

Data Submitted (UTC 11): 4/16/2021 11:00:00 AM

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Comments: [Attachment A]

Comments on Proposed Revisions to

USFS Rangeland Management Directives

SectionTopicProposed Comment

seriatimProposed revisionsWe have reviewed the Proposed Revisions to the USFS Rangeland Management Directives. It is an extensive document. It would be appropriate to include a redline to identify and evaluate the changes.

Chapter 2210--Rangeland Management Planning

2210.2Objectives: Those in section 2202 are supplemented. No. 3: "Provide for management of rangeland ecosystems and efficient accomplishment of land management goals and objectives in coordination with user groups and individuals."Section 2210.2: There is a reference to a "user group" or "user individual" What are these? They are not defined in section 2205.

Chapter 2250[mdash]Rangeland management Cooperation

2252.21"Most Allotment Management Plans and Annual Operating Instructions (or similar document) address the disposal of dead animals, but that has typically applied to an animal dying of "natural causes" or being struck by lightning, etc. In such cases, burying and burning are no longer acceptable forms of disposal of the dead animal; instead, the permittee needs to remove the animal or call a rendering service to do so."Section 2252.21: To the extent APHIS is responsible for investigating deaths to determine if a wolf, for example, killed the animal, the animal must be left in place. Even thereafter, this is a burdensome obligation to place on ranchers in remote locations for which doing so is impractical.

Chapter 90[mdash]Rangeland Management Decision Making

90Discusses Land Management Plans (LMPs)Chapter 90: Is the Land Management Plan the same as a Forest Plan? If so, you should define Land Management Plan in section 2205 to include a Forest Plan.

91.38"It is strongly recommended to analyze conditions in vacant allotments in the project area in case conditions or resource needs in the future could allow for intermittent grazing or restocking of the vacant allotment.Section 91.38: We concur that vacant allotments should be assigned or made available for use on a routine basis so that fences and improvements are maintained.

91.39Relatively extensive discussion of "adaptive management." Defined as "system of management practices based on clearly identified intended outcomes and monitoring to determine if management actions are meeting those outcomes; and, if not, to facilitate management changes that will best ensure that those outcomes are met or re-evaluated. Adaptive management stems from the recognition that knowledge about natural resource systems is sometimes uncertain."Section 91.39: The description of "adaptive management" is vague; it would appear to authorize the USFS to do whatever it wants.

94.31Inserts a new section to address attendance in annual meetings by outside parties. Provides that "AOI meetings are not open to the public."Section 94.31: We agree. If grazing has been authorized, the AOI meeting should not be sabotaged by groups opposed to grazing.

[Attachment B]

College of Agricultural, Consumer and Environmental Sciences

Cooperative Extension Service and Agricultural Experiment Station

Range Improvement Task Force

MSC 3AE

New Mexico State University

April 16, 2021 Dear Director,

Thank you for the opportunity to provide recommendations for consideration regarding the December 2020 Proposed Rangeland Management Directives Update of the U.S. Forest Service contained in the Forest Service Manual (FSM) 2200, Forest Service Handbook (FSH) 2209.13, and FSH 2209.16. The Range Improvement Task Force (RITF) at New Mexico State University (NMSU) has a 42-year history of working with livestock producers and federal land management agencies using science to inform natural resources management decisions. Extensive experience working at the intersection of science and policy as it relates to livestock grazing and natural resources management on federal lands makes us well suited to provide realistic and science-based recommendations for consideration. Excerpts are indented and drawn from identified sections of the U.S. Forest Service documents provided unless specifically identified otherwise. Text recommended for deletion are struck through and text additions are underlined.

General Comment:

Changes to the documents were not easily identifiable even with the master digest and major changes summary table. We recommend that future changes should be clearly and obviously highlighted in the actual document and not summarized to in a table or separate document. Because of the difficulty in determining what was changed, we viewed the entirety of each of the documents reviewed as open for comment.

[sect] FSM 2200 - RANGELAND MANAGEMENT MANUAL

CChapter Zero Code

Apparent Trend. An interpretation of trend based on observation and professional judgment at a single point in time. An assessment, using professional judgment, based on a one-time observation. It includes consideration of such factors as plant vigor, abundance of seedlings and young plants, accumulation or lack of plant residues on the soil surface, and soil surface characteristics (i.e. crusting, gravel pavement, pedestalled plants, and sheet or rill erosion) (see Interagency Technical Reference 1734-4).

The Interagency Technical Reference (1734-4) defines trend as, "Trend refers to the direction of change. Vegetation data are collected at different points in time on the same site and the results are then compared to detect a change." It is not possible to defensibly determine a trend in natural resources through a one-time subjective assessment and professional judgement. These types of assessments often lead to conflicts and increases the probability of an indefensible decisions based on preference. Attributes including plant vigor, seedling abundance, litter accumulation and soil characteristics are realized within a natural range of variability, within ecosystems and among plant species. Moreover, a one-time assessment does not promote understanding variables that influence the observed traits, which are often critical to informing a management decision. We recommend Apparent Trend be redefined as:

**Apparent Trend** Subjective Assessment. An interpretation of trend based on observations and professional judgment at a single point in time. An assessment, using professional judgment, based on a one-time observation. It includes consideration of such factors as plant vigor, abundance of seedlings and young plants, accumulation or lack of plant residues on the soil surface, and soil surface characteristics (i.e. crusting, gravel pavement, pedestalled plants, and sheet or rill erosion). The primary use for these assessments are to identify areas that require further monitoring using defensible quantitative and qualitative methods. (See Interagency Technical Reference 1734-4).

**Frequency** (of use as a management tool). The number of times forage plants are defoliated during the grazing period. (see Reed, Floyd, Roy Roath, and Dave Bradford. 1999. The Grazing Response Index: A Simple and Effective Method to Evaluate Grazing Impacts. *Rangelands* 21(4): 3-6.)

The application of frequency as a management tool is more complicated than as described by Reed et al. (1999). Reed et al. (1999) provides a preliminary assessment of grazing intensity, but does not account for the proportion of the rangeland unit that is represented by the Grazing Response Index (GRI) estimate. Also, the GRI must be interpreted differently, dependent upon the dominance of either cool- or warm-season grasses, as the opportunity for regrowth of plants is based on spring and early summer growth data. Holechek et al. (2011) suggests that exceeding grazing guidelines (stubble heights or residues) on 30 percent of the rangeland unit in a particular year should be allowed. Moreover, they recommend that guidelines be tailored to individual allotments. The shortcoming of the GRI estimate is that it fails to include guidance necessary for appropriate interpretation based on dominant plant species and area represented by the GRI estimate. Sampling intensity is also key to understanding the frequency of individual plant defoliation. Reed et al (1999) assumes all plants will be grazed on a 7 to 10 day grazing reoccurrence, requiring assumptions about stocking rate, plant abundance, pasture size, terrain and other environmental attributes that may not be recognized by assessors. The current definition and references do not provide a clear understanding of Frequency (of use as a management tool) which promotes confusion. We recommend the elimination of this definition and suggest using multiple measurements of grazing intensity to quantify the frequency of defoliation in the context of grazing management outcomes (See Holechek et al. 2011).

**Frequency** (as a measurement for trend). The ratio between the number of sample units that contain a species

and the total number of sample units.

Bonham (2013) defines frequency as the percentage of a species present in a sampling unit. This could be generalized to: the percentage of an attribute present in a sampling unit. Bonham goes on to say that frequency is influenced by the size and shape of the sampling unit. Furthermore, the index is highly sensitive to abundance and pattern of growth and selection of appropriate plot size and shape requires preliminary study of the vegetation type. The offered definition does not address this important consideration nor intra-plot enumeration of individual plant species.

These shortcomings may contribute to confusion among managers when trying to effectively apply this index. We recommend the following revisions:

Frequency (as a measurement for trend). The ratio between the number of sample units that contain a species and the total number of sample units. This indices is sensitive to plot size and shape and preliminary study of vegetation type is necessary to ensure estimates are accurately represented.

## CChapter 2210 - Rangeland Management Planning

### 2210.2 -Objectives

2. Provide for enhanced protection of rangeland ecosystems and restoration of rangeland ecosystems that are not meeting or moving toward desired conditions.

Rangelands represent a suite of ecosystems representing a broad range of natural variation that may or may not benefit from enhanced protection. Some rangeland ecosystems are in states that will not respond to further protections and require substantive disturbance followed by appropriate inputs to achieve a restored state or desired conditions. Some of these areas may not respond reliably to any efforts of enhanced protection or intensive restoration management.

Desired conditions may also be subjective, based upon a preconceived target, without the benefit of historical scientific and ecological data to inform its selection. Assessing desired conditions are most reliably achieved using objective, repeatable and quantitative methods and clearly defined inferential space. Furthermore, a review of the appropriateness of the assigned desired condition should occur at regular intervals to ensure stated desired conditions are congruent with known ecological status of specific rangelands. We recommend the following changes to this objective:

2. Provide for enhanced protection scientifically defensible assessment of the ecological status of rangelands to

inform a) understanding of movement towards desired conditions, b) review of appropriateness of selected desired condition, and c) subsequent rangeland management and

restoration planning of rangeland ecosystems and restoration of rangeland ecosystems that are not meeting or moving toward desired conditions.

[sect] FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK

## Chapter 10 - Term Grazing Permits

### FSH 2209.13 Grazing Permit Administration Handbook Chapter 10

#### 13.61 Designation of a Forage Reserve Allotment

1. There must be an appropriate level of environmental analysis and decision, and consultation if required, to allow for authorization of livestock use on the allotment, except in situations such as fire, drought, or other emergency displacement of permittees from normally assigned allotments (36 CFR 222.3(c)(2)(i)(E)). If the current environmental analysis is not sufficient for designation, schedule the allotment and determine the appropriate priority with other allotments being analyzed.

Allotment analyses and decisions should prioritize assessment for grazing management to ensure availability of forage under adaptive grazing management scenarios and exceptional circumstances. This ensures the intent to allocate reserve forage is met when needed and increases management flexibility for Forest Service decisionmakers and livestock producers. To provide continuity with active and vacant allotments, explicit language should be included to acknowledge FRA may again become offered for a 10-year grazing permit following an explicit request of a qualified individual and NEPA analysis. A limit on the number of FRA allowed within a Ranger District should be mandated to promote optimal spatial distribution of reserve forage. Reclassification of active or vacant grazing allotments to a FRA status may represent a financial burden to rural communities by limiting available forage for local residents and should be specifically addressed in the allotment analysis. The Forest Service should strive to activate vacant allotments by showing a track record of seeking permit holders at the District, Forest and Regional level prior to consideration as a FRA. Explicit and rigorous criteria should be developed and met prior to an allotment being eligible to become a forage reserve.

1. The Forest Service may be responsible for maintenance of structural or nonstructural range improvements that had previously been assigned to the allotment permittee. This maintenance will be assigned to any permittee(s) authorized to use the forage reserve allotment.

The Forest Service must be responsible for maintenance of range improvements while a FRA is not being actively grazed to ensure it is capable of serving its function as a forage reserve in a timely manner. The phrase "may be responsible" allows the Forest Service to abdicate their responsibility for maintenance. Moreover, the maintenance responsibility may fall on a permit holder needing to temporarily use a FRA. The Forest Service may be compelled to require a prospective user of an FRA to bring a neglected FRA into grazing capable status. This may represent an undue burden to livestock producers and limit timely access to a FRA, undermining its intended purpose. Furthermore, this language may obligate the Forest Service to increase neighboring allotments maintenance responsibilities to the detriment of those family businesses.

We recommend the following revisions:

2. The Forest Service may be responsible for maintenance of structural and nonstructural range improvements that had previously been assigned to the allotment permittee under the same maintenance standards. This maintenance will be assigned to any permittee(s) authorized to use the forage reserve allotment.

4. A Memorandum of Understanding (MOU) may be established with a third party to operate a forage reserve allotment. The MOU will identify the responsibilities and requirements for the allotment for the third party and the FS including:

1. Criteria and procedures for allocating grazing use to prospective permittees (FS).
2. Maintenance of existing improvements (by agreement).
3. Construction or reconstruction of new improvements (by agreement).
4. Annual management and grazing use criteria (FS).
5. Monitoring (by agreement; but with FS quality control and quality assurance).
6. Administration responsibilities (FS).

Use of a third party MOU for FRA infrastructure maintenance promotes failure for the intended purpose of improving management flexibility, promoting rangeland restoration and responding to exceptional circumstances in a timely manner. We request the Forest Service consider 1) a permitting or contractual approach (i.e., use of a contract bond) when entering into a maintenance agreement with a third party, or 2) hiring or assigning existing Forest Service personnel with the maintenance responsibility.

15.3 - Exhibit 01

NOTE also: The AUM definition for capacity and permitting (1.0, with or without calf at side) is not the same thing as an AUM (1.32) as shown in the RIMS database calculations.

The use of an AUM (1.32) is confusing and not documented in the scientific literature related to cattle. The text should clarify the use of 1.32 AUM in the RIMS database. We could not find reference, in the 177 page file of Chapter 10, as to what RIMS meant. Acronyms should be identified in each separate Adobe file that is presented for public comment. We assumed RIMS refers to Rangeland Information Management System (RIMS) and is used for billing purposes. Between 2007 and 2009, we engaged the Forest Service, Region 3, for use of a 1.32 Animal Unit conversion for grazing capacity and permitting purposes. The ultimate source was identified as the 1.32 used for billing purposes as associated with Head Months. We engaged Region 3 and the Forest Service offices in Washington D.C. to address the misuse of this conversion. During this period the Forest Service explained that a  $HM \times (1.32) = 1 \text{ AUM}$ . Once this misuse was recognized, Region 3 issued a directive to stop the use of an AUM of 1.32 from being used for capacity and permitting purposes, as it was not supported by science. We are concerned that its continued reference may promote confusion among managers and recommend the following addition:

NOTE also: The AUM definition for capacity and permitting (1, with or without calf at side) is not the same thing as an AUM (1.32) as shown in the RIMS database calculations. Use of an AUM at 1.32 is prohibited in determining grazing capacity or for permitting purposes and is to only be used for billing purposes.

[sect] FSH 2209.16 - ALLOTMENT MANAGEMENT HANDBOOK

## 1. - FORAGE RESERVES AND CURRENTLY AVAILABLE FORAGE RESOURCES

We recommend the following revisions:

- 1.
1. 1 - Forage Reserve Allotments

Forage Reserve allotments (see also FSM 2200, chapter 2205, Definitions) are a designation for a type of allotment on which there is no current term permit obligation for some portion or all of the estimated livestock grazing capacity, and where there has been a project level environmental analysis and decision made to infrequently authorize use for available forage on the allotment to enhance management flexibility for authorized livestock grazing use or to achieve a desired vegetative condition, (e.g. to create a "forage reserve"). These are variously referred to as a "swing pasture or swing allotment," or other various terms. The Forest Service will refer to these types of allotments as forage reserves.

The suggested revision improves clarity that one of the intents of a FRA is to improve management flexibility among grazing allotments as well as for exceptional circumstances.

#### 17.12 - Designation of a Forage Reserve Allotment

If an allotment becomes vacant, the first decision should be to attempt to restock it or to combine it with an adjacent active allotment. If these decisions are not feasible, then each allotment that becomes a vacant allotment should may be evaluated for its potential for designation as a forage reserve allotment. The number of forage reserve allotments allowed in any one Ranger District should be limited to a minimum level allowing adequate reserve forage for remaining active allotments.

Suggested revisions limit the number of FRA allowed in each Range District to ensure optimal distribution of FRAs in support of Forest Service management obligations.

To change the designation for status of an allotment to a Forage Reserve, the area already contains a manageable amount and spatial distribution of suitable and capable acres as determined at the LMP level and site-specific environmental analysis. To change a Forage Reserve Allotment to an active grazing allotment a) a request by a qualified entity must be made, b) the area already contains a manageable amount and spatial distribution of suitable and capable acres as determined at the LMP level, c) maintenance by the District of improvements and infrastructure brought to current and operational levels to at least the same standards required of term permit holders, and c) a site-specific environmental analysis is completed.

This suggested revision closes the loop on uncertainty regarding the status of a FRA in relation to active and vacant allotments and provides flexibility to the Forest Service administration of grazing allotments in the future.

For the sake of efficiency, environmental analysis for changing vacant an allotment's status to forage reserve allotments or active allotments (e.g., vacant, active, forage reserve) should be included with the environmental analysis for other adjacent and intermingled allotments on a watershed or landscape scale.

This allows for a more comprehensive look at management options on all included allotments for fulltime or intermittent livestock grazing options.

Suggested revision provides continuity with previous suggested revisions.

#### 17.14 - Maintenance of Structural Improvements on Forage Reserve Allotments

Forage Reserve allotment designation decisions should be approached with care because the continual



maintenance of structural improvements will likely become an issue. In the absence of a contractual third party agreement (or a volunteer), or a permittee temporarily authorized to make use of the Forage Reserve allotment (and therefore obligated to maintain improvements), the responsibility for maintenance will fall back must be on the Forest Service and must be completed to at least the same standards and timeliness required of the previous term permit holders.

Revision provides continuity with previous suggested revisions and clarifies the Forest Service's responsibility of maintaining improvements at the same level as expected of grazing permit holders.

In the instance of an active allotment that becomes a Forage Reserve allotment, provide for maintenance of rangeland improvements. This may include assignment of maintenance responsibilities to willing permit holders on the adjacent allotments for shared fences, or contractual agreements with third parties, and/or other viable arrangements (such as with volunteers). In the instance of a vacant allotment that becomes a forage reserve, some other arrangement needs to be made so as to sustain the utility and life of the improvements; this may must include agency maintenance requirements.

Suggested revisions reduce the potential that establishment of a FRA represents an undue burden on neighboring active grazing allotments and provides continuity with previous recommended revisions.

Maintenance responsibility for improvements not assigned to another willing term permit holder will be assigned to those parties authorized to make use of the Forage Reserve allotment under permit modification or temporary permits.

Revision provides continuity with previous recommendations.

Thank you for the opportunity to review and comment on planned updates to Forest Service Directives.

[Attachment C]

Because it was unclear within the text exactly what was added and what was deleted, it was assumed that the entire document was open for comment.

FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK

CHAPTER 10 - TERM GRAZING PERMITS- 12.13 - Forest Service Employees

Employees of the Forest Service may be eligible to hold any type of a Forest Service permit, including term grazing permits, but they must receive written approval of the responsible official (Forest/Grassland Supervisor or Regional Forester) prior to making application for the grazing permit. (See FSM 6174.1 and/or contact the USDA Office of Ethics concerning employee conduct and employee conflicts of interest).

COMMENT: This statement should be expanded to include former or retired employees to safe guard against an appearance of malfeasance.

CHAPTER 10 - TERM GRAZING PERMITS -13.61 - Designation of a Forage Reserve Allotment Consider the following when evaluating:

1. There must be an appropriate level of environmental analysis and decision, and

consultation if required, to allow for authorization of livestock use on the allotment, except in situations such as fire, drought, or other emergency displacement of permittees from normally assigned allotments (36 CFR 222.3(c)(2)(i)(E)). If the current environmental analysis is not sufficient for designation, schedule the allotment and determine the appropriate priority with other allotments being analyzed.

1. The Forest Service may be responsible for maintenance of structural or nonstructural range improvements that had previously been assigned to the allotment permittee. This maintenance will be assigned to any permittee(s) authorized to use the forage reserve allotment.

COMMENT: Maintenance and repair of range improvements is the greatest weakness of the forage reserve proposal, without these improvements, allotments are not useful for the purpose proposed. [ldquo]may be responsible[rdquo] indicates that it is not the intent of the Forest Service to do the maintenance and repairs. Later it reads [ldquo]Even if these MOUs are not recommended, they may be the only option available to keep the allotment infrastructure intact and/or to avoid vacating or closing the allotment.[rdquo], also indicating that the Forest Service has no intention of maintaining these range improvements. A preferred option to [ldquo]vacating or closing[rdquo] is to issue a term grazing permit.

CHAPTER 10 - TERM GRAZING PERMITS- 13.7 - Official Agency Policy on Third Party Arrangements or Permit Buyouts by External Groups

If a permittee waives their grazing privileges back to the Forest Service, there can be no guarantee or agreement, whether written or verbal, regarding waived grazing capacity allocation, based upon buyout agreements between permittees and conservation groups, or other outside parties.

COMMENT: It is encouraging that the agency isn[rsquo]t developing new rules for [ldquo]permit buyouts[rdquo] and allowing exceptions for these third parties. Allowing a third party to dictate the use of the grazing privilege would be an exception that nobody else enjoys. However, if the Forest Service is going to classify these allotments as [ldquo]forage reserves[rdquo] rather than a term grazing allotment, the third party is getting their wish partially met.

CHAPTER 10 - TERM GRAZING PERMITS- 15.3 - Number, Kind and Class of Livestock, Period of Use, and Grazing Allotment

NOTE also: The AUM definition for capacity and permitting (1.0, with or without calf at side) is not the same thing as an AUM (1.32) as shown in the RIMS database calculations.

COMMENT: Please provide the documentation for the AUM (1.32) and the regulations or laws related to it as it relates to assessing grazing fees.

#### CHAPTER 10 - TERM GRAZING PERMITS- 15.43 - Special Terms and Conditions

The authorized officer should require the permittee to provide monitoring information related to livestock operation compliance shown in Part 2 of the terms and conditions of the permit, such as actual livestock numbers grazed, time period of grazing, livestock distribution, structural and nonstructural improvement condition, improvement maintenance activities conducted, vegetation use, and other terms of the permit.

Discuss these requirements fully with the permittee prior to initiation and offer any training necessary to achieve desired permittee performance.

COMMENT: The requirement for [ldquo]monitoring information[rdquo] is unclear, is [ldquo]vegetation use[rdquo] quantitative or qualitative? Although monitoring is defined as [ldquo]The collection and analysis of repeated observations or measurements over time to detect changes in conditions and values and evaluate progress toward meeting a resource or management objective.[ldquo] it is unclear how observations by different individuals, with different values and perceptions could be used to detect changes in [ldquo]conditions and values[rdquo]. According to the directives the agency, permittee, and third parties are [ldquo]monitoring[rdquo], however, the specifics of what type of monitoring and its usefulness or defensibility is not mentioned.

#### CHAPTER 10 - TERM GRAZING PERMITS- 16.1 - Modification of Term Grazing Permit to Conform to Law or to Address Rangeland Resource Conditions

Grazing permits may be modified to provide for cooperative range development projects. The development work, specifications, permittee and Forest Service responsibilities may be described in the AOI, by certified letter, and/or by permit modification forms. A permittee's failure to satisfactorily complete the development as specified in the modification constitutes a violation of the terms and conditions of the grazing permit unless the Forest Service failed to complete its obligations.

COMMENT: This is unclear, does the [ldquo]modification[rdquo] of the term permit include the permittee or is this strictly a Forest Service decision that the permittee has no input? The AOI, certified letter and/or permit modification forms, make it appear to be something done without involvement of the permittee. Exhibit 01 contains statements like [ldquo]Title of improvements constructed or maintained as a result of this modification shall be and remain vested in the United States Government[rdquo] and [ldquo]Failure to fulfill the terms of this modification is a violation of the Permittee's grazing permit and may be cause for suspension or cancellation of the permit in whole or in part.[rdquo], which make it critical that the permittee is involved and agrees to the modification. Section 16.11 - Modification Procedure, states

that the permittee [ldquo]should[rdquo] be involved, leaving it as discretionary. We recommend changing [ldquo]should[rdquo] to [ldquo]must[rdquo] throughout this section.

#### CHAPTER 10 - TERM GRAZING PERMITS 16.12 - Modifications That Result in Increased Numbers or Seasons of Use

The number of livestock or season of use authorized by a grazing permit may be temporarily or permanently increased to:

1.

1. Take advantage of additional grazing capacity resulting from the permittee's direct involvement in improvement work or more intensive management. The amount of the increase will be in proportion to the permittee's role in the improvement work or intensive management.

2. Restore reductions made for rangeland resource management or protection purposes when the objectives for which the reductions were made have been accomplished and documented. Allocation of this increased capacity shall be among those permittees (or their successors in interest) in proportion to the amount of the reduction sustained within the previous 10 years

COMMENT: Increases should not be limited to the [proportion to the permittee's role] or [in proportion to the amount of the reduction sustained within the previous 10 years]. First, it took more than 10 years, under Forest Service management to result in natural resource conditions that need restoration. Second, without the contributions of the permittee's, improvement would be zero, therefore both parties benefit without these limitations and permittee's would be incentivized as their benefit/cost ratio increases.

#### CHAPTER 10 - TERM GRAZING PERMITS 16.14 - Permittee Requests to Convert Kind or Class of Livestock or to Make Other Modifications

Conversions in the kind or class of livestock may result in a corresponding change in permitted numbers. Changes in numbers should not be based on differences in forage consumption rates (AUM conversion factors) but on the ability to meet annual use standards and the relative impacts that the change may have on the rangeland resources across the allotment(s). Additional issues related to changes in the level of livestock management that would be needed should also be considered. The authorized officer must exercise caution in this process. Rarely can change in kind or class be evaluated using an AUM conversion factor. Change in kind and class of livestock generally results in different areas of the allotment being used, changes in herd and band practices, changes in distribution, changes in use rates, etc.

COMMENT: While I don't disagree with the above statement, it should be noted that the AUM conversion factors is a starting place and a plan and objectives should be discussed and agreed upon relating to the [stock and monitor approach] including: the initial stocking rate, objectives and indicators to be monitored, and when adjustments in stocking will be made with timelines on the objectives and adjustments (adaptive management).

#### CHAPTER 10 - TERM GRAZING PERMITS 16.35 [ndash] Willfulness and Public Health and Safety Exceptions

Take action immediately in instances where the violation has an immediate impact on public health and safety and prompt action is necessary to avert the threat (see 5 U.S.C 558(c)). Examples might be where a break in the

allotment boundary fence has occurred and livestock are discovered inside a fenced rural airport boundary, or within a fenced public thoroughfare right-of- way.

COMMENT: It is assumed that the [ldquo]exceptions[rdquo] refers to the need to issue a Notice of a Noncompliance, but it is unclear on whether [ldquo]take action immediately[rdquo] is supposed to mean [ldquo]institute permit suspension or cancellation proceedings[rdquo] or get the livestock off of the right-of-way, as in the example? This is a poor example, because a [ldquo]break in the allotment boundary fence[rdquo] would not be a willful act of the permittee. If this is an example of willfulness and public health and safety issue, how would you prove that the permittee and not human visitor, willfully and intentionally cut the fence?

CHAPTER 10 - TERM GRAZING PERMITS 16.36 - Repeated Incidents of Non-Compliance While they may be entitled to a [ldquo]second chance,[rdquo] permittees are not entitled to unlimited chances to correct repeated incidents of non-compliance regarding the same or closely related permit terms or conditions. Such an approach could lead to a never- ending cycle of permittee violation,

COMMENT: Understanding the need to prevent [ldquo]a never-ending cycle of permittee violations[rdquo], there needs to be consideration for a multiple-use landscape with the public having unlimited access, wildlife and wild horses that break fences and natural causes like trees falling on the fences. Although a previous example (page 110) stated [ldquo]Examples of such minor violations could include a minor number of livestock being in the wrong pasture due to a gate being left open or a fence segment in need of emergency repair, a minor number of livestock that may have wandered off the allotment, or finding a few stray livestock that could not be found when a pasture was cleared or at the end of the grazing season.[rdquo], this statement appears to only allow a [ldquo]second chance[rdquo], even though the violations are beyond the control of the permittee. We recommend that this statement is clarified as not

including [ldquo]minor violations[rdquo].

CHAPTER 10 - TERM GRAZING PERMITS 16.6 - Permit Cancellation to Devote the Lands to Another Public Purpose

Under Section 402(g) of FLPMA, the permittee is entitled to reasonable compensation for the adjusted value of their interest in authorized permanent improvements on NFS lands that are to be devoted to another public purpose that precludes livestock grazing. This only applies if it was the current permittee who contributed to construction of the specific improvements. See chapter 70 and FSM 2248.

COMMENT: [ldquo]reasonable compensation for the adjusted value of their interest[rdquo] is very different from [ldquo]only applies if it was the current permittee who contributed to construction of the specific

improvements[rdquo], an [ldquo]interest[rdquo] could have been purchased from the previous permittee and has been maintained and repaired, therefore the [ldquo]interest[rdquo] has a value and should be compensated instead of limiting it to [ldquo]construction[rdquo]. We recommend deleting [ldquo]This only applies if it was the current permittee who contributed to construction of the specific improvements.[rdquo]

FSM 2200 - RANGELAND MANAGEMENT, CHAPTER - ZERO CODE

#### FSM 2200 - RANGELAND MANAGEMENT 2201.53 - Livestock Grazing

Federal law prohibits grazing cattle without a permit on lands within the National Forest System.

COMMENT: Please provide a citation for this federal law. What is the specific statute language?

#### FSM 2200 - RANGELAND MANAGEMENT 2201.55 - Ownership Claims by Others

Regarding claims of ownership involving Federal lands, the established rule is that land ownership decisions are construed favorably to the Government, unless there is clear language in law directing otherwise, and that if there are doubts they are resolved for the Government, not against it.

COMMENT: Please provide citations for the statement [ldquo]if there are doubts they are resolved for the Government[rdquo].

Essentially, pioneer rights are equivalent to "possessory" or "occupancy" rights that typically have the sanction of State or Territorial legislation, or; local laws, customs and decisions of the courts; or [ldquo]aboriginal[rdquo] title or [ldquo]possessory[rdquo] or [ldquo]occupancy[rdquo] rights dating from a time prior to

U.S. acquisition through [ldquo]treaty[rdquo] (i.e. Guadalupe-Hidalgo, 1848, or the Oregon-Northwest Treaty with Great Britain, 1846). This same possessory or occupancy right of "actual settlers[rdquo] gives the settler a "color of title[rdquo] which has been referred to as the "preference" right. The preference is

the preferred right to acquire the government's "legal title[rdquo] when the land occupied or in the possession and use of the pioneer is eventually opened to settlement.

COMMENT: The original [ldquo]grazing privilege[rdquo] was also referred to as a [ldquo]preference right[rdquo] associated with the preference to the renewal of a grazing permit and authorized livestock was termed [ldquo]preference numbers[rdquo]. Please address this change in terminology and the reasoning for the change.

#### FSM 2200 - RANGELAND MANAGEMENT 2204 - Exhibit 01 Delegation of Authority

10. Coordinating and cooperating with national livestock and environmental organizations, government agencies, and professional societies to promote sound rangeland management.

COMMENT: How do national livestock and environmental organizations promote local sound rangeland management? Just because these organizations and agencies have an opinion doesn[rsquo]t mean they know anything about [ldquo]sound rangeland management[rdquo], local conditions, or [ldquo]consider socio- economic effects in making decisions implementing rangeland management activities.[rdquo] Local conditions and issues require local solutions, not [ldquo]national[rdquo] solutions.

## FSM 2200 - RANGELAND MANAGEMENT 2205 [ndash] DEFINITIONS

**Apparent Trend.** An interpretation of trend based on observation and professional judgment at a single point in time. An assessment, using professional judgment, based on a one-time observation. It includes consideration of such factors as plant vigor, abundance of seedlings and young plants, accumulation or lack of plant residues on the soil surface, and soil surface characteristics (i.e. crusting, gravel pavement, pedestalled plants, and sheet or rill erosion) (see Interagency Technical Reference 1734-4).

**COMMENT:** It is not possible to determine a [ldquo]trend[rdquo] from a [ldquo]one-time observation[rdquo]. This definition appears more like an [ldquo]opinion[rdquo]. We recommend deleting this from your directives.

**Frequency (of use as a management tool).** The number of times forage plants are defoliated during the grazing period. (see Reed, Floyd, Roy Roath, and Dave Bradford. 1999. The Grazing Response Index: A Simple and Effective Method to Evaluate Grazing Impacts. Rangelands 21(4): 3-6.)

**COMMENT:** An article within Rangelands is hardly an accepted rangeland monitoring method if you want the science and support professional societies then you should use:

[ldquo]Frequency- The ratio between the number of sample units that contain a species and the total number of sample units.[rdquo] Society for Range Management. 1998. Glossary of terms used in range management, fourth edition. Edited by the Glossary Update Task Group, Thomas E. Bedell, Chairman. Used with permission. (<https://globalrangelands.org/glossary/F?term=>)

**Grazing Intensity.** The degree of herbage removed through grazing and trampling by livestock. Grazing intensity may be described in terms of herbage removed during the grazing and/or growing period or as a utilization level at the end of the growing period. It is important to clearly define how intensity is being viewed and described. Removal of leaf material, when the plant is actively growing can affect root growth which in turn affects future leaf growth. Sufficient leaf area is essential to support plant functions through photosynthesis. Heavy to severe intensity or utilization can affect current plant development and growth as well as growth during subsequent growing seasons (see Reed, Floyd, Roy Roath, and Dave Bradford. 1999. The Grazing Response Index: A Simple and Effective Method to Evaluate Grazing Impacts. Rangelands 21(4): 3-6).

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**Grazing Period.** The length of time grazing livestock or wildlife occupy a specific land area. The length of time a pasture is exposed to grazing affects many variables such as potential for regrowth of plant material, soil impacts and animal behavior. The grazing period influences the intensity of grazing and the frequency of grazing. It can also influence items tied to animal behavior such as trailing, and trampling such as between loafing and watering areas.

COMMENT: How does the Forest Service intend to determine when wildlife occupy a specific land area? If the Forest Service is using this to make management decisions or determine compliance with terms and conditions, then there is a need to quantify when wildlife and livestock are grazing and what are the outcomes for each class of animals. Please explain how this will be determined when there is a combination of livestock and wildlife occupancy.

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COMMENT: Again why not use the Society for Rangeland Management definition of monitoring?

Monitoring (rangelands)

The orderly collection, analysis, and interpretation of resource data to evaluate progress toward meeting management objectives. This process must be conducted over time in order to determine whether or not management objectives are being met. (<https://globalrangelands.org/glossary/M?term=>)

Repeated observations, unless done by the same person will not be comparable, due to individual, bias, values, or perspectives.

Rangeland Restoration. The process of assisting the recovery of an ecosystem that has been degraded, damaged, or destroyed. Rangeland restoration is an intentional activity that initiates or accelerates the recovery of an ecosystem with respect to its health, integrity, and sustainability.

COMMENT: This definition requires more clarity to make it understandable, such as defining; degraded ecosystem, damaged ecosystem, destroyed ecosystem, ecosystem health and ecosystem integrity, without



these being defined their identification would be arbitrary.

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COMMENT: How is Utilization determined before the end of the growing season, when utilization is defined as

[ldquo]Utilization. The proportion or degree of the current year[rsquo]s forage production that is consumed or destroyed by animals (including insects). The term may refer either to a single plant species, a group of species, or to the vegetation community as a whole (see Interagency Technical Reference (ITR) 1734-3, page 133).[rdquo]

Recommend that this be changed to the [ldquo]degree of use on current standing crop[rdquo].

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COMMENT: Please define [ldquo]ecological integrity[rdquo].

Trend. The direction of change in an attribute as observed over time.

COMMENT: This must be measured or quantifiable data collected by the same repeated methodology and cannot be determined through qualitative monitoring by different individuals.

FSM 2200 - RANGELAND MANAGEMENT

CHAPTER 2250 [ndash] RANGELAND MANAGEMENT COOPERATION

CHAPTER 2250 [ndash] RANGELAND MANAGEMENT COOPERATION 2250.3 [ndash] Policy

Coordinate and cooperate with local residents and organizations in the rural communities in which agency employees live and work.

COMMENT: Where is the coordination and cooperation with those that have a permit and their livelihood depends upon the use of federal rangelands? We recommend that coordination and cooperation be with the

permittee, that is economically dependent on the rangelands, before cooperating with residents and organizations.

#### CHAPTER 2250 [ndash] RANGELAND MANAGEMENT COOPERATION 2252.21 - Cooperation Regarding

##### Contagious Diseases

Most Allotment Management Plans and Annual Operating Instructions (or similar document) address the disposal of dead animals, but that has typically applied to an animal dying of [ldquo]natural causes[rdquo] or being struck by lightning, etc. In such cases, burying and burning are no

longer acceptable forms of disposal of the dead animal; instead, the permittee needs to remove the animal or call a rendering service to do so.

COMMENT: Topography, forest conditions, closed roads, and off road rules do not make possible to remove animals or call [ldquo]a rendering service to do so[rdquo].

#### FSH 2209.16 [ndash] ALLOTMENT MANAGEMENT HANDBOOK

#### CHAPTER 10 [ndash] ALLOTMENT MANAGEMENT AND ADMINISTRATION

#### CHAPTER 10 [ndash] ALLOTMENT MANAGEMENT AND ADMINISTRATION 10.54 - Decisions to Close Grazing

##### Allotments

Although not required by law or regulation, Agency policy states that an active allotment, forage reserve, or vacant allotment can ONLY be closed through an LMP or a project-level environmental analysis and decision. The analysis should also look at the effects on other resources (e.g. feral horses, ESA listed species, etc.).

COMMENT: The Forest Service now considers unauthorized livestock, [ldquo]feral horses[rdquo] as a resource? Are authorized livestock also a resource and were they considered in the decision as forage reserve or vacate the allotment?

COMMENT: Section 11.11 [ndash] [ldquo]Recommended Data for Determination of Rangeland Capability[rdquo] through section 11.22 [ndash] [ldquo]Recommended Process for Determination of Rangeland Suitability[rdquo] appears to be a GIS exercise that completely dismissing the 100+ years of grazing activity, on-the-ground knowledge and experience, as well as previous data and management. Please include how these variables will be included in the determination of rangeland capability and suitability.

[Attachment C]

Because it was unclear within the text exactly what was added and what was deleted, it was assumed that the entire document was open for comment.

## FSH 2209.13 - GRAZING PERMIT ADMINISTRATION HANDBOOK

### CHAPTER 10 - TERM GRAZING PERMITS- 12.13 - Forest Service Employees

Employees of the Forest Service may be eligible to hold any type of a Forest Service permit, including term grazing permits, but they must receive written approval of the responsible official (Forest/Grassland Supervisor or Regional Forester) prior to making application for the grazing permit. (See FSM 6174.1 and/or contact the USDA Office of Ethics concerning employee conduct and employee conflicts of interest).

COMMENT: This statement should be expanded to include former or retired employees to safe guard against an appearance of malfeasance.

CHAPTER 10 - TERM GRAZING PERMITS -13.61 - Designation of a Forage Reserve Allotment Consider the following when evaluating:

1. There must be an appropriate level of environmental analysis and decision, and

consultation if required, to allow for authorization of livestock use on the allotment, except in situations such as fire, drought, or other emergency displacement of permittees from normally assigned allotments (36 CFR 222.3(c)(2)(i)(E)). If the current environmental analysis is not sufficient for designation, schedule the allotment and determine the appropriate priority with other allotments being analyzed.

1. The Forest Service may be responsible for maintenance of structural or nonstructural range improvements that had previously been assigned to the allotment permittee. This maintenance will be assigned to any permittee(s) authorized to use the forage reserve allotment.

COMMENT: Maintenance and repair of range improvements is the greatest weakness of the forage reserve proposal, without these improvements, allotments are not useful for the purpose proposed. [Idquo]may be responsible[rdquo] indicates that it is not the intent of the Forest Service to do the maintenance and repairs. Later it reads [Idquo]Even if these MOUs are not recommended, they may be the only option available to keep the allotment infrastructure intact and/or to avoid vacating or closing the allotment.[rdquo], also indicating that the Forest Service has no intention of maintaining these range improvements. A preferred option to [Idquo]vacating or closing[rdquo] is to issue a term grazing permit.

CHAPTER 10 - TERM GRAZING PERMITS- 13.7 - Official Agency Policy on Third Party Arrangements or Permit Buyouts by External Groups

If a permittee waives their grazing privileges back to the Forest Service, there can be no guarantee or agreement, whether written or verbal, regarding waived grazing capacity allocation, based upon buyout

agreements between permittees and conservation groups, or other outside parties.

COMMENT: It is encouraging that the agency isn't developing new rules for [ldquo]permit buyouts[rdquo] and allowing exceptions for these third parties. Allowing a third party to dictate the use of the grazing privilege would be an exception that nobody else enjoys. However, if the Forest Service is going to classify these allotments as [ldquo]forage reserves[rdquo] rather than a term grazing allotment, the third party is getting their wish partially met.

#### CHAPTER 10 - TERM GRAZING PERMITS- 15.3 - Number, Kind and Class of Livestock, Period of Use, and Grazing Allotment

NOTE also: The AUM definition for capacity and permitting (1.0, with or without calf at side) is not the same thing as an AUM (1.32) as shown in the RIMS database calculations.

COMMENT: Please provide the documentation for the AUM (1.32) and the regulations or laws related to it as it relates to assessing grazing fees.

#### CHAPTER 10 - TERM GRAZING PERMITS- 15.43 - Special Terms and Conditions

The authorized officer should require the permittee to provide monitoring information related to livestock operation compliance shown in Part 2 of the terms and conditions of the permit, such as actual livestock numbers grazed, time period of grazing, livestock distribution, structural and nonstructural improvement condition, improvement maintenance activities conducted, vegetation use, and other terms of the permit.

Discuss these requirements fully with the permittee prior to initiation and offer any training necessary to achieve desired permittee performance.

COMMENT: The requirement for [ldquo]monitoring information[rdquo] is unclear, is [ldquo]vegetation use[rdquo] quantitative or qualitative? Although monitoring is defined as [ldquo]The collection and analysis of repeated observations or measurements over time to detect changes in conditions and values and evaluate progress toward meeting a resource or management objective.[ldquo] it is unclear how observations by different individuals, with different values and perceptions could be used to detect changes in [ldquo]conditions and values[rdquo]. According to the directives the agency, permittee, and third parties are [ldquo]monitoring[rdquo], however, the specifics of what type of monitoring and its usefulness or defensibility is not mentioned.

#### CHAPTER 10 - TERM GRAZING PERMITS- 16.1 - Modification of Term Grazing Permit to Conform to Law or to Address Rangeland Resource Conditions

Grazing permits may be modified to provide for cooperative range development projects. The development work, specifications, permittee and Forest Service responsibilities may be described in the AOI, by certified letter, and/or by permit modification forms. A permittee's failure to satisfactorily complete the development as specified

in the modification constitutes a violation of the terms and conditions of the grazing permit unless the Forest Service failed to complete its obligations.

COMMENT: This is unclear, does the [ldquo]modification[rdquo] of the term permit include the permittee or is this strictly a Forest Service decision that the permittee has no input? The AOI, certified letter and/or permit modification forms, make it appear to be something done without involvement of the permittee. Exhibit 01 contains statements like [ldquo]Title of improvements constructed or maintained as a result of this modification shall be and remain vested in the United States Government[rdquo] and [ldquo]Failure to fulfill the terms of this modification is a violation of the Permittee's grazing permit and may be cause for suspension or cancellation of the permit in whole or in part.[rdquo], which make it critical that the permittee is involved and agrees to the modification. Section 16.11 - Modification Procedure, states

that the permittee [ldquo]should[rdquo] be involved, leaving it as discretionary. We recommend changing [ldquo]should[rdquo] to [ldquo]must[rdquo] throughout this section.

#### CHAPTER 10 - TERM GRAZING PERMITS 16.12 - Modifications That Result in Increased Numbers or Seasons of Use

The number of livestock or season of use authorized by a grazing permit may be temporarily or permanently increased to:

1. Take advantage of additional grazing capacity resulting from the permittee[rsquo]s direct involvement in improvement work or more intensive management. The amount of the increase will be in proportion to the permittee[rsquo]s role in the improvement work or intensive management.
2. Restore reductions made for rangeland resource management or protection purposes when the objectives for which the reductions were made have been accomplished and documented. Allocation of this increased capacity shall be among those permittees (or their successors in interest) in proportion to the amount of the reduction sustained within the previous 10 years

COMMENT: Increases should not be limited to the [ldquo]proportion to the permittee[rsquo]s role[rdquo] or [ldquo]in proportion to the amount of the reduction sustained within the previous 10 years[rdquo]. First, it took more than 10 years, under Forest Service management to result in natural resource conditions that need restoration. Second, without the contributions of the permittee[rsquo]s, improvement would be zero, therefore both parties benefit without these limitations and permittee[rsquo]s would be incentivized as their benefit/cost ratio increases.

#### CHAPTER 10 - TERM GRAZING PERMITS 16.14 - Permittee Requests to Convert Kind or Class of Livestock or to Make Other Modifications

Conversions in the kind or class of livestock may result in a corresponding change in permitted numbers. Changes in numbers should not be based on differences in forage consumption rates (AUM conversion factors) but on the ability to meet annual use standards and the relative impacts that the change may have on the rangeland resources across the allotment(s). Additional issues related to changes in the level of livestock

management that would be needed should also be considered. The authorized officer must exercise caution in this process. Rarely can change in kind or class be evaluated using an AUM conversion factor. Change in kind and class of livestock generally results in different areas of the allotment being used, changes in herd and band practices, changes in distribution, changes in use rates, etc.

COMMENT: While I don't disagree with the above statement, it should be noted that the AUM conversion factors is a starting place and a plan and objectives should be discussed and agreed upon relating to the "stock and monitor approach" including: the initial stocking rate, objectives and indicators to be monitored, and when adjustments in stocking will be made with timelines on the objectives and adjustments (adaptive management).

#### CHAPTER 10 - TERM GRAZING PERMITS 16.35 [ndash] Willfulness and Public Health and Safety Exceptions

Take action immediately in instances where the violation has an immediate impact on public health and safety and prompt action is necessary to avert the threat (see 5 U.S.C 558(c)). Examples might be where a break in the allotment boundary fence has occurred and livestock are discovered inside a fenced rural airport boundary, or within a fenced public thoroughfare right-of-way.

COMMENT: It is assumed that the "exceptions" refers to the need to issue a Notice of a Noncompliance, but it is unclear on whether "take action immediately" is supposed to mean "institute permit suspension or cancellation proceedings" or get the livestock off of the right-of-way, as in the example? This is a poor example, because a "break in the allotment boundary fence" would not be a willful act of the permittee. If this is an example of willfulness and public health and safety issue, how would you prove that the permittee and not human visitor, willfully and intentionally cut the fence?

CHAPTER 10 - TERM GRAZING PERMITS 16.36 - Repeated Incidents of Non-Compliance While they may be entitled to a "second chance," permittees are not entitled to unlimited chances to correct repeated incidents of non-compliance regarding the same or closely related permit terms or conditions. Such an approach could lead to a never-ending cycle of permittee violation,

COMMENT: Understanding the need to prevent "a never-ending cycle of permittee violations", there needs to be consideration for a multiple-use landscape with the public having unlimited access, wildlife and wild horses that break fences and natural causes like trees falling on the fences. Although a previous example (page 110) stated "Examples of such minor violations could include a minor number of livestock being in the wrong pasture due to a gate being left open or a fence segment in need of emergency repair, a minor number of livestock that may have wandered off the allotment, or finding a few stray livestock that could not be found when a pasture was cleared or at the end of the grazing season.", this statement appears to only allow a "second chance", even though the violations are beyond the control of the permittee. We recommend that this statement is clarified as not

including "minor violations".

#### CHAPTER 10 - TERM GRAZING PERMITS 16.6 - Permit Cancellation to Devote the Lands to Another Public Purpose

Under Section 402(g) of FLPMA, the permittee is entitled to reasonable compensation for the adjusted value of their interest in authorized permanent improvements on NFS lands that are to be devoted to another public purpose that precludes livestock grazing. This only applies if it was the current permittee who contributed to construction of the specific improvements. See chapter 70 and FSM 2248.

COMMENT: [ldquo]reasonable compensation for the adjusted value of their interest[rdquo] is very different from [ldquo]only applies if it was the current permittee who contributed to construction of the specific

improvements[rdquo], an [ldquo]interest[rdquo] could have been purchased from the previous permittee and has been maintained and repaired, therefore the [ldquo]interest[rdquo] has a value and should be compensated instead of limiting it to [ldquo]construction[rdquo]. We recommend deleting [ldquo]This only applies if it was the current permittee who contributed to construction of the specific improvements.[rdquo]

#### FSM 2200 - RANGELAND MANAGEMENT, CHAPTER - ZERO CODE

#### FSM 2200 - RANGELAND MANAGEMENT 2201.53 - Livestock Grazing

Federal law prohibits grazing cattle without a permit on lands within the National Forest System.

COMMENT: Please provide a citation for this federal law. What is the specific statute language?

#### FSM 2200 - RANGELAND MANAGEMENT 2201.55 - Ownership Claims by Others

Regarding claims of ownership involving Federal lands, the established rule is that land ownership decisions are construed favorably to the Government, unless there is clear language in law directing otherwise, and that if there are doubts they are resolved for the Government, not against it.

COMMENT: Please provide citations for the statement [ldquo]if there are doubts they are resolved for the Government[rdquo].

Essentially, pioneer rights are equivalent to "possessory" or "occupancy" rights that typically have the sanction of State or Territorial legislation, or; local laws, customs and decisions of the courts; or [ldquo]aboriginal[rdquo] title or [ldquo]possessory[rdquo] or [ldquo]occupancy[rdquo] rights dating from a time prior to

U.S. acquisition through [ldquo]treaty[rdquo] (i.e. Guadalupe-Hidalgo, 1848, or the Oregon-Northwest Treaty with Great Britain, 1846). This same possessory or occupancy right of "actual settlers[rdquo] gives the settler a "color of title[rdquo] which has been referred to as the "preference" right. The preference is

the preferred right to acquire the government's "legal title[rdquo] when the land occupied or in the possession and use of the pioneer is eventually opened to settlement.

COMMENT: The original [ldquo]grazing privilege[rdquo] was also referred to as a [ldquo]preference right[rdquo] associated with the preference to the renewal of a grazing permit and authorized livestock was

termed [ldquo]preference numbers[rdquo]. Please address this change in terminology and the reasoning for the change.

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## FSM 2200 - RANGELAND MANAGEMENT

### CHAPTER 2250 [ndash] RANGELAND MANAGEMENT COOPERATION

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longer acceptable forms of disposal of the dead animal; instead, the permittee needs to remove the animal or call a rendering service to do so.

COMMENT: Topography, forest conditions, closed roads, and off road rules do not make possible to remove animals or call [ldquo]a rendering service to do so[rddquo].

## FSH 2209.16 [ndash] ALLOTMENT MANAGEMENT HANDBOOK

### CHAPTER 10 [ndash] ALLOTMENT MANAGEMENT AND ADMINISTRATION

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Although not required by law or regulation, Agency policy states that an active allotment, forage reserve, or vacant allotment can ONLY be closed through an LMP or a project-level environmental analysis and decision.

The analysis should also look at the effects on other resources (e.g. feral horses, ESA listed species, etc.).

COMMENT: The Forest Service now considers unauthorized livestock, [ldquo]feral horses[rdquo] as a resource? Are authorized livestock also a resource and were they considered in the decision as forage reserve or vacate the allotment?

COMMENT: Section 11.11 [ndash] [ldquo]Recommended Data for Determination of Rangeland Capability[rdquo] through section 11.22 [ndash] [ldquo]Recommended Process for Determination of Rangeland Suitability[rdquo] appears to be a GIS exercise that completely dismissing the 100+ years of grazing activity, on-the-ground knowledge and experience, as well as previous data and management. Please include how these variables will be included in the determination of rangeland capability and suitability.