in designated wilderness because that has been determined by Congress.[rdquo] The fact that livestock grazing was grandfathered in Wilderness does not absolve the FS of implementing its Wilderness management requirements.

Throughout the FEIS we fail to see documented impacts by authorized sheep grazing assessed against the much higher requirements for resource protection in designated Wilderness areas.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements regarding Wilderness management. Remedy: Fully comply with the applicable requirements.

Departmental Regulations 9500-4 require:

1. Manage "habitats for all existing native and desired nonnative plants, fish, and wildlife species in order to maintain at least viable populations of such species."
2. Conduct activities and programs "to assist in the identification and recovery of threatened and endangered plant and animal species."
3. Avoid actions "which may cause a species to become threatened or endangered." The FEIS fails to comply

with these requirements.

5. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Departmental Regulations. Remedy: Fully comply with the applicable requirements.

FSM 2670.22 requires:

1. Develop and implement management practices to ensure that species do not become threatened or endangered because of Forest Service actions.
2. Maintain viable populations of all native and desired nonnative wildlife, fish, and plant species in habitats distributed throughout their geographic range on National Forest System lands.
3. Develop and implement management objectives for populations and/or habitat of sensitive species.

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

2670.32 requires:

1. Review programs and activities as part of the National Environmental Policy Act of 1969 process through a biological evaluation, to determine their potential effect on sensitive species.
2. Avoid or minimize impacts to species whose viability has been identified as a concern.
3. Analyze, if impacts cannot be avoided, the significance of potential adverse effects on the population or its habitat within the area of concern and on the species as a whole. (The line officer, with project approval authority, makes the decision to allow or disallow impact, but the decision must not result in loss of species viability or create significant trends toward federal listing.)

The FEIS fails to complies with these requirements. For instance, the FEIS admits that the bighorn sheep population is not viable and the only thing that allows bighorn sheep to survive at any level is continual dumping of animals to replace those killed off by FS authorizations.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

2670.44 requires:

1. Develop Forest Service recovery strategies to implement approved Recovery Plans. Apportion recovery objectives among forests. In cooperation with the FWS and States, establish recovery objectives in the absence of, or interim to, approved Recovery Plans; integrate these objectives with regional and forest plans.
2. Identify and approve management strategies to achieve conservation.

Again, the FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy:

Fully comply with the applicable requirements.

2670.45 requires:

2. Develop quantifiable recovery objectives and develop strategies to effect recovery of threatened and endangered species. Develop quantifiable objectives for managing populations and/or habitat for sensitive species.

4. Determine distribution, status, and trend of threatened, endangered, proposed, and sensitive species and their habitats on forest lands.

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

Manual 2209.13 requires the development of DFC[rsquo]s that are quantifiable and contain timeframes.

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

The Ashley National Forest Plan requires in its Standards:

Inventory areas having a high potentia1 for cultural sites by 1990.

Inventory areas having moderate and low potential for cultural sites by 1995.

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Ashley Forest Plan. Remedy: Fully comply with the applicable requirements, in relation to the project area.

The Plan requires the Forest Service to manage the Wilderness [ldquo]within levels of acceptable change[rdquo]

Identify area Issues and concerns. Define and describe opportunity classes.

Select indicators of resource and social conditions. Inventory selected existing resource and social conditions.

Specify standards for resource and social Indicators for each opportunity class. Reestablish native species classified as sensitive. threatened or endangered.

(NOTE: this would include areas where bighorn sheep have been extirpated because of the Forest Service[rsquo]s misguided prioritization of welfare ranchers over their NFMA species duties)

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

By 1988 place all allotments under management designed to protect the wildernessresources.

Manage livestock use within present capacity of allotment. Maintain natural vegetative composition and diversity.

Complete aquatic inventories using General Aquatic Wildlife Survey (GAWS) andR-l stream channel stability ratings on stream orders 3. 4. and 5. Completeinventory of all streams.

Resource management activities will be allowed if they will not adversely affectany T and E or sensitive species.

NOTE: There is no rational or honest way the Forest Service could come to the conclusion that continued domestic sheep within bighorn sheep habitat would not adversely affect bighorn sheep which, of course, are a sensitive species.

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Forest Plan. Remedy: Fully comply with the applicable requirements.

Complete Inventory of sensitive plant and animal species on the Forest to determine their occurrence, abundance, distribution, habitat requirements and population.

The FEIS fails to complies with these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Forest Plan. Remedy: Fully comply with the applicable requirements.

The High Uintas Wilderness Amendment requires:

The ability of soils to support naturally occurring vegetation communities is not significantly impaired by human activities.

Data needs to be collected and provided showing the currently permitted domestic sheep are not impairing vegetation communities.

Natural processes and the forces of natural selection determine the diversity ofwildlife and fish habitat and species.

Current domestic sheep grazing permitted by the Forest Service is violating this requirement. Currently, bighorn sheep populations and occupied habitat are controlled, not be natural processes and natural selection, but upon domestic sheep use which renders bighorn sheep habitat toxic. The Forest Service can not comply with the amendment direction above and continue permitting domestic sheep.

The FEIS fails to complies with these requirements.

The High Uintas Wilderness acts as a component to maintain indigenous species presently existing in the area.

Again, indigenous species (bighorn sheep) can not be maintained in the presence of domestic sheep and so this direction can not be complied with if the Forest Service chooses to place the interests of a few permittees above its NFMA duties to protect and recover Sensitive Species, particularly in this Wilderness Area.

The FEIS fails to complies with these requirements.

In order to define standards for some wildlife and fisheries desired conditions, baseline data such as for Neotropical bird populations, rate of stream bank erosion, and acres of habitat available to potential TES resident species needs to be collected.

It appears that this requirement has not been implemented. The FEIS fails to complies with these requirements.

Results of livestock grazing are consistent with desired condition of water, soils, wildlife, and vegetation

Again, livestock grazing is not consistent with desired conditions for wildlife or other values.

Human induced change is temporary, minor, and less than in Class II and III. Soil compaction and minor vegetation loss associated with human related activities is temporary, discontinuous, and limited in extent to the area of activity. Human induced changes to soils, water and air quality, wildlife habitats, natural fire regimes, and vegetation do not disrupt the continuity of natural processes within thewatershed.

The human induced changes caused by the Forest Service[rsquo]s permitting of domestic sheep are neither temporary, under any reasonable interpretation of the word or minor as you are rendering over a hundred thousand acres of Wilderness, toxic to a native species on the Sensitive Species List. Clearly, the continued permitting of domestic sheep can not rationally be seen by the Forest Service as not disrupting the continuity of natural processes.

The FEIS fails to complies with these requirements.

We recognize there are areas of unsatisfactory range conditions in the wilderness. They are localized and not widespread. Groundcover requirements provided in standard MA01015 will begin to address these conditions. On the Wasatch Cache portion of the wilderness, utilization standards from the 1996 Rangeland Health Forest Plan amendment will also be applied. Even so, we know these problems will not be corrected overnight. Improvements in alpine settings or sites with harsh climatic conditions take time to heal.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Forest Plan Amendment. Remedy: Fully comply with the applicable requirements.

In the Wasatch Cache Forest Plan, we find the following requirements: Management actions move habitat conditions toward Historic Range of Variability (HRV), contribute to recovery of listed species, and maintain or improve conditions for sensitive species. Human activities are at a level that allows species to maintain desired distribution during critical life stages. Habitat conditions support populations of species for recreational, traditional and cultural significance.

Continued permitting of domestic sheep within bighorn sheep habitat would disallow this from being achieved. The FEIS fails to complies with these requirements.

Regarding Wilderness, the Forest Plan requires that:

Wilderness is managed and protected, for the plants and animals that live there and their habitat, the preservation of large, intact ecosystems, clean air and water, and primitive recreation opportunities. Natural ecologicalprocesses are dominant. Ecosystems are influenced by natural process with little or no intervention.

Native fish and wildlife species are featured and the habitat needs ofspecies-at-risk receive protective measures where needed.

Again, continued permitting of domestic sheep within bighorn sheep habitat would disallow this from being achieved. The FEIS fails to complies with these requirements.

3b. Maintain pollinators and minimize impacts to pollinators or their habitats.

3g. Maintain and/or restore tall forb communities to mid seral or potential natural community (PNC) status.

3j. Manage Forest Service sensitive species to prevent them frombeing classified as threatened or endangered and where possibleprovide for delisting as sensitive (FSM 2670).

5.a. Fully implement the Rangeland Health Amendment Forestwide by finalizing riparian classification and notifying permit holders

of utilization standards based on this classification within 1 year,

5.b. Validating key areas and focusing monitoring of utilization standards in Allotments containing riparian dependent TES within 3 years,

5.c. Developing ground cover potentials for missing vegetation cover types within 2 years,

5.d. Assess/validate existing conditions and continue establishing long-term trend monitoring for 10% of Allotments annually.

5.e. Establish clear expectations with all permit holders to achieve stated purposes within 1 year.

5.f. Assess and prioritize noxious weed infestations for appropriate treatment within 1 year.

(G24) Management activities that negatively affect pollinators (e.g. insecticide, herbicide application and prescribed burns) should not be conducted

during the flowering period of any known Threatened, Endangered, and Sensitive plant populations in the application area. An exception to this guideline is the application of Bacillus thuringiensis.

This, of course, would apply to livestock removing flower sources. The FEIS fails to complies with these requirements.

(G75) Annual operating instructions (and/or Allotment Management Plans) should be evaluated and additional site-specific objectives defined if needed for any or all of the following five parameters:

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*
* stubble height on selected key species on the greenline,
* stubble height on selected key species and/or the amount of bare
* ground within the riparian zone but away from the greenline,

*
*
* riparian woody browse utilization (trees and shrubs),
* stream bank trampling on key reaches, and
* stubble height and/or incidence of use on key species in the uplands.

The Bighorn Sheep Conservation Assessment states that management needs to focus on:

* eliminating the potential for contact between bighorn sheep and domestic sheep and goats
* managing bighorns and their habitat in a metapopulation context by maintaining connectivity among subpopulations
* minimizing human disturbance in sensitive habitats (i.e., lambing and winter ranges)

As is well known, it only takes contact between one bighorn and one domestic sheep to cause a disease outbreak and corresponding crash of the population. The NEPA document must discuss the use of habitat outside the bighorn range polygons or the fact that [ldquo]Extensive movement patterns by male bighorn sheep during the rutting season may increase their risk of coming into contact with domestic sheep and contribute to the perpetuation of disease in this species and significantly influence the probability of long- term persistence in isolated sheep populations (Gross et al. 2000).[rdquo] Rocky Mountain Bighorn Sheep [ndash] A Technical Conservation Assessment..

The Conservation Assessment continues [ldquo]Because disease may represent the most significant threat to bighorn sheep in Region 2, especially on national forests with domestic sheep grazing allotments in or near bighorn sheep habitat, the creation of

effective separation between bighorns and domestic sheep and goats is likely critical for preventing disease epizootics in areas where there is potential for contact. BLM Guidelines (Bureau of Land Management 1992) suggest maintaining a minimum buffer of 13.5 km (9 miles) between domestic sheep and goats and wild sheep on BLM lands to minimize the risk of contact between the two groups.[rdquo] and [ldquo]One of the more important activities that directly affect bighorns is domestic livestock grazing in bighorn sheep habitat. Bighorns are negatively impacted by disease transmission from domestic livestock, especially domestic sheep and goats. Areas that have been grazed by domestic sheep may not be suitable areas for wild sheep for up to four years after grazing has been discontinued (Jessup 1985).

Bunch et al. (1999) suggested that domestic and wild sheep should never be allowed to occupy the same areas because of the potential for disease transmission and the risk of a major die-off.[rdquo]

RMRS-GTR-209 states [ldquo]The disease related conflict between domestic sheep and bighorn sheep was tested in the United States District Court (Oregon) in 1995. The following summarizes United States Magistrate Judge Donald C. Ashmanskas[rsquo] findings: [ldquo]Scientific research supports a finding that when bighorn sheep intermingle with domestic sheep, large numbers of bighorn sheep die. While the exact reason for this result may be in question, it is clear that the die-offs occur. An incompatibility exists between the two species, and there is no way to avoid the incompatibility other than to keep the

domestics and the bighorns separate[rdquo] (Ashmanskas 1995).[rdquo] Since that time there have been a number of other similar rulings where the Forest Service failed to implement appropriate measures to provide separation.[rdquo] This same Forest Service publication continues [ldquo]The scientific literature and expert panels support the conclusion that bighorn and domestic sheep/goats should not occupy the same ranges simultaneously or be managed in close proximity to each other if maintenance of a bighorn sheep population is a management

objective. The literature is clear regarding the high probability of bighorn sheep dying of pneumonia following contact with domestic sheep.[rdquo] It concludes by stating [ldquo]In landscapes where management objectives include the maintenance or enhancement of bighorn sheep populations, the risk of potential of disease transmission between domestic sheep/goats and bighorn sheep must be addressed. The available information supports creating spatial and/or temporal separation between domestic sheep/goats and bighorn sheep as a prudent management technique to manage the risk of disease transmission. (Callan and others 1991; Coggins 1988, 2002; Coggins and Matthews 1992; Desert Bighorn Council 1990; Festa-

Bianchet 1988; Foreyt 1989, 1990, 1992a, 1992b, 1994, 1995; Foreyt and Jessup 1982; Foreyt and others 1994; Garde and others 2005; Goodson 1982; Hunt 1980; Hunter 1995a; Hunter and others in prep; Jessup 1980, 1982, 1985; Kistner 1982; Martin and others 1996; Onderka 1986; Onderka and Wishart 1988; Pybus and others 1994; Ward and others 1997; Wishart 1983). Recent disease incidents involving domestic goats have resulted in the same conclusion (Garde and others 2005; Heffelfinger 2004; Jansen and others 2006).

For a review of the disease transmission issue, we request you review pages 3-10 to 3-14 of the Payette National

Forest FEIS available at:
http://www.fs.fed.us/r4/payette/publications/big_horn/FEIS_Chapter_3_Pages_1_through_33.pdf

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Forest Plan. Remedy: Fully comply with the applicable requirements.

The Forest Service failed to analyze, in a site-specific way, the capability of these lands on all these allotments to provide forage for livestock. There is no information in the FEIS regarding forage production within capable acres, as defined in the R4 Protocol.

At its most basic, this decision is about allocating a certain amount of forage, over a certain amount of acres to a certain amount of livestock. Yet the FEIS is silent on this most basic issue. It is arbitrary and capricious to authorize the removal of X number of AUM[rsquo]s when you have no idea how many AUM[rsquo]s of forage are produced within the capable acres. This violates NEPA[rsquo]s [ldquo]hard look[rdquo] requirement.

Capability involves only the four major issues of slope, distance to water, highly erodible soils and availability of palatable forage, and the Forest needs to assess at a site specific level whether the more general Forest Plan process is accurate considering the specific slopes, forage availability, and distances to water sources on the allotment. This analysis must also ground-truth the Forest Plan assessment of capability especially in regard to erodibility of soils.

The Forest Service must also complete a suitability analysis for the allotments. This process needs to include analysis of a variety of impacts and conflicts that will occur at differing levels of livestock grazing which need to be considered in the alternatives of the EIS. Analysis of suitability necessarily will vary by alternative in the EA/EIS as differing assumptions need to be used with regard to defining protocols for suitability of [ldquo]capable[rdquo] lands for livestock grazing according to the level of livestock grazing impacts and conflicts which are deemed to be unsuitable when they conflict with other values such as wilderness, wildlife habitat, wildlife displacement, and negative impacts on recreation, Wilderness values, special status plants and animals including but not limited to Management Indicator Species (MIS) and species listed under the Endangered Species Act (ESA).

For example, even if lands are determined to be capable of supporting livestock grazing, they may be unsuitable for that use if the soils are at risk of compaction, if water quality will be unacceptably degraded, if recreational activities will be compromised unacceptably, if wildlife habitat will be damaged or degraded, if native plant ecosystems and rare or sensitive plant species cannot sustain levels of livestock use and flourish, if predators will be routinely killed to protect sheep and cattle, if hikers and other users of these lands will be threatened and perhaps attacked by sheep guard dogs, if bighorn sheep are prevented from reestablishing within these allotments because of the risk of disease transmission from domestic sheep and if livestock serve as unacceptable vectors of weed seed dispersal.

These conflicts and others need to be analyzed within a range of levels of livestock grazing as well as in a no-

grazing alternative as part of the NEPA analysis.

The suitability analysis also needs to reveal the impacts of sheep grazing and trailing on lands deemed non-capable but still proposed for crossing or trailing of livestock. This is especially important for cumulative effects analysis of sheep trailing and trampling on the batholithic soils found on these allotments.

One aspect of the suitability analysis needs to address the likelihood of negative impacts of domestic sheep on bighorn sheep dispersing to or through the allotments, This part of the suitability analysis needs to be informed by the Payette National Forest process in regard to domestic sheep and bighorn conflicts and risks of disease transmission.

The R4 Capability Suitability Protocol states for suitability:

Criteria for Rangeland Suitability: Once capability is determined, an assessment of suitability, by alternative, is conducted to address whether livestock grazing is compatible with management direction for a management area's other uses and values, and which, if any, other uses would be foregone with livestock grazing.

Forest planning records should contain a description of the criteria used in the analysis to identify suitable rangelands. Advice for suitability criteria are listed below. Additional criteria may be developed if local conditions warrant. Situations listed below may or may not be suitable for livestock grazing depending on an overall evaluation of potential effects and opportunities to mitigate adverse effects:

* Developed recreation sites or special use sites.
* Special area designations such as Research Natural Areas.
* Administrative sites and research facilities or study sites.
* Key wildlife habitat areas (such as winter ranges).
* Important habitats for TES species (viability considerations).
* Noxious weed infestations where forage is not used by livestock or use would contribute to increase of the infestation.
* Unique habitats such as bogs, fens, jurisdictional wetlands, or rare plant communities.
* Areas where livestock grazing is impracticable due to economic considerations, either from a permittee or agency standpoint.
* Transitory range created by timber harvest activities where the associated mitigation costs to protect timber resource values is excessive.
* Areas where the social consequences and values foregone are not acceptable. (emphasis added)

This is a short list of potential issues of suitability which apply generally to the allotments; however, it is not inclusive, and it is the duty of the Forest Service to fully assess criteria for suitability by developing a protocol for determining whether the impacts from livestock grazing at any level is incompatible and therefore unsuitable for lands which otherwise may be designated capable of supporting livestock grazing.

The FEIS fails to provide any information as to:

1. how many capable acres are contained within the project area
2. how many suitable acres are contained within the project area
3. how many AUM[rsquo]s are produced within the suitable acres
4. how many AUM[rsquo]s are being authorized

These form the foundation for a rationale decision making process and all of these elements are missing in the FEIS.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated above. Remedy: Fully comply with the applicable requirements.

The purpose and need section violates NEPA.

The courts have held that in defining a very narrow purpose and need, the agencies run afoul of NEPA:

The [ldquo]purpose[rdquo] of a project is a slippery concept, susceptible of no hard-and-fast definition. One obvious way for an agency to slip past the strictures of NEPA is to contrive a purpose so slender as to define competing [ldquo]reasonable alternatives[rdquo] out of consideration (and even out of existence). The federal courts cannot condone an agency[rsquo]s frustration of Congressional will. If the agency constricts the definition of the project[rsquo]s purpose and thereby excludes what truly are reasonable alternatives, the EIS cannot fulfill its role. Nor can the agency satisfy the Act. 42 U.S.C. [sect]4332(2)(E).

Simmons v. U.S. Army Corps of Engineers, 120 F.3d 664, 666 (10th Cir. 1997).

The courts have recognized that agencies bring a degree of expertise to determining the scope of a particular project, but this deference is not unlimited:

Deference, however, does not mean dormancy, and the rule of reason does not give agencies license to fulfill their own prophecies, whatever the parochial impulses that drive them. Environmental impact statements take time and cost money. Yet an agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative from among the environmentally benign ones in the agency[rsquo]s power would accomplish the goals of the agency[rsquo]s action, and the EIS would become a foreordained formality.

Citizens Against Burlington, Inc. v. Busey, 938 F.2d 190, 196 (D.C. Cir. 1991). [ldquo]The stated goal of a project necessarily dictates the range of [lsquo]reasonable[rsquo]

alternatives and an agency cannot define its objectives in unreasonably narrow terms.[rdquo] Id. at 1155 (citing Citizens Against Burlington, Inc. v. Busey, 938 F.2d 190, 192 (D.C. Cir. 1991)). [ldquo]Project alternatives derive from an [EIS[rsquo]s] [lsquo]Purpose and Need[rsquo] section.[rdquo] Id. Thus, a court begins by determining whether or not the Purpose

and Need Statement was reasonable. Id.; see also Friends of Southeast[rsquo]s Future v. Morrison, 153 F.3d 1059, 1066-67 (9th Cir. 1998).

Westlands Water Dist. v. Interior, (9th Circuit July 2004). http://www.ca9.uscourts.gov/ca9/newopinions.nsf/02D5B997B004D17388256ECF00825DA9/$file/0315194.pdf?openelement

The purpose and need provided is in response to the Forest Service violating NEPA earlier. The entire section contains only authorities that allow the FS to authorize the action, but completely ignores the wide range of law, regulation and policy that requires authorized actions to meet other resource protection requires prior to any authorization. The most obvious example is Sensitive Species management.

The FEIS states [ldquo]This FEIS considers whether actions described under its alternatives would result in a violation of any Federal, State, or local laws or requirements (40 CFR

[sect]1508.27)[rdquo]

The actual statute reads :

(10) Whether the action threatens a violation of Federal, State, or local law or requirements imposed for the protection of the environment.

But we have brought various federal laws and requirements imposed for the protection of the environment to the attention of the FS over the last decade that are violated by this proposed action, only to be ignored in the FS[rsquo]s haste to satisfy these two permittees. As such, the FS[rsquo]s [lsquo]consideration[rsquo] is flawed and unsupportable.

Again, the FEIS asserts [ldquo]This project would be consistent with the Ashley and Wasatch- Cache Forest Plans.[rdquo] Yet we have discussed a wide range of Forest Plan requirements completely ignored by the FEIS.

As discussed earlier, there are also a wide range of requirements the FS must comply with beyond the Forest Plan. These requirements have also been ignored. As such, the FS[rsquo]s bald assertion is false.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements of NEPA. Remedy: Fully comply with the applicable requirements.

The FEIS analyses for most species fail to contain any actual population data, trends or habitat condition data. It is entirely opaque on what rational basis species determinations were made.

A perfect example of the FS[rsquo]s fabricated assertions can be seen in CRCT. The FEIS admits in passing that populations are in decline, yet despite that they will [lsquo]persist[rsquo] and that the impacts of increased sedimentation, red trampling, etc. will not increase this already clear trend towards federal listing. That fabrication violates NEPA[rsquo]s [ldquo]hard look[rdquo] requirement as well as NFMA[rsquo]s viability mandate.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements of NEPA. Remedy: Fully comply with the applicable requirements.

From FSH 2209.21 Zero Code, the Forest Service defines [ldquo]Desired Condition[rdquo] as:

Desired Condition - Rangelands. The specific condition of rangeland resources that meets management objectives as identified in the Forest Plan and Rangeland Project Decision. Desired condition of rangelands may be expressed in terms of: species composition, diversity of habitats, or age classes of species; desired soil protection. In riparian areas it includes conditions of streambank and channel stability, stream habitat, streamside vegetation, stream sedimentation, and water quality.

We provide this FSH as well. The desired conditions must implement the [ldquo]management objectives as identified in the Forest Plan[rdquo]. This would, of course, include MA direction. The EIS fails to do that.

Your desired conditions in the EIS do not comply with FSH 2209.13 [ndash] 92.11 (provided as an attachment)

92.11 - Identification of Desired Conditions

A team, using an interdisciplinary approach, identifies the desired conditions for rangelands and other related resources within the analysis area. Desired conditionsshould be specific, quantifiable, and focused. Desired condition statements have two distinct scales.

1. At the landscape scale, desired conditions are generally taken directly from the LRMP.
2. At the broad scale, desired conditions are then further described on a site- specific scale for reference areas.

Monitoring can then tie to these reference areas as a means of determining progress toward meeting the desired conditions. (emphasis added)

R-4 AMENDMENT 2209.21-93-1 defines desired conditions as:

Desired Future Condition - Rangelands. The specific future condition on rangeland resources that meets management objectives as identified in the Forest Plan andAllotment Management Plan. Desired future condition of rangelands can be expressed in terms of ecological status of the vegetation; it could include species composition, diversity of habitats, or age classes of species; desired soil protection, including conditions of soil cover, erosion, compaction, and loss of soil productivity; in riparian areas, it includes conditions of streambank and channel stability, stream habitat, streamside vegetation, stream sedimentation, and water quality. (emphasis added)

Desired conditions are based on Forest Plan direction, including MA direction.

Desired Future Condition (DFC) Ratings. Multiple-use management decisions should answer how to deal with coordination between resource uses of rangelands. Basic guidance comes from the Forest Plan emphasis, objectives, and standards and guides. Use of the rangeland resource, within that guidance, can be partially founded on ecological status data and where the resource is in relationship to the DFC. (emphasis added)

So the desired conditions in different Management Areas will vary. The EIS completely ignores this directive.

We refer you to the entire section 93.3g since the IDT failed to consult this primary resource for range planning FSH 2209.13.

FSH 2209.21, at 32.1 speaks directly to the requirements related to Proper Use Criteria:

Establish proper-use criteria in writing for each rangeland management unit. See exhibit 01 for a sample of proper-use criteria. It could be (1) stubble height (residual left) on selected key species on the greenline, (2) stubble height on selected key species and/or the amount of bare ground within the riparian zone but away from the greenline, (3) riparian woody browse utilization, (4) stubble height and/or incidence or use on key woody species on uplands, or (5) any other measurable factor on a particular site. Proper-use criteria should be easily observable and measurable. It should also take into account timing, duration, plant phenology, rest, frequency, and intensity of use.

Proper-use criteria are part of each rangeland project decision. Long-term trend studies are supplemental information to determine if the proper-use criteria are correct in meeting desired conditions.

The limiting factor, as to the degree of grazing allowed, may be the degree of use of key species in riparian habitats, degree of use allowed on critical wildlife habitats, such as big game winter ranges, calving areas, nesting, and brooding areas, esthetics, and so forth. Appropriate disciplines should be used to help identifylimiting factors and help design and monitor the studies necessary to determinewhen proper use has been reached.

Develop proper-use criteria from interdisciplinary input; for example: fishery surveys, stream surveys, vegetative trend analysis, research findings, coordination requirements, observations, and good judgment. It is necessary that they be basedon the factor that becomes critical first; the limiting factor. Where similar soils,ecological types, and coordination requirements extend over an entire rangelandmanagement unit, a given set of proper-use criteria may be applicable to an entiremanagement unit. On the other hand, where a mosaic of streams, soils, vegetationtypes and coordination requirements exist, it is necessary to develop separate

criteria for each important situation. On some rangeland management units, it may be necessary to establish more than one set of proper-use criteria. (emphasis added. Note [ldquo]coordination requirements[rdquo] are requirements like MA emphasis.)

While not provided here, please do review Exhibit 01, cited above, for examples of proper use criteria.

In 2209.21-93-1 R-4 Amendment, the FSH defines Proper Use Criteria as:

Proper Use Criteria. The limiting factor or factors which will be measured on a particular site. It could be percent utilization of forage, impact on other resources or uses, or any other measurable factor on a particular site.

What is clear from this definition is that Proper Use Criteria are not to be averaged across entire pastures or allotments. They must be met at the site level.

The Directives make a direct connection between grazing permits and AUM authorizations, with Forest Plan requirements, Standards and Guidelines and MA[rsquo]s and proper use criteria. So the direction for MA[rsquo]s and other factors must be reflected in AUM authorizations for them to be rational:

29 - GRAZING CAPACITY DETERMINATIONS. Grazing capacity is defined as the number of animals that can be grazed on a land unit for a specific period of time while meeting basic resource needs and associated resource management goals.

These [ldquo]associated resource management goals[rdquo] are Forest Plan goals and objectives, Standards and Guidelines and MA specific Prescriptions and Standards and Guidelines. These were not factored in to the proposed action. The EIS fails to implement this requirement.

On ranges where management objectives are not being met, it is necessary toconsider grazing capacity in terms of improving the resource value(s) as emphasized in the Allotment Management Plan (AMP) and Forest Plan management objectives, such as forage condition or soil stability. The existinggrazing capacity must be based on the current condition of the rangeland and thesystem and quality of management being applied. (emphasis added)

The FSH requires the FS to examine grazing capacity (AUM[rsquo]s permitted) to improve conditions and meet Forest Plan requirements. AUM[rsquo]s permitted must be based on current conditions, not numbers set more than half a century ago and it must factor in past performance by the permittees..

Forage Allocation. Five basic issues should be examined when defining grazing capacity:

1. Forage available to meet planning objectives. Forage production is never static, therefore, initial forage allocation decisions must be coupled with appropriate monitoring as described in chapter 40 to ensure proper use of the resource. Periodic adjustments in user levels, time of use or locations may be needed to assure resource goals and objectives are met. Forage allocation shall be based on properuse of all resources, not on the variable supply of the forage resource.

Forage being allocated to livestock must provide for meeting all Forest Plan requirements and is not based solely on forage production. For instance, proper use criteria for annual bank trample would be 20%. When that 20% limit is hit it does not matter how much forage remains.

Ecological status of the range resource is also an important factor in the competition between animal species on specific areas. Different seral stages will have a different diversity of plant species. Select the proper ecological status to provide the mostdesirable forage at meets resource objectives. This can result in greater forage availability and reduced competition.

1. The past, present and desired demands by different users for forage. The forage demand problem is more complex because of the presence of multiple, competing users. Both consumptive (for example, livestock and wildlife) and non-consumptive (for example, watershed users must be considered.

Historical level of use by both wildlife and livestock shall be considered in making allocations. Permittees, as well as annual record of use, can furnish much background information on past livestock and wildlife use. Records on big game herd units, state game personnel and local Forest personnel, along with tagging, trapping, and harvest statistics can furnish much usable information on game use.

Ecosystem analysis procedures, historical records, personal contacts with biologists, permittees, and so forth, will help identify specific locations where conflicts for forage are taking place on given rangeland areas.

1. Forage allocation analysis. After the supply, (vegetation), and demand, (user) sides of the problem are properly characterized, the acceptable level of user can be determined to maintain or reach desired conditions. This is done by stating objectives for specific amounts, kinds, and locations of vegetation for non- consumptive uses (for example, plant maintenance requirements, watershed protection, esthetics, wilderness). Once this is done, objectives for amounts, kinds, locations, and times of use of consumptive users can be designated for the remaining available vegetation.

When two resource uses are completely incompatible, the management alternatives are fairly simple, though the decision may be hard; all of one use - none of the other. When two users are completely compatible, so that management for one

purpose completely achieves the management objectives for the other purpose, there is equally no problem. However, in the instances where users such as wildlife and livestock are only moderately or partially compatible, allocation decisions require considerable thought and skill.

Again, the IDT ignored this obviously applicable set of requirements.

This is provided for in the MA Prescriptions, Standards and Guidelines and which uses are emphasized in which MA[rsquo]s.

1. The effects of management. Vegetation allocation must be based on today's management goals and objectives, and also on the effect these management decisions have on the future or desired forage and animal population situations. Management objectives and decisions must be made within the bounds of potential natural community site potentials to be practical and achievable.
2. Recognition of limiting factors. There are also limiting factors to consider in the vegetation allocation process. A desired future condition can specify use of a key species or vegetative community to achieve desired plant cover, density, or population composition which then will be a limiting factor determining the amount of allowable

use. When allowable use is reached on a key species proper use has been achieved on the area and use should be terminated for the season, even though allowable use has not been reached on non-key species.

Where is the analysis and implementation of these requirements in the EIS? Nowhere to be found, because the IDT arbitrarily ignored obviously applicable Forest Service directives.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Desired Conditions

The difference between desired conditions and current conditions is the need for change. One primary way the Forest Service typically shirks its responsivities is to define desired conditions at or near current conditions, so there is no real difference, or by putting forth desired conditions that are general, unmeasurable statements that are meaningless in practice. The proposed action continues this tradition.

Let[rsquo]s examine here what the direction for desired conditions are. R-4 AMENDMENT 2209.21-93-1 defines desired conditions as:

Desired Future Condition - Rangelands. The specific future condition on rangelandresources that meets management objectives as identified in the Forest Plan andAllotment Management Plan. Desired future condition of rangelands can be

expressed in terms of ecological status of the vegetation; it could include species composition, diversity of habitats, or age classes of species; desired soil protection, including conditions of soil cover, erosion, compaction, and loss of soil productivity; in riparian areas, it includes conditions of streambank and channel stability, stream habitat, streamside vegetation, stream sedimentation, and water quality. (emphasis added)

Desired conditions are based on Forest Plan direction, including MA direction.

Desired Future Condition (DFC) Ratings. Multiple-use management decisions should answer how to deal with coordination between resource uses of rangelands. Basic guidance comes from the Forest Plan emphasis, objectives, and standards andguides. Use of the rangeland resource, within that guidance, can be partially founded on ecological status data and where the resource is in relationship to the DFC. (emphasis added)

So the desired conditions within protective MA[rsquo]s would be very different from those of where livestock production is the emphasis.

FSH 2209.13 which lays out the entire range planning process, defines desired conditions as follows, at 92.11:

92.11 - Identification of Desired Conditions

A team, using an interdisciplinary approach, identifies the desired conditions for rangelands and other related resources within the analysis area. Desired conditions should be specific, quantifiable, and focused. Desired condition statements have two distinct scales.

1. At the landscape scale, desired conditions are generally taken directly from the LRMP.
2. At the broad scale, desired conditions are then further described on a site-specific scale for reference areas.

Monitoring can then tie to these reference areas as a means of determining progress toward meeting the desired conditions.

Desired conditions are to be [ldquo]clear, concise statement[s] of measurable results to be achieved within a stated time period.[rdquo]

We provide a Forest Service analysis of range planning from the perspective of adaptive management. The review states:

Step Three: Define the Desired Conditions and Objectives

The definition of desired condition and the associated objectives is a critical and often poorly done part of the process. Too often the team simply brings the forest plan desired conditions and objectives verbatim into the project planning document. To be meaningful to the project, desired condition and associated objective statements should derive from the forest plan but must be brought down to the project level. This means that where there are broad, general desired conditions and objectives in the forest plan, those general statements need to be tailored to fit the characteristics and needs at a local scale. They must be made site-specific, and theobjective statements must be measurable, attainable, and must contain a specifictimeframe for accomplishment.

There are two project-level scales at which desired conditions and associated objectives should be developed. They are: a) the landscape scale for relatively broad desired conditions and objectives (for example: the desire to have some defined mix of seral or structural stages for certain plant communities across the landscape with value ranges set for each stage); and b) the site-specific scale for local desired conditions and objectives (for example: the desire to have a specific riparian area reach contain a certain range in cover percent of willow species, or having the sedge/rush component of a given riparian area expand by some degree over a defined timeframe). Note how these desired conditions and objectives relate to the existing condition. The existing condition defines where we are with regard to certain parameters while the desired condition defines where we want to be. Theobjectives then provide a measurable, time-specific, and attainable indicator forprogress from the existing condition toward the desired condition.

Site-Specific Scale desired conditions are a little easier to deal with. In practice, the IDT would designate a number of benchmark sites across the landscape. There is no set number that is needed nor is there a requirement that every pasture contain a benchmark. The number and type must be determined by the IDT and authorized officer as being at least the minimum number necessary to evaluate progress toward meeting the desired conditions.

On the benchmark site, desired conditions and objectives need to be specific to theresources and conditions of the specific site. The objective statements must bemeaningful, measurable, attainable, and time specific.

The desired conditions laid out in the EIS suffer from the common flaws that this wide range of agency direction provided guidance to avoid.

Given that desired conditions form the foundation of the range analysis process, and the proposed desired conditions fail to implement Forest Plan direction as well as FSM/FSH direction for this type of process, they need to be completely revised.

Again, R-4 AMENDMENT 2209.21-93-1 provides useful direction on this matter. It

requires, in Section 12 Steps of Rangeland Inventory, Analysis and Planning, that the Forest Service:

2. Rangeland Inventory and .Analysis. Obtain ID team, interested publics, and permittee assistance in securing the necessary inventory and monitoring information and establish criteria for determining allowable use levels.

Note that this requirement is outside the normal NEPA-based public participation requirements.

Section 10 subsection 7 requires:

interested parties should be involved as well to identify possible practices that will be responsive to potential concerns or issues they may express. Not only is public participation good business from the standpoint of identifying opportunities and possible practices to achieve desired conditions and reduce controversy later in the planning process, but it is a requirement of law.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Directives. Remedy: Fully comply with the applicable requirements.

FSH 2209.21-2005-2 Chapter 90 requires:

92.23 - Proposed Action

1. A proposed action that includes authorization of livestock grazing shall alsoinclude the basic elements of an allotment management plan (AMP) (sec. 94.1) because these elements will ultimately be obtained directly from the NEPA-based decision and will be included in part 3 of the grazing permit Forms FS-2200-10a, FS-2200-10b, and FS-2200-10c) as an AMP. Both the issuance of the permit and the development or amendment of an AMP that becomes a part of the permit is considered an administrative action that implements the NEPA-based decision (sec. 94). The pertinent parts of an AMP include:

1. Management objectives in terms of the condition and trend of the rangeland resources;
2. Required livestock management practices including maximum amount of use in terms of allowable use levels to achieve management objectives;
3. Structural or non-structural improvements that are necessary and ripe for implementation; and,
4. Appropriate monitoring to determine if management objectives are being met or if adaptive management alterations are needed.

This directive provides details on the requirements of an AMP, which, as required under 92.23, has to be provided under the proposed action. The EIS failed to do that. The EIS

only mentions the word AMP when it says it will provide it will provide AMP[rsquo]s after the public process is over. But the proposed action [ldquo]shall[rdquo] include the AMP.

94

The grazing permit, accompanying allotment management plan (AMP) (sec. 94.1) as appropriate, and annual operating instructions (sec. 94.3) all serve to implement the project-level decision to authorize grazing (sec. 96). The AMP becomes a part of the grazing permit. If an AMP currently exists, it should be revised to reflect new information from the most recent project-level decision. The grazing permit is then modified to include the revised AMP. Subsequent modifications to grazing or related management activities may be made as long as those changes are within the scope of the project-level decision.

94.1 - Allotment Management Plans (AMPs)

AMPs contain the pertinent livestock management direction from the project-level NEPA-based decision (sec. 92.23, para. 2). AMPs also refine direction in the project-level NEPA based decision deemed necessary by the authorized officer to implement that decision. AMPs should be developed concurrently with thecompletion of the site-specific analysis and project-level decision.

Each AMP shall become a part of Part 3 of the grazing permit with a letter to the permittee(s) notifying them of this modification. (emphasis added)

The EIS completely ignored these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

From 2209.21 Chapter 90:

Chapter 90

91.1 - Consistency with Land and Resource Management Plan

Under the National Forest Management Act (NFMA) of 1976 (16 U.S.C. 1600 et seq.), project-level decisions,

which authorize the use of specific National Forest System lands for a particular purpose like livestock grazing must be consistent with the broad programmatic direction established in the LRMP. Consistency is determined by examining whether the project-level decision implements the goals, objectives, desired conditions, standards and guidelines, and monitoring requirements from the LRMP. Where necessary, grazing permits must be modified to ensure consistency with the LRMP.

The EIS fails to implement this applicable set of requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in

the FSH. Remedy: Fully comply with the applicable requirements.

FSH 2209.21-2005-2 Chapter 20 which lays out the requirements for the range analysis process such as this and should have formed the foundation of this process was also ignored. This directive requires:

21.3 [ndash] Analysis Procedure Outline

1. Identify location and purpose for analysis, including a description of desired conditions.
2. Identify issues relevant to the analysis.
3. Determine makeup of interdisciplinary team and intensity of analysis.
4. Compile base information about the resources and issues identified for analysis.

1. Locate existing maps or create Geographic Information System (GIS) maps from digital ortho-quads, digital raster graphics, satellite imagery, or aerial photos. Append associated tabular data from corporate databases. Consider the following map layers for inclusion if warranted by issues:

1. Land area, ownership, and rangeland management unit boundaries.
2. Vegetation cover types, community types, and complexes. Layers may include historic, existing, and potential descriptions.
3. Ecological unit inventory, soil types and geology at appropriate mapping scales.
4. Streams, lakes, ponds, seeps and springs, wells, or other water resources.
5. Biological resources including threatened, endangered, and sensitive species or habitat, and known wildlife grazing.
6. Cultural or heritage resources.
7. Recreation areas and uses, including roads, trails, gates, campgrounds, and so forth.
8. Monitoring sites.

2. Compile other documentation relevant to the analysis area, including but not limited to Forest Plan guidance, previous environmental analyses, watershed assessments, allotment

management plans, annual operating instructions, permits, resource assessments and inventories, monitoring reports, and photos.

1.
1. If warranted, map rangelands using available technology. Different types of maps may be produced, depending on the issues. Contact the Regional Office Rangeland Management staff or Engineering staff for assistance in producing vegetation maps. Local expertise in vegetation is needed to produce these maps. Compare these maps with old digitized site analysis maps and the early 1910 and 1920 allotment maps for long term trend determinations.
2. Map rangelands that are functioning, functioning-at-risk, or not functioning regarding desired condition in relation to rangeland health and sustainability. Express trend regarding desired conditions determined from changes in repeated measurements of attributes as meeting, moving toward, or not meeting.

2. Verify mapped information, for example, present plant community or vegetative cover types.

1. For each rangeland vegetation type within the analysis area:

1. Describe current conditions.
2. Describe reference conditions.
3. Interpret information for functionality and trend. Map interpreted information as needed, for example, area[rsquo]s functional rating and trend, desired condition descriptive elements or attributes, areas meeting or not meeting Forest Plan Standards and Guidelines, and management alternatives.

Most of these requirements were completely ignored. Particularly 4a2, 3, 4, 5, 8 and 5 and

1. ?

For subsection 6, Section 22 of this chapter provides further requirements that were ignored.

1. [ndash] RANGELAND HEALTH (sec. 20.05)

Describe rangeland health through the desired condition of vegetation, soils and associated resources for which objectives have been stated. Objectives could be stated by what desired vegetative status is needed to achieve certain specified resource values, or it could be a description of plant community. The desired health is the result of all combined resource values desired on a rangeland type.

Rangeland health is defined using the terms functioning, functioning-at-risk, or notfunctioning rangelands. Rangelands are functioning when they are meeting a desired condition identified in long term specified

management objectives, standards, and/or guidelines; and have the capability across the landscape for renewal, for recovery from a wide range of disturbances, and for retention of its ecological resilience. Rangelands are functioning-at-risk when short-term objectives are being met but functionality criteria are not yet present. For example: if the objective is to achieve 90 percent ground cover with the desired plants present and these objectives are met, the rangeland is functioning. If the short-term objective is to move from 40 to 70 percent ground cover in five years (while moving toward the long term objective of 90 percent ground cover) and the desired plants are increasing with no noxious weeds present, then satisfactory progress is being made toward meeting the long-term objective, but the rangeland is functioning-at-risk because those long-term objectives are not yet present.

Non-functioning rangeland health occurs when the desired condition is not being met and short-term objectives are not being achieved to move the rangeland toward the desired conditions, and the rangeland has lost the capability across or in critical areas of the landscape for ecological resilience.

Stable state communities in an altered health from a desired community may mean readjusting the health and functionality criteria to what can be achieved under the current ecological conditions.

Again, the IDT ignored these requirements.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

From FSH 2209.21-2005-2

95.3 - Allowable Use
Not exceeding allowable use is a responsibility permittees assume when they accept a term grazing permit. Term permits are described in FSH 2209.13, chapter 10.

The EIS fails to implement use limitations as move on use criteria. Move on use, as required under the FSM/FSH has not been implemented in the EIS.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Continuing:

Ecological status of the range resource is also an important factor in the competition between animal species on specific areas. Different seral stages will have a different

diversity of plant species. Select the proper ecological status to provide the most desirable forage at meets resource objectives. This can result in greater forage availability and reduced competition.

1.
1. The past, present and desired demands by different users for forage. The forage demand problem is more complex because of the presence of multiple, competing users. Both consumptive (for example, livestock and wildlife) and non-consumptive (for example, watershed users must be considered.

Historical level of use by both wildlife and livestock shall be considered in making allocations. Permittees, as well as annual record of use, can furnish much background information on past livestock and wildlife use. Records on big game herd units, state game personnel and local Forest personnel, along with tagging, trapping, and harvest statistics can furnish much usable information on game use.

Ecosystem analysis procedures, historical records, personal contacts with biologists, permittees, and so forth, will help identify specific locations where conflicts for forage are taking place on given rangeland areas.

1.
1. Forage allocation analysis. After the supply, (vegetation), and demand, (user) sides of the problem are properly characterized, the acceptable level of use can be determined to maintain or reach desired conditions. This is done by stating objectives for specific amounts, kinds, and locations of vegetation for non- consumptive uses (for example, plant maintenance requirements, watershed protection, esthetics, wilderness). Once this is done, objectives for amounts, kinds, locations, and times of use of consumptive users can be designated for the remaining available vegetation.

When two resource uses are completely incompatible, the management alternatives are fairly simple, though the decision may be hard; all of one use - none of the other. When two users are completely compatible, so that management for one purpose completely achieves the management objectives for the other purpose, there is equally no problem. However, in the instances where users such as wildlife and livestock are only moderately or partially compatible, allocation decisions require considerable thought and skill.

The EIS provides no information whatsoever regarding the [ldquo]Ecological status of the range resource[rdquo] as required. No forage allocation analysis has been provided.

The above requires factoring in the MA Prescriptions, Standards and Guidelines and which uses are emphasized in which MA[rsquo]s. The EIS failed to do that.

1.
1. The effects of management. Vegetation allocation must be based on today's management goals and objectives, and also on the effect these management decisions have on the future or desired forage and animal population situations.

Management objectives and decisions must be made within the bounds of potential natural community site potentials to be practical and achievable.

1.
1. Recognition of limiting factors. There are also limiting factors to consider in the vegetation allocation process. A desired future condition can specify use of a key species or vegetative community to achieve desired plant cover, density, or population composition which then will be a limiting factor determining the amount of allowable use. When allowable use is reached on a key species proper use has been achieved on the area and use should be terminated for the season, even though allowable use has not been reached on non-key species.

We call your attention to the attached Rangeland Analysis and Management Training Guide Section 2-12 which discusses, in detail, direction for implementing MA area direction into rangeland planning. Section 3-7 is also important to implement.

We provide the entire RAMTG as it[rsquo]s the Forest Service[rsquo]s best resource for rangeland planning processes.

The EIS fails to provide any information regarding current conditions of the vegetation. The information provided is meaningless from an ecological perspective and from the perspective of compliance with Forest Service policy.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Requirements from FSH 2209.21 Chapter 20, which is supposed to form the foundation for processes such as this EIS:

22.1 [ndash] Upland Rangeland Health Criteria

Consider a minimum of four criteria when determining the functionality of upland rangelands:

1.
1.
1. Non-Native Invasive Plant Species. If non-native invasives or noxious weeds are present, the rangeland is functioning-at-risk at best, and if the non-native invasives plant population is abundant and/or dense, the rangeland is not functioning, even if adequate ground cover is present. This interpretation is made because of the aggressive nature of non-native invasives in both pristine and disturbed landscapes.
2. Ground Cover. If ground cover is greater than a described threshold to prevent adverse soil impacts, the rangeland is functioning from a watershed sustainability standpoint. A minimum of 60 percent ground cover is a general standard for limiting water erosion for the Region, except for certain geologic and soil types that this criterion cannot be achieved; for example, like the Mancos Shale.

Ground cover is basal vegetation, litter, moss/lichen, or rock greater than three- fourths inch diameter.

The minimum ground cover needed for proper functioning sustainable ecosystems for primary vegetation cover types in the Region are (revise these for site- specificity for rangeland project analysis or Forest Plan analysis):

Cover TypePercent Ground CoverFor Functionality

Alpine90
Aspen80
Mountain Big Sagebrush70
Tall Forb80
Pinyon-Juniper60
Mountain Mahogany75
Gamble Oak75
Mountain Brush70

1.
1.
1. Shrub Cover. This rangeland health indicator only assesses the properly functioning aspect of an entire shrub cover type and is essentially a landscape level indicator. The desired mix of cover classes for sustainable and functional sagebrush ecosystems for all ecological purposes and needs is:

10 percent of the sagebrush area has 0-5 percent shrub canopy cover. 50 percent of the sagebrush area has 6-15 percent shrub canopy cover.

40 percent of the sagebrush area has greater than15 percent shrub canopy cover.

If the mix of sagebrush cover is outside the desired cover class distribution, the cover type may be functioning at risk for the overall ecological health and diversity of a sustainable sagebrush community at a landscape level.

1.
1.
1. Species Composition. Determining if the proper vegetation is present on a site is the most difficult question in determining rangeland health. A general evaluation may be conducted using a basic species composition list or a community or cover type; however, species lists may need to be revised to adequately assess a site[rsquo]s ability to meet more specific health or other management objectives if the site is in a depressed stable state or if the site is occupied by invasive species.

A rangeland site is functioning when all the desired plants are present in the desired amount. The interpretation of desired species and amounts will change when goals change for specific purposes, like watershed sustainability, forage production, sage grouse habitat, low risk wildfire community, or a pleasing wildflower setting in a sagebrush community.

Exhibit 01 displays resource values ratings (RVRs) for Intermountain Region plants to assist in determining what a desired plant community is. A watershed stability rating and forage preference ratings are given by season and a yearlong value. To determine the current plant community status in relation to a desired plant community a similarity analysis may performed. Information from the Range Inventory Standardization Committee Report (1983) suggests that a value of 75 percent similar or greater may be used to differentiate between meeting and not meeting management objectives.

The EIS is entirely silent on #1, #3 and #4.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Chapter 90 reinforces the requirement to make decisions based on species composition.

92.12 - Identification of Existing Conditions
An analysis team examines the existing conditions within the analysis area for all pertinent resources for which a desired condition is identified, such as ecologicalstatus of the vegetation, composition and arrangement of plant communities, status and function of riparian areas and wetlands, stream bank and stream channel characteristics, wildlife and fish habitat characteristics, cultural resource protection, soil protection, and water quality.

Existing conditions should be specific and quantified where possible. Existing conditions may be evaluated at two scales.

1. At the landscape scale, existing conditions are generally taken from watershed- level or other area assessments.
2. At the project-level, existing conditions may be identified through a myriad of sources, including rangeland inspections, rangeland analyses, environmental analysis documentation for other actions in the area, electronic resource databases, and anecdotal information from previous or current grazing permittees or other knowledgeable sources.

The data and information must be pertinent to identifying differences between existing and desired conditions related to rangeland resources. Data collected should address the appropriate timing, intensity, frequency, and duration issues of livestock grazing so that alternatives can be developed that utilize an adaptive management approach based on specific monitoring criteria.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

This is further reinforced by FSH 2090.11

4.3 - RESOURCE VALUE RATINGS. Base Resource Value Ratings (RVR's) on ecological type or ecological unit

characteristics

that are important for evaluating a particular use or benefit. Develop resource value ratings utilizing appropriate functional expertise and express them on a scale of 0-100, where 100 represents the maximum potential resource value of the ecological type or ecological unit. Adjective ratings such as low, moderate and high are appropriate as an alternative. A category of not applicable may be used for sites where the concepts of the rating do not apply.

To express how present resource value relates to potential resource value for a particular use on a site, judge the present resource value ratings relative to the highest resource value actually measured within the ecological type or unit. In the absence of areas that could represent the potential, estimate the resource value ratings based on measurements from similar ecological type or units.

4.31 - Ecological Status. Ecological status is rated irrespective of management objectives. Therefore, do not use

ecological status to rate the success of management. However, it is appropriate to use ecological status as a measure of achieving a desired future vegetation and desired soil condition (FSM

2060). Base ratings on the floristic similarity of the current vegetation to the potential natural community. Express the similarity on a relative scale ranging from 0 to 100 with adjective ratings assigned as low, moderate, or high similarity.

4.41 - Desired Future Vegetation. Make three ratings for each site:

1. Present vegetation status.
2. Present vegetation trend, and
3. Compliance with management objectives.

4.42 - Present Vegetation Status. Base the present vegetation status on floristic similarity to the desired future vegetation on a scale of 0-100, where 100 represents the desired future vegetation. Express adjective ratings in four equal classes:

1. Low similarity (0-25).
2. Moderate similarity (26-50).
3. High similarity (51-75), and
4. Desired future vegetation (76-100), or other appropriate classes.

Again, the IDT completely ignored this directly applicable direction. What is the ecological status of the plant communities within this area? Don[rsquo]t look to the EIS because there is nothing there.

From the Rangeland Analysis and Management Training Guide:

Chapter 2-12

[ldquo]Forest Plans reveal broad direction for resource management. Review the Forest Plan to identify management emphasis areas on the allotment (management prescriptions) and the associated standards and guidelines. Managementprescriptions describe the resources that should be emphasized on certain locationswithin the area.

Desired conditions are determined by identifying management emphsis areas and then selecting the appropriate mix of plant communities needed to maximizeconditions for the resource emphasized.

Developing objectives is the most important portion of NFMA compliance. The toughest part of setting objectives is describing the result [ndash] not the action to be taken. An objective is a clear, concise statement of measurable results to beachieved within a stated time period. Objectives should describe the specific resource characteristics that are desired, such as desired plant communities, water quality standards, and soil conditions. Developing objectives at this early stage in the process is paramount to a successful planning effort[rdquo]

Chapter 3-7

Desired Plant Community (DPC) selection is crucial to effective rangeland planning. The DPC has composition, structure and function characteristics that best represent the desired condition specified in the Forest Plan. The DPC is part of the overall desired condition and must be integrated with other features, for example soil and visual characteristics. Identifying the DPF is a collaborative process involving an interdisciplinary team. The team should document the reasoning behind the selection of the DPC[rsquo]s. The role of the rangeland analysis is to identifyplant communities that provide high quality resource values for the managementarea.

The DPC should provide a broad range of values for all resources, but should beselected primarily for the management emphsis in the Forest plan.[rdquo]

FSH 2090.11 continues:

1.41a - Potential Natural Community. The potential natural community provides a reference standard to which existing seral communities can be related.

Under the broad concept of potential natural community, the end point of succession may be a stable seral plant community of long-term duration or an imperceptible rate of vegetation change.

1.47a - Ecological Status. Determine ecological Status for existing vegetation and current soil conditions.

Base ecological status ratings on the similarity of the currentvegetation to the potential natural community. Include the degree of similarity between existing soil conditions and soil conditions at potential as measured by the degree of achievement of desired soil quality standards (FSH 2509.18). Express thissimilarity on a relative scale ranging from 0 to 100, with adjective ratings assigned as low, moderate, or high similarity.

1.47b - Assessment of Existing Conditions. Develop minimum criteria for estimating resource values based on vegetation and environmental characteristics important for evaluating a particular use or benefit. Use FSM 2550 and FSH 2509.18, Soil Management Handbook, to guide development of soil protection,

management standards, and assessment methods. Develop for each ecological type.

1.47c - Estimation of Production Potential. Assess both long- term and short-term production potential of the ecological type using appropriate parameters to provide the needed information for determining the capability of the site to produce vegetation and respond to management.

The EIS and its supporting reports completely fail to comply with these directives.

Why is it that I have teach the Forest Service about the Forest Service[rsquo]s own requirements? Do you not find that absurd? What kind of hiring, training and promotion practices are there within the Forest Service that allow such a low level of basic knowledge, competence and fitness for the job to continue?

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Back to FSH 2209.21:

92.15 - Identification of Information Needs

1. Evaluate the quality, accuracy, and usefulness of the information being used to describe existing conditions.
2. Identify any important gaps in knowledge that keep the analysis team from understanding and evaluating differences between desired and existing conditions.
3. Estimate what it would cost in terms of time, money, and effort to obtain missing information, and if it is worthwhile to collect it.
4. Identify how the information gap relates to the decision framework.
5. Determine if the information is important enough for the decision that the information must be gathered or the decision rationale will be lacking.

The obvious data gaps which should have been easily seen by the IDT is the complete lack of condition data as well as production data. The IDT ignored these glaring gaps and simply moved ahead blindly.

FSH 2209.21
This handbook forms the basis of rangeland planning for the Forest Service, but was entirely ignored by the IDT. We have cited this directive through these comments but add additional material here, since it was not consulted or followed during this process.

FSH 2209.21-2005-2 Chapter 40
41 - monitoring
Monitoring information provides critical feedback to adapt management in efforts to achieve desired results. Thus, developing a monitoring plan that addresses key questions and implementing that plan are important steps in the management process. Monitoring results should be used to change actions as appropriate. Give considerable attention to monitoring during the years immediately following implementation of the rangeland project decision and during droughts.
41.2 - Monitoring Sufficiency

Perform sufficient monitoring to accomplish the gathering of data and information needed for interpretation of long-term trend determinations for desired conditions.

41.3 - Monitoring Plan
Monitoring must be very specific, well thought out, and carefully targeted. Each rangeland management plan shall have a detailed monitoring plan.

Select which attributes to monitor and at what level of intensity after reviewing what the project level or Forest Plan decision prescriptions are. This starts at the original scoping efforts and the issues, concerns, and

opportunities that drove the analysis and selection of a preferred alternative. The statement of objectives isdesigned to achieve the desired state within a specific time frame and location.

They must be sufficiently specific and measurable to allow for (and guide)monitoring and they should clearly tell what the monitoring needs are.

1.
1.
1. Is vegetation status at or moving toward functionality with trend being maintained or improved?
2. Are rangeland resource concerns being addressed in order to achieve desired rangeland conditions?

The rangeland project decision is to provide direction for monitoring and thatdirection must be results oriented and specifically targeted in the monitoring plan.The rangeland monitoring plan should include:

1.
1.
1.
1. Identify specific vegetative attributes to monitor. Potential categories include: canopy and/or ground cover, density, nested frequency (plant abundance), and presence of noxious weeds.
2. Develop specific monitoring schedules and techniques. Be realistic in terms of what should be done and what can be done within the constraints of need, time, and personnel (funding). Monitoring protocols selected must be consistent with those identified in this Handbook. Monitoring locations are selected based on these protocols.
3. Identify who is actually going to do the work.
4. Identify specifically how and where information is going to be stored into corporate resource data bases, who will analyze it and when.

The following describe Regional methods used for long term trend monitoring. Some of the methods are mandatory on all rangelands, such as selection and description of benchmark areas, repeat photography sites, and long-term trend determination.

42.1 - Selecting Benchmarks
Benchmark areas should be selected and approved by the most experienced and qualified rangeland management personnel available, and agreed upon or coordinated with permittees and other interested agencies, individuals or groups.

44.13 - Accuracy, Precision, and Probability Statements

Regardless of the type of data collected to evaluate vegetation change, interpretation should be supported with statistical analysis.

95 - MONITORING

Monitoring shall be included in the project-level decision. This includes monitoring required as a result of section 7 of the Endangered Species Act regarding consultation (sec. 93.1). Monitoring can determine whether the project-level decision is being implemented as planned (implementation monitoring) and, if so, whether the objectives identified in the LRMP and AMP (sec. 94.1) are being achieved in a timely manner (effectiveness monitoring). Allotment monitoring should be an open, cooperative, and inclusive process. Invite participation from rangeland users and other interested parties where feasible.

The EIS contains no monitoring plan that is compliant with these requirements. FSH 2209.21 defines DFC and DPC as:

Desired Future Condition - Rangelands.

The specific future condition of rangeland resources that meets management objectives as identified in the Forest Plan and Allotment Management Plan. Desired future condition of rangelands can be expressed in terms of ecological status of the vegetation; it could include species composition,

Desired Plant Community.

A plant community which produces the kind, proportion, and amount of vegetation necessary for meeting or exceeding the Forest Land Management Plan or Allotment Management Plan plan objectives established for an ecological type(s). The desired plant community must be consistent with the type's capability to produce the desired vegetation through management, land treatment, or a combination of the two. The desired plant community must conserve to the extent practicable the long- term potential of the site to produce vegetation, and produce in the short-term those combinations of desired goods and services

Ecological Status.

The degree of similarity between the existing vegetation (all components and their characteristics and existing soil conditions compared to the potential natural community and the desired soil condition on a site. Syn with successional status.

Species Composition.

The proportions of various plant species in relation to the total on a given area. It may be expressed in terms of cover, density, weight, and so on.

The EIS fails to implement DFC, DPC, Species Composition or Ecological Status.

Objective.

A clear and quantifiable statement of planned results to be achieved within a stated time period. Something aimed at or striven within a predetermined time period. An objective must: be achievable measurable, have a stated time period for completion, be quantifiable be clear, and its results must be described.

The EIS fails to define objectives.

In Section 12 delineating the steps of the planning process, the handbook states:

2. Rangeland Inventory and .Analysis. Obtain ID team, interested publics, and permittee assistance in securing the necessary inventory monitoring information and establish criteria for determining allow use levels.

This was not done.

5. Allotment Management Plan. The elements of an AMP are explained in section 32 and FSM 2212.2. The AMP is done in cooperation and communication with the permittee(s) and the interested publics. Approval is by the authorized line officer. If the District Ranger is the authorized line officer, a copy of the approved .AMP shall be supplied to the Supervisor's Office. (emphasis added)

As we discussed earlier, the directives require the AMP to be developed during the NEPA process and provided.

13 - COORDINATION. COOPERATION. AND CONSULTATION. NEPA,

public involvement, interdisciplinary teams, permittee involvement, and Section 8 processes are available to facilitate and insure public participation and cooperation, coordination, consultation, and communications with permittees. While the Federal Land Policy Management Act is clear in its requirement that consultation is necessary during the development of the AMP, it remains the sole responsibility of the Forest Service line officer to determine grazing allotment decisions, including how much grazing will be allowed, on the National Forests. The interdisciplinary (ID) team, the permittee, and interested publics should assist in the rangeland inventory and analysis and in the preparation of environmental documents.

14.1 - Role of Forest Plans. Forest Plans establish a management approach for future decision-making. The Forest Plan and accompanying EIS establish a broad

framework for management of a National Forest and set the stage for project review. In order to fulfill the statutory obligations arising from the National Environmental Policy Act (NEPA), and numerous other environmental laws and regulations, it is necessary to take a close site-specific look at projects and activities. The basic approach is to use Forest Plan management direction as agateway to compliance with these environmental laws in making decisions at theproject level.

14.22 - Consistency of the AMP with the Forest Plan is determined.by comparing direction in the AMP with Forest Plan direction stated in terms of forest-wide and management area standards and guidelines. The AMP and grazing permit must be consistent with the Forest Plan. A more complete discussion of grazing permit compliance with Forest Plan direction will follow in section 16.

1. - ALLOTMENT MANAGEMENT PLANNING PROCESS. The .AMP

prescribes the manner and extent to which livestock operations will be conducted in order to meet multiple use, sustained-yield, economic, and other needs and objectives. Accordingly, the AMP must integrate resource objectives, standards, guidelines, and management requirements for soil and water f watershed protection, wildlife and fisheries, recreation, timber, and other resources on lands within a range allotment. The AMP conforms with and consistently implements the management direction contained in the Forest[middot] Plan.

1.
1. 1 NFMA Process

2. Determining the Desired Conditions/Existing Conditions.

Adequate inventory information will be needed to define the existing status of affected resources as they relate to existing plant communities and the potential ofthe land to support desired plant communities (desired future

condition).

Description of the desired plant community should be based on attribute of vegetation which will provide the optimum mixture of resource value ratings to meet the objectives of land stewardship and the publics interested in it's management. Deciding on the desired plant community for a given situation involves several aspects. The first is the potential of the site.

From Exhibit 1 of the FSH: PROCEDURE

Mapping, characterizing and analyzing vegetation and soil characteristics will be based on methods outlined in FSH 2090.11 and the Range Analysis Handbook FSH 2209.21.

1. Vegetation will be mapped in two layers. One layer will identify potential vegetation. The second layer will characterize existing vegetation.

POTENTIAL VEGETATION LAYER

Develop map unit descriptions, describing potential vegetation types occurring on similar physical settings (landtype and soils) and with similar management interpretations.

Describe dominant and co-dominant taxonomic components (complexes and or habitat type associations)

Describe important resource values for each map unit. EXISTING VEGETATION LAYER

Preliminary descriptions will be based on old range vegetation type maps and verified with current field data.

Describe dominant and co-dominant taxonomic units (community types or dominance types).

Describe important resource values for each map unit. Range

Identify plant communities with significant forage production.

Consider differences/similarity in palatability of forage/browse species for livestock and wildlife.

Consider differences/similarity in response of vegetation to management prescriptions (prescribed fire, grazing systems [bull][bull][bull] similar successional pathways for specific management prescriptions).

Next steps required under the directive include:

3. Determining Opportunities (What needs to be done). As an example, once the existing plant communities and desired plant communities, based on site potential, have been described, then a comparison will identify differences that offer an opportunity to move from the existing plant community toward the desired plant community. There are other resource attributes to consider in addition to the existing and desired plant communities as well.

5. Consistency with the Forest Plan. Determine possible management practices consistent with the Forest Plan that could be employed to move toward desired future condition or desired plant communities. Forest Plan goals, standards, guidelines, and other legal requirements provide the criteria for screening feasible management practices to determine consistency with the Forest Plan.

7. Public Participation. Public participation should be a key element of the NFMA process as well as the NEPA process. Close consultation, cooperation, and coordination with grazing permittees is essential to help them understand the differences between existing an desired vegetation on their allotment and in identifying possible practices that will achieve desired future conditions for vegetation as well as the permittees livestock operation. Other interested parties should be involved as well to identify possible practices that will responsive to potential concerns or issues they may express. Not only is public participation good business from the standpoint of identifying opportunities and possible practices to achieve desired conditions reduce controversy later in the planning process, but it is a requirement of law.

These requirements were ignored during this process.

Moving to Chapter 20 of FSH 2209.21, there are further requirements for this process:

21.2 Intensity of Analysis. The minimum requirements for accomplishment of the inventory phase of the rangeland inventory and analysis process can be found in FSM 2212.11. Also refer to FSM 2060 and FSH 2090.11, Ecological Classification and Inventory Handbook.

This requirement was ignored.

In Section 21.21 Base Level Analysis, we see the following applicable requirements:

The following base level shall be accomplished on each land area that is inventoried.

1. Develop a base map of each allotment. Mapping should be done on aerial photos or by satellite remote sensing and the data transferred to a base topographic, orthophoto map, or to a GIS system. Include on each map or on GIS layers:

b. Vegetative ecological types, mapped by ecological status.

1. From the base, determine and summarize the following:

1. Acres of each current vegetative ecological type and acres by ecologicalstatus.

1.
1. Trend direction as related to the desired future condition (could be described in terms of ecological status or plant community or soil attributes) by acres.
2. Acres of satisfactory and unsatisfactory rangeland.

The IDT completely ignored these requirements. Section 22 requires that the IDT incorporate:

b. Publications and guides to classify plant communities, to rate resource values, and to describe desired future conditions (sec. 24.32 and 27).

This section also requires the Forest Service to:

1. Delineate ecological types and the present plant community (sec. 24.3 and 27).
2. For each ecological type:

1. Map suitability (sec. 26).
2. Determine ecological status (sec. 24.3).
3. Determine desired future condition (sec. 15.1 and 27.4).
4. Determine trend (sec. 44.1).
5. Label type (sec. 24.7).

Section 23 requires:

1. Locating and analyzing Potential Natural Communities (PNC's) on specific ecological types. These areas are used to prepare ecological scorecards. They provide the means to determine type potential and can be found on most ranges.

9. Being knowledgeable of basic plant ecology. This is essential to determine resource values and potentials, ecological status of the range and the establishmentof the desired future condition goals. At a minimum, one team member must be familiar with the vegetation of the area and be able to identify the plant species. Type potential can best determined from prepared ecological scorecards and through examination of protected areas which have not been grazed by livestock.

Section 24 requires the determination of ecological status:

1. Ecological status and trend. Ecological status and trend of the range is based on information obtained from ecological scorecards. The seral stage classification shall be made in accordance with the instructions for rating ecological status.

24 . 4 - Ecological Status . The ecological status for each type can be interpolated from the potential natural community type by visual reconnaissance or from

ecological type scorecards, ecological type keys of plant community types, or extrapolated from similar landscapes. When extrapolation is not possible due to lack of data and similar types, a measurement may need to be done. The ecological status, when measured, shall be determined using the coefficient of community similarity (2w/a+b), . where (a) is the sum of values for measured parameters of present vegetation, (b) is the sum of values for measured parameters in the PCN, and (w) is the sum of the values for the measured parameters that are common to both (see instructions on back of the Ecological Scorecard, section 27.3). Ecological status can be determined by using the percentage similar to a potential natural community type using nested frequency, ground cover, canopy cover, shrub density, or the riparian measurements of green line and cross sections.

The Ecological Status and Class Symbols that shall be used for uplands are: Ecological Status % Ecological Status Class Seral Stage

85-100	PNC Potential Natural Plant Community
60-84	LS Late Seral
40-59	MS Mid Seral
0-39	ES Early Seral

In Section 25.3, the FSH requires a Range Analysis Summary Report providing the Ecological Status and Trend on Form R4-2200-43 and Form R4-2200-44

These requirements were ignored.

1.
1. 2 - Potential Natural Community Scorecards.

A Potential Natural Community (PNC) Scorecard, R4-2200-41, (ex. 01) is a description of a potential natural community capable of occurring on an ecological type. The ideal is to have the community based on measurements of at least three reference sites of the type, not on inferences from other types. A minimum of three reference sites also helps sample the spatial variation of a type.

1.
1. 3 Ecological Scorecards

If a quantifiable method is needed to determine a vegetative seral status this scorecard shall be used. [middot]A seral rating is based on the floristic or ground cover similarity of the current vegetation to the PNC. The similarity will be expressed on a scale of o to 100 with adjective ratings assigned as early, mid, late, and PNC status. The vegetation inventory of an allotment will indicate both the current vegetation where known the PNC vegetative association and the seral status of the ecological type.

Using the PNC scorecard information, the ecological status can be determined on the ecological scorecard. The ecological status is derived by the coefficient of

similarity between the current plant community the PNC and a status class determined.

Exhibit 1 of this section details how ecological status is calculated.

1.
1. 4 Desired Future Condition (DFC) Ratings. Multiple-use management decisions should answer how to deal with coordination between resource uses of rangelands. Basic guidance comes from the Forest Plan emphasis, objectives, and standards and guides. Use of the rangeland resource, within that guidance, can be partially founded on ecological status data and where the resource is in relationship to the DFC.

The DFC can be based on what values a plant .community has for various resources and uses. Exhibit 02 is an incomplete Regional plant species list with resource values listed for cattle, sheep, horses, mule deer, elk, and erosion control potential. This list may be modified to fit a particular Forest. This list may be used to help determine the value of specific plants[middot] found in a plant community for specific resource values. Use this list, along with potential natural community scorecards, to help derive the composition of a desired plant community for the desired future condition description.

To determine the current plant community status in relation to the desired plant community (a desired future condition as stated in Allotment Management Plans or Forest Land and Resource Plans), Form R4-2200-45 in exhibit 01 can be used. DFC status is derived by the coefficient of similarity and a similarity class determined.

Information from the Range Inventory Standardization Committee Report(1983) suggests that a value of 75 percent similar or greater may be usedto differentiate between meeting and not meeting management objectives.

Section 27.7 continues:

Rangeland condition (or rangeland health) is the state of vegetation and soil cover in relation to a standard or ideal for a particular ecological type.

Rangeland condition will be described through the desired future condition of vegetation, soils and associated resources for which objectives have been stated. Objectives could be stated by what desired ecological status is needed to achieve certain specified resource values, or it could be a description of plant community and soil attributes.

These requirements were ignored.

Section 29 provides the process for capacity determinations:

The existing grazing capacity must be based on the current condition of rangeland and the system and quality of management being applied.

The EIS provides no information regarding current condition or production.

Section 29.1 requires that forage allocation, the process that sits at the foundation of this process, by examining five basic criteria:

1. Forage available to meet planning objectives. Forage production is never static, therefore, initial forage allocation decisions must coupled with appropriate monitoring as described in chapter 40 to ensure proper use of the resource. Periodic adjustments in user levels, time of use or locations may be needed to assure resource goals and objectives are met. Forage allocation shall be based on proper use of all resources, not on the variable supply of the forage resource.

Ecological status of the range resource is also an important factor in the competition between animal species on specific areas. Different seral stages will have a different diversity of plant species. Select the proper ecological status to provide the most desirable forage at meets resource objectives. This can result in greater forage

availability and reduced competition.

1. The past, present and desired demands by different forage. The forage demand problem is more complex because presence of multiple, competing users. Both consumptive (for livestock and wildlife) and non-consumptive (for example, watershed) users must be considered.
2. Forage allocation analysis. After the supply, (vegetation), and demand, (user) sides of the problem are properly characterized, the acceptable level of user can be determined to maintain or reach desired conditions. This is done by stating objectives for specific amounts, kinds, and locations of vegetation for non- consumptive uses (for example, plant maintenance requirements, watershed protection, esthetics, wilderness). Once this is done, objectives for amounts, kinds, locations, and times of use of consumptive users can be designated for the remaining available vegetation.
3. The effects of management. Vegetation allocation must be based on today's management goals and objectives, and also on the effect these management decisions have on the future or desired forage and animal population situations. Management objectives and decisions must be made within the bounds of potential natural community site potentials to be practical and achievable.
4. Recognition of limiting factors. There are also limiting factors to consider in the vegetation allocation process. A desired future condition can specify use of a key species or vegetative community to achieve desired plant cover, density, or population composition which then will be a limiting factor determining the amount

of allowable use. When allowable use is reached on a key species proper use has been achieved on the area and use should be terminated for the season, even though allowable use has not been reached on non-key species.

None of these factors required to be considered, were considered.

Based on the EIS and the supporting reports, it[rsquo]s as if all the Forest Service policy directives directly applicable to this process simply did not exist.

Section 29.2 provides the requirements for forage allocation. These requirements were ignored.

Of critical importance is Subsection 4, which requires:

1. Once the areas where competition for the available forage are defined, decisions shall be made as to which of the competitors get what percentage of the resource. These decisions must be based on many factors. Some of these factors are:

1. Forest Service direction and policy.

2. Allocation decisions in land management plans.
3. The needs and desires of the public.
4. The historical level of use by the various species of competitors.
5. Interdisciplinary efforts are needed. The interdisciplinary team should be involved in evaluating and determining allocation of vegetative resources in the key areas where competition exists.
6. Limiting factors must be identified.
7. Species preferences and time of use.
8. How critical the area is to each species survival or use the area.

Section 29.4 requires that [ldquo]stocking rates should allow a safety margin to provide for low forage-producing years.[rdquo]

All these requirements were ignored.

So the requirements for an AMP are directly applicable to this process. In Section 32 of Chapter 30:

The AMP is the implementation plan for the actions that were analyzed in the environmental assessment and selected in the [middot]decision document. The AMP integrates the actions needed to manage rangeland resources for livestock grazing. The AMP must integrate resource goals, objectives, standards, guidelines, and management requirements for the management of rangeland resources including soil, water, wildlife, fisheries, and vegetation for a wide array of resource uses with livestock grazing.

32.1 lays out the required elements of the AMP:

32.I - Elements of the Allotment Management Plan. Each allotment management plan should contain sections on objectives, management actions, improvements, and monitoring and evaluation.

1. The Goals and Objectives Section. This section must contain goals and objectives for management of rangeland resources and livestock grazing. Goals shall describe the desired future condition for rangeland vegetation and other rangeland resources, desired or anticipated level of livestock use and management strategies, and integrated rangeland management techniques and strategies for accomplishing multi-resource goals.

This section also contains a brief summary from the Environmental Assessment on what the present allotment condition and situation is, to put into perspective the pathway from the present situation to the desired future condition. Objectives must be clear and specific statements of plannedresults to be achieved within a stated period of time. The results indicated in the statement of objectives are those which are designed to achieve the desired future state or process represented by the goal. Objectives must besufficiently specific, concise, quantifiable, measurable to allow formonitoring, relate to desired future conditions, and contain a projected

datefor planned achievement.

1. ?The Management Actions Section. This section must establish th number, kind, class of livestock, season of grazing use, and grazing system to be used. The grazing system or formula can be described in words and/or graphic or tabular form so it is very clear to all parties This section should describe how each grazing treatment contributes toward meeting the objectives. This section should also state the management actions needed to meet the objectives for other resources ,an uses. This section should incorporate applicable standards, guidelines and management requirements from the forest plan. This would include utilization guidelines identified in the forest plan or refined through the site specific project analysis.

Proper use criteria shall be put in writing for each unit or special management situation on the allotment. The criteria shall specify maximum utilization guidelines for benchmark ecological types, by seral stage for the proposed grazing management system. The criteria shall specify maximum acceptable disturbance levels for streambanks and vegetation components in riparian areas. The criteria shall also specify maximum acceptable ground cover disturbance, if appropriate, to protect soils by benchmark ecological types and seral stage.

4 The Monitoring and Evaluation Section. This section should outline monitoring actions to measure three aspects of monitoring and evaluation. From an administration standpoint, evaluation or monitoring procedures should be planned within the resources available to do the job. It may be helpful to list monitoring activities in priority of importance or specify

minimum monitoring requirements. Members of the ID team should help decide what specific monitoring information will be needed in order to determine if the goals and objectives of the management plan are being met. Long-term soil and monitoring techniques should be employed to evaluate and document short term dynamic occurrences. Reference section 40.1 for a complete discussion on monitoring and evaluation.

Exhibit 1 of this chapter provides an example AMP that complies with directives.

Note specifically in the Evaluation section of this Exhibit 1, the Ecological Status section:

Ecological Status

Similar to Desired Potential Meets FP

MapCurrent Desired Plant PlantPlant& AMP
Unit11Community Community CommunityChvi/Bote 20 Artrv/PeidCommunityArtrv/PeidStandards Yes No Acres0 / 243
6Sage/Popr 45 Sage/CaroSage/Caro60 / 22

Chapter 40 lays out the requirements for monitoring.

40.2 - Monitoring and Evaluation Sufficiency. Sufficient monitoring and evaluation must be performed to accomplish the following:

1. Check on compliance with the annual plan of use.
2. Make needed changes and improvements in the management scheme and range improvement development schedule.
3. Check results against the predicted and/or prescribed management objectives for the allotment (planned versus actual outputs, 36 CFR 219.12(k) (1) and costs 36 CPR 219.12(k) (3)). If the objectives are not being met, determine what changes are needed or if the objectives are unrealistic.
4. Verify carrying capacity.
5. Make needed changes in next year's plan of use.
6. Gather data and information needed for interpretation of both apparent and long-term trends.
7. Identify the need for cultural treatment and adequacy of management of past treatments.

40.3 - Monitoring and Evaluation Plan. Monitoring and evaluation must be very specific and must be thought out and carefully targeted. Each allotment management plan must have a detailed monitoring and evaluation plan (See section 32).

Section 41.8 requires:

The limiting factor in each case must be identified and studies installed using allowable use to determine proper use. Wildlife and aquatic habitat biologists and/or other disciplines should be used to help identify limiting factors and help design and monitor the studies necessary to determine when proper use has been reached.

Where riparian and fishery habitats as well as other sensitive areas are involved, grazing animals must be totally removed from the grazing unit when proper use has been attained. Stragglers left in units which have reached proper use tend to concentrate along canyon bottoms and in riparian areas and may negate the objectives of the grazing system.

The EIS fails identify the limiting factors.

Further, the EIS does not implement move on use criteria.

The failure to consult with and comply with the very directives that control range analysis processes such as this, renders the entire process arbitrary and unsupportable.

FSH 2209.13 93.3c requires:

[ldquo]Identification of resource management needs is simply the comparison of desired conditions with existing conditions to determine the extent and rate at which currentmanagement is meeting or moving toward those desired conditions.[rdquo] (emphasis added)

To say conditions are [ldquo]moving toward[rdquo] is meaningless without this information. For instance, everyone admits these lands were basically unmanaged until about the 1950[rsquo]s. Given how severely degraded these lands were up through that time, it would not be surprising that things look better than 1950, but is that [ldquo]moving towards[rdquo] sufficient?

The Forest Service[rsquo]s GTR-INT-263 specifically states "a 6 step planning process for grazing riparian zones has been suggested (in part from Dwyer and others 1984): 1) determine what factor, such as bank instability or loss of woody plants, is the primary concern, 2) determine site potential in capability, 3) determine the suitability of the affected sites for livestock grazing, 4) determine the kind in class of livestock in duration and intensity of livestock grazing best suited to the area, 5) determine the best grazing strategy, and 6) apply the proper grazing intensity in keeping with animal distribution patterns". This was not done.

The same reference states "special situations such as critical fisheries habitats or easily eroded stream banks may require stubble heights of greater than 6 inches". It further goes on to state "degraded riparian areas may require complete rest to initiate the recovery

process. In systems requiring long-term rest, the rest. Will be highly variable depending on the situation. It may be as short as one year or it may be 15 years or longer. Recovery of degraded stream bank form usually will require more time than the recovery of plant community composition, in some cases much more time, particularly if the channel has become incised and confined." It continues "however, no rotation system will allow recovery or maintenance of the riparian system unless all livestock are removed after the use period. In any event, rest rotation or any other conventional grazing system should not be considered the sole answer to riparian grazing needs."

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Departmental Regulations 9500-4 require:

1. Manage "habitats for all existing native and desired nonnative plants, fish, and wildlife species in order to maintain at least viable populations of such species."
2. Conduct activities and programs "to assist in the identification and recovery of threatened and endangered plant and animal species."
3. Avoid actions "which may cause a species to become threatened or endangered."

Note specifically that this regulation does not allow for the excuses put forward by the Forest Service.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the Departmental Regulation. Remedy: Fully comply with the applicable requirements.

FSM 2670.22 requires:

1. Develop and implement management practices to ensure that species do notbecome threatened or endangered because of Forest Service actions.
2. Maintain viable populations of all native and desired nonnative wildlife, fish, and plant species in habitats distributed throughout their geographic range on National Forest System lands.
3. Develop and implement management objectives for populations and/or habitat of sensitive species.

Note specifically that this directive does not allow for the excuses put forward by the Forest Service.

FSM 2670.32 requires:

1. Review programs and activities as part of the National Environmental Policy Act of 1969 process through a biological evaluation, to determine their potential effect on sensitive species.
2. Avoid or minimize impacts to species whose viability has been identified as aconcern.
3. Analyze, if impacts cannot be avoided, the significance of potential adverse effects on the population or its habitat within the area of concern and on the species as a whole. (The line officer, with project approval authority, makes the decision to allow or disallow impact, but the decision must not result in loss of species viability or create significant trends toward federal listing.)

FSM 2670.44 requires:

7. Develop Forest Service recovery strategies to implement approved Recovery Plans. Apportion recovery objectives among forests. In cooperation with the FWS and States, establish recovery objectives in the absence of, or interim to, approved Recovery Plans; integrate these objectives with regional and forest plans.

8. Identify and approve management strategies to achieve conservation.

FSM 2670.45 requires:

2. Develop quantifiable recovery objectives and develop strategies to effect recovery of threatened and endangered species. Develop quantifiable objectives for managing populations and/or habitat for sensitive species.

4. Determine distribution, status, and trend of threatened, endangered, proposed, and sensitive species and their habitats on forest lands.

Again, a wide range of directly applicable requirements were ignored by the IDT.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

Let[rsquo]s examine FSM 2520. 2525 requires:

Monitor physical and chemical characteristics of soil and water as a means for assessing watershed condition, and the degree to which planning, management, operation, and maintenance of renewable resources meet established goals and standards (36 CFR part 219). See various authorities addressing monitoring in FSM 2501.

2525.02 requires:

The objectives of monitoring are to:

1. Secure data sufficient to assist line officers and resource managers in evaluating the effects of management activities on the soil and water resources,
2. Support changes in management activities to protect soil and water productivity, and
3. Detect pertinent physical, chemical, and biological changes in soil properties, sediment production, and water quantity and quality.

2525.03 requires:

Design and implement soil and water resource monitoring to evaluate effects of each forest management activity or program on basic soil and water quality and productivity.

2525.04b requires:

Forest Supervisors have the responsibility to ensure the interdisciplinary development of monitoring plans, before monitoring begins.

2525.1 - Monitoring Plan

The plan should include:

1.
1. Clear statements of objectives, including data accuracy requirements, collecting procedures, and analytical standards and procedures.
2. A list of selected projects to be monitored, coordinated with monitoring needs specified in the Forest and project plans.
3. The instrumentation, measurement, analysis, and reporting program.
4. The general time schedule for implementation.
5. Provision for periodic evaluation of the monitoring to determine if parameters measured and frequency of sampling meet planned objectives.

1.
1. A schedule for equipment maintenance.
2. Contingency plans in case of breakdown of instrumentation.
3. Instruction for reporting when data indicate major deviation from standards.

1.
1. Estimated yearly financial requirements.
2. Personnel needs and assignments.
3. Procedures for data storage, analysis, evaluation, and reporting.

The EIS proposes to continue a major source of water pollution but provides no plan to monitor the impacts of those actions as required above.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

FSM 2526 and 2527 also provide specific requirements that have not been implemented.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM. Remedy: Fully comply with the applicable requirements.

We have discussed a wide range of agency policy in our scoping comments, our DEIS comments, our DSEIS comments, as well as here. We need to take a few moments to examine agency policy and its relation to agency decision making.

Forest Service Policy

In describing the purpose of the Forest Service Directive System, the agency states:

The Forest Service Directive System consists of the Forest Service Manual (FSM) and Handbooks (FSH), which codify the agency's policy, practice, and procedure. The system serves as the primary basis for the internal

management and control of all programs and the primary source of administrative direction to Forest Service employees. New or revised continuing direction is issued by amendment; short-term direction is issued by interim directive; and direction supplementing that issued by an external or higher level is issued by supplement.

As such, Directives can not simply be ignored when inconvenient, as has been done in this case.

The Washington Office continues discussing whether Directives are binding on employees:

The words used to issue direction, not whether the direction is located in the Manual or Handbook component of the Directive System, determine how binding the direction is on Forest Service employees. The use of the helping verbs "must"and "shall" or imperative mood (where the subject "you" is understood) conveymandatory compliance; "ought" and "should" convey required compliance, exceptfor justifiable reasons; and "may" and "can" convey optional compliance.

In general, the Manual contains the more significant policy and standards governing Forest Service programs, and thus the consequence of not complying with Manual direction is generally more serious than noncompliance with Handbooks. However, procedural direction in a number of Handbooks is often equally important. (emphasis added)

From an Administrative Procedures Act perspective:

Agencies must [ldquo]follow their own regulations, procedures, and precedents, or provide a rational explanation for their departure.[rdquo] Utahns for Better Transp. v.

U.S. Dep[rsquo]t of Transp., 305 F.3d 1152, 1165 (10th Cir. 2002).

Other courts have stated the same principle, As discussed in WWP v. Salazar (4:08-CV- 516-BLW, D Idaho):

They are both official BLM policies that on their face apply to the Craters EIS but were not discussed in that NEPA document. At the very least, NEPA requires the BLM to discuss its own official policies that on their face apply directly to the review at issue. See ONDA, 625 F.3d at 1115-16 (holding that court could examine agency official policies in determining adequacy of EIS)[hellip]. It does not matter whether the Policy and Strategy contain requirements or only guidelines [ndash] either way, the BLM violates FLPMA by completely disregarding its own policies on the drafting of RMPs without discussion or analysis in the RMPs at issue or the accompanying EISs. See Atchinson v. Wichita Board of Trade, 412 U.S. 800, 808 (1973) (where agency modifies or overrides its

longstanding precedents or policies, it [ldquo]has the duty to explain its departure from prior norms[rdquo])[hellip] BLM cannot make informed decisions if it does not consider all relevant information at its disposal.

Nor can the public evaluate BLM[rsquo]s decisionmaking without being fully informed[hellip]..NEPA, however, requires BLM to disclose its data and its analysis in its NEPA documents so BLM[rsquo]s decisionmakers and the public can review it, critique it, and comment on it. WWP v. BLM 4:09-CV-298-EJL D of Idaho

USDA Departmental Regulation 4070-735-001 mandates that all USDA employees

1. POLICY

It is USDA[rsquo]s policy that its employees:

1. Maintain high standards of honesty, integrity, and impartiality;
2. Adhere to the rules set forth in this directive, as well as all directives referenced in section 2 of this directive;
3. Comply with lawful supervisory direction; and

1. Comply with work-related laws, regulations, and policies.

As is obvious, each Forest Service employee must comply with law, regulation and policies.

It is not for the IDT and the line officer to discard policy that does not support their agenda or that they find inconvenient.

We provided directly applicable policy directives in our scoping comments, our DEIS comments and our DSEIS comments, but like all the rest of the material we provided, it was entirely ignored, because the directives we provided are inconvenient to the agency[rsquo]s supplication to these permittees wishes.

[ldquo]courts must overturn agency actions which do not scrupulously follow the regulations and procedures promulgated by the agency itself.[rdquo] Sierra Club v. Martin, 168 F.3d 1, 4 (11th Cir. 1999)

Utilization

The primary range science textbook sums up current science regarding utilization rates when it states: [ldquo]Conventional wisdom has been that moderate stocking involves 50 percent use of forage (Table 8.2). This guideline applies well in the southern pine forests, humid grasslands, and annual grasslands but results in rangeland deterioration in[hellip] coniferous forest rangelands[rdquo] (pg. 140 of Holechek et al. 2011).

The textbook[rsquo]s review of the literature found that Troxel and White, 1989, Lacey et al, 1994, Johnson et al, 1996, White and McGinty, 1997 as well as USDA NRCS, 1997 all recommend stocking based on allocation of [ldquo]25% of the current year forage to livestock, and another 25% to natural disappearance (insects, wildlife, weathering) with 50% left for site protection. The approach developed by Holechek (1988) is based on maximizing forage by livestock, while Troxel and While (1989) works well for range betterment and minimization of risk.[rdquo] Id at 157. The textbook concludes that [ldquo]use of a harvest coefficient higher than 25% invariably leads to land degradation.[rdquo] Id at 157.

Galt et al, 2000 in Rangelands 22(6) echoes the foundational importance of proper stocking rates [ldquo]We increasingly hold the opinion that a 25% harvest coefficient is a sound idea for most western rangelands. After careful analysis of their own and existing research, Johnston et al. recommended a 25% harvest coefficient for Australian rangelands. It allows both forage species and livestock to maximize their productivity, allows for error in forage production estimates, greatly reduces problems from buying and selling livestock, reduces the risk of financial ruin during drought years, and promotes multiple use values.[rdquo]

What is current forage production on these allotments? The EIS is entirely silent on this basic question.

How does the proposed forage demand from these livestock relate to current forage production? The EIS is entirely silent on this basic question.

We remind the Forest Service, here, of the requirements on the development of Proper Use Criteria discussed earlier.

The EIS fails to implement utilization limits and only mentions the words [ldquo]key species[rdquo] in in general. What are those [ldquo]key species[rdquo]? Are they low stature increaser species such as Idaho fescue, Sandbergs bluegrass? Or are they tall stature decreaser species? Or are they non-native and invasive species?

What the [ldquo]key species[rdquo] are has a dramatic set of impacts. For instance, it is difficult to graze the low stature increaser species Idaho fescue to 50% which renders use of this species as a [ldquo]key species[rdquo] meaningless. Sandbergs bluegrass is fairly similar. It is very hard to graze it to 50% because of its very short

stature.

The FEIS does not indicate which plant species will in fact be [ldquo]key forage species[rdquo] for utilization monitoring. Without knowing the average ungrazed height of the key forage species, how can the Forest Service ensure any herbaceous retention following utilization will actually provide suitable and adequate cover for amphibians, migratory birds, and other species? The FEIS failed to indicate what species will be measured for utilization monitoring, their average ungrazed heights on these allotments, and connect that information to the herbaceous retention needs of boreal toads and other species.

FSH 2209.21 defines:

Key Species.

1. Forage species whose use serves as an indicator to the degree of use of associated species.
2. Those species which must, because of their importance, be considered in the management program.

FSH 2209 - Proper Use Criteria. The limiting factor or factors which will be measured on a particular site to determine if the site has been properly used.

FSH 2209..21 R4 Supplement

A desired future condition can specify use of a key species or vegetative community to achieve desired plant cover, density, or population composition which then will be a limiting factor determining the amount of allowable use.

When allowable use is reached on a key species proper use has been achieved on the area and use should be terminated for the season, even though allowable use has not been reached on non-key species.

As should be obvious, the use of a key species and a utilization rate that is difficult or impossible to exceed can not, rationally, be considered the [ldquo]limiting factor[rdquo] required for a Proper Use Criteria.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH and Best Available Science. Remedy: Fully comply with the applicable requirements.

NEPA

A fundamental aspect of NEPA is to take a [ldquo]hard look[rdquo] at current management, conditions, assumptions and implementation. A NEPA document that fails to analyze the following violates the purposes of NEPA:

1. Validity of assumptions from previous NEPA processes
2. Accuracy of predictions from previous NEPA processes
3. Adequacy of Forest Service implementation of previous decisions
4. Permittee compliance with permit terms and conditions, AMP's, AOIs and other requirements
5. effectiveness of actions taken in previous decisions

These above items are absolutely critical to be part of this NEPA process. Without this critical link the validity of the current assumptions are baseless. Let's look at each one of these individually. Without analyzing the accuracy and validity of the assumptions used in previous NEPA processes, one has no way to judge the accuracy and effectiveness of the current analysis and proposals. This vitiates the NEPA process.

The predictions made in previous NEPA processes also need to be disclosed and analyzed because if the accuracy was not there, most likely you are making the same predictions in the current process and as such the process again will be vitiated.

A review of the adequacy of the Forest Service's implementation of current AMP's, AOIs and Forest Plan standards is essential to a valid NEPA process. For instance, if in previous processes, the Forest Service said they were going to do a certain monitoring plan or implement a certain type of management or require certain impact limits, but if these were never effectively implemented, that is incredibly important for the reader and the decision maker to know. If there have been problems with Forest Service implementation in the past, it is not logical to assume that implementation will now all of a sudden the appropriate.

Another critical component is permittee compliance. If the permittee has failed to properly comply with their permit terms and conditions and AMP and AOI requirements, including utilization requirements, rotation requirements and fence maintenance then it is absolutely critical to discuss this in the document and its effects on the proposed action. Permittee failure to comply with permit terms and conditions and other requirements shows two

things, firstly that the permittee has failed to implement even the minimal standards that are currently in place and secondly, it shows that the Forest Service has failed to take decisive permit action to ensure compliance. Both of these are very important aspects that must be discussed for a valid NEPA process, most especially when the FS as here is relying on adaptive management promises.

Given that documents obtained from the Forest Service over the last many years clearly show routine lack of compliance over most of these allotments, such analysis is even more critical.

Another critical component is an examination of the effectiveness of the actions taken in previous decisions. A classic example of this is fences and water developments. Often, new fences and water developments are proposed to solve riparian issues in spite of the fact that these have been used for many decades without correcting riparian issues. Doing more of the same that has not lead to good results is not an effective strategy for public lands management.

The EIS fails to take the required [ldquo]hard look[rdquo] at these issues.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements of NEPA. Remedy: Fully comply with the applicable requirements.

FSH 2209.13 requires at 92.3:

Except where expressly provided for by law, a site-specific analysis of environmental effects of livestock grazing projects on affected National Forest System lands and resources must be completed pursuant to NEPA before the grazing activity can be authorized.

NEPA requires:

Subsection 1.19 Methodology and Scientific Accuracy (40 CFR 1502.24). Conclusions about environmental effects will be preceded by an analysis that supports that conclusion unless explicit reference by footnote is made to other supporting documentation that is readily available to the public. Bureaus will also follow Departmental procedures for information quality as required under Section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L.106-554, 114 Stat. 2763).

This violates NEPA[rsquo]s [ldquo]hard look[rdquo] requirement.

From Idaho Sporting Congress v. Thomas: "..... allowing the Forest Service to rely on

expert opinion without hard data either vitiates a plaintiff's ability to challenge an agency Action, or results in the court's second guessing an agency's scientific conclusions. As both of these results are unacceptable, we conclude that NEPA requires that the public

receive the underlying environmental data from which a Forest Service expert derived her opinion. In so finding, we note that NEPA 's implementing regulations require agencies to "identify any methodologies used and make explicit reference to the scientific or other sources relied upon for conclusions" used in any EIS statement."

From The Neighbors of Cuddy Mountain v. United States Forest Service: "General statements about [ldquo]possible" effects and "some risk" do not constitute a" hard

look[rdquo], absent a justification why more definitive information could not be provided."

1. Objection [ndash] The FEIS and ROD do not comply with the requirements of NEPA. Remedy: Fully comply with the applicable requirements.

The FEIS[rsquo]s Level of Analysis Does Not Meet the Requirements for an EIS under NEPA
An EIS must explain the environmental impacts of a proposed action and any adverse effects that cannot be avoided. 42 U.S.C. [sect][sect] 4332(C)(i)[ndash](ii). This [ldquo]hard look[rdquo] obligation requires an EIS to contain more than mere assertions, but indicate the basis for such assertions. Dubois v. U.S. Dep[rsquo]t of Agric., 102 F.3d 1273, 1288 (quoting Silva v. Lynn 482 F.2d 1282, 1287 (1st Cir. 1973)). An EIS [ldquo]cannot be composed of statements [lsquo]too vague, too general, and too conclusory.[rsquo][rdquo] Silva, 482 F.2d at 1285 (citing Envtl. Def. Fund v.

Froehlke, 473 F.2d 346, 348 (8th Cir. 1972)). [ldquo]General statements about possible effects and some risk do not constitute a hard look absent a justification regarding why more definitive information could not be provided.[rdquo] W. Watersheds Project v. Kraayenbrink, 632 F.3d 472, 491 (9th Cir. 2011). In an EIS, an agency must [ldquo]explicate fully its course of inquiry, its analysis, and its reasoning.[rdquo] Mass. v. Andrus, 594 F.2d 872, 883 (1st Cir. 1979). Relevant information must be made available to the public so it can [ldquo]play a role in both the decision-making process and the implementation of that decision.[rdquo] Robertson v. Methow Valley Citizens Council, 490 U.S. 332, 349 (1989).

As described below, the Forest Service has not satisfied its NEPA hard look obligation through the superficial level of detail and analysis provided in the FEIS. We expected the Final EIS to contain a much more detailed, thorough, and in-depth analysis of the environmental impacts of alternatives under consideration, including responses to our comments and questions and full consideration of the attachments provided, but that didn[rsquo]t happen.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSH. Remedy: Fully comply with the applicable requirements.

Sensitive Species Policy
Sensitive species within the project area include bighorn sheep, among others. The Forest Service Manual outlines the agency[rsquo]s policy regarding sensitive species. This includes direction to [ldquo][a]void or minimize impacts to species whose viability has been identified as a concern.[rdquo] FSM 2670.32. Designated sensitive species, by definition, are those identified by the Regional Forester [ldquo]for which population viability is a concern..... [rdquo] FSM 2670.5.

The FEIS does not make clear that the Forest Service has in fact avoided or minimized impacts Sensitive Species in line with the agency[rsquo]s Sensitive Species Policy. In fact, just the opposite, it essentially writes off Sensitive Species.

The Forest Service Manual also states that it is agency policy to [ldquo][a]nalyze, if impacts cannot be avoided, the significance of potential adverse effects on the population or its habitat within the area of concern and on the species as a whole.[rdquo] FSM 2670.32. The FEIS fails to undertake this analysis for either boreal toads or greater sage-grouse. Neither do the wildlife or aquatic specialist reports. Again, the FEIS offers only general, vague, and conclusory statements, not the detailed or quantified information required by NEPA.

The Forest Service Manual directs the agency to [ldquo][e]stablish management objectives . . . when projects on National Forest System lands may have a significant effect on sensitive species population numbers or distributions.[rdquo] FSM 2670.32.

[ldquo]At the very least, NEPA requires [a federal agency] to discuss its own official policies that on their face apply directly to the review at issue.[rdquo] W. Watersheds Project v. Salazar, No. 4:08-cv-516-BLW, 2011 WL 4526746, at *14 (D. Idaho Sept. 28, 2011) (citing Or. Natural Desert Ass[rsquo]n v. Bureau of Land Mgmt., 625 F.3d 1092, 1115[ndash]16 (9th Cir. 2010)). An agency also violates its operative statute (NFMA in this case) [ldquo]by completing disregarding its own policies . . . without discussion or analysis in the [documents] at issue or the accompanying EIS[].[rdquo] Id. at *17 (citing Atchison v. Wichita Bd. of Trade, 412 U.S. 800, 808 (1973). The Forest Service Manual policy regarding sensitive species applies to the review the agency is undertaking through this NEPA process, and must be discussed.

1. Objection [ndash] The FEIS and ROD do not comply with the requirements mandated in the FSM/FSH and NEPA. Remedy: Fully comply with the applicable requirements.

The Forest Plan amendment violates NFMA, its implementing regulations, Secretarial Orders, NEPA and is arbitrary and capricious. The provided rationale, if it were valid, could be used to entirely eliminate protections, under NFMA, etc for nearly all species.

A Forest Plan amendment can not supersede statutory and regulatory duties imposed on the Forest Service, through an amendment process

1. Objection [ndash] The FEIS, ROD and amendment do not comply with the requirements listed above. Remedy: Fully comply with the applicable requirements.

Sincerely,

Jonathan B Ratner

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