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Comments: Thank you for the opportunity to comment and object on the project.

I am submitting some of the same issues as presented during the scoping period.

If there is a formal objection period, we plan to object over the same issues.

Issue 1:

Expanding grazing within the Ashley Karst National Recreation and Geological Area is in violation of the Dingell Act for the following reasons.

1. The Dingell Act fundamentally changed the purpose of lands within the Ashley Karst NRG and only allows for very specific purposes. The congressional language of Section 1117(f) of the Dingell Act states: "The Secretary shall only allow such uses of the Recreation Area that would--(1) further the purposes for which the Recreation Area is established; and (2) promote the long-term protection and management of the watershed and underground karst system of the Recreation Area." The purposes and uses of the recreation area is to "conserve and protect the watershed, geological, recreational, wildlife, scenic, natural, cultural, and historic resources of the area." None of the specified purposes include cattle grazing.

2. Section 1117(i) allows livestock grazing to continue "where established before the date of enactment of this Act." Your response to comments admits that the Forest Supervisor closed the Marsh Peak Allotment in 2008 to sheep grazing. The Allotment has never been open to cattle grazing. Since the 2008 closure, (including at the moment when the Dingell Act was signed) the allotment has not been open for any type of grazing. Expanding grazing into an area of the Ashley Karst NRG where it was not already established, is in violation of the act. The claim that the Marsh Peak allotment was established in 1973 is a moot point. The fact is that in 2008, the allotment was closed. The 2008 closure letter did not authorize grazing in the allotment, it simply left that decision open for some future time. However, the moment that the Dingell Act was signed, the opportunity to graze cattle in the closed allotment was negated. After the Dingell Act was signed, the only uses authorized within the Ashley Karst NRG are those specified in the act. Grazing could be allowed "where established before the date of the enactment," but the Marsh Peak allotment was closed on the date of the enactment. We look forward to presenting this same argument in our formal objection to the project.

3. Because cattle grazing is not one of the purposes of the Ashley Karst NRG, congress added conditional language for existing cattle grazing on the Ashley Karst NRG. The congressional language states that existing cattle grazing can be allowed to continue, "subject to" the purpose of the recreation area. When congress used the term "subject to" in the legislation, it defined a hierarchy where livestock grazing is subordinate to other purposes of the recreation area. It is clear in the congressional language that the mandate to "conserve and protect the watershed, geological, recreational, wildlife, scenic, natural, cultural, and historic resources" takes priority over all other uses or resources within the recreation area, including cattle grazing. Because cattle grazing is "subject to" the conservation and protection of the recreation area, if any of the priority resources are negatively affected by livestock grazing, then the Forest must modify, limit, or restrict existing grazing to mitigate the effects. Existing cattle grazing is not unconditionally protected, it is just allowed to continue if it does not cause harm or damage to other purposes for which the Ashley Karst NRG.

4. In the response to comments (Appendix C in the EA), the Forest Service states: "we expect that the facilitation of proper grazing management would support the purposes for which the Ashley Karst NRG was established and would also promote watershed health." This statement is a false narrative. The argument against livestock grazing is not comparing proper grazing management with improper grazing management. The argument is comparing livestock grazing with the absence of livestock grazing. There is no valid argument that the Forest

can make to show that livestock grazing would be a greater benefit to the conservation and protection of "the watershed, geological, recreational, wildlife, scenic, natural, cultural, and historic resources of the area" than would the absence of grazing. Grazing does not conserve or protect any of these resources.

Issue 2:

The Marsh Peak Allotment Expansion is not necessary because the issue can be resolved through administrative actions by requiring the permit holder to comply with the permit.

The Forest Service response to comment regarding my recommendation to resolve the issue through administrative action was not valid. The Forest Service response to comment stated: "The Forest Service took action to close the allotments to sheep grazing, which contributed to the problem of cattle drifting into these allotments. The Forest Service has an obligation to help remedy the issue while protecting the agreements made previously with the neighboring permittees."

Really? Does the Forest Service also contribute to illegal offroad ATV use because they close roads? This is a great argument that your law enforcement officers will love.

In reality, a grazing permit is entirely a discretionary permit and does not obligate the Forest Service to resolve any of the problems pertinent to this grazing issue. The permit holder is expected to ensure their cattle remain within the allotment boundary as specified in the permit. If the cost of complying with the permit is too great, the permit holder always has the option of terminating the permit. The permit only benefits the permittee, it does not directly benefit the Forest Service or the American People. The permit is a privilege, not a right and it is the permit holder's responsibility to fully comply with the permit.

If there are regulations or policies that indicate the "Forest Service has an obligation to help remedy the issue while protecting the agreements," please provide that regulatory or policy language and citations.

On the other hand, I am happy to provide you with guidance from Forest Service Regulations and policies to clearly show that grazing permits are discretionary and permit holders are obligated to comply with all of the stipulations of the permit.

1. In order to graze livestock on Forest Service lands, livestock owners must have a Forest Service Grazing Permit and "the holding of such permits is a privilege, not a property right." Forest Service Directive 2230.3 and 36 CFR 222.1(a) and 36 CFR 222.3

2. Forest Service Livestock grazing permits can only be renewed if the permit holder is fully compliant with the existing permit. Forest Service Directive 2231

3. Term Grazing Permits can be modified at any time to "comply with laws, regulations, executive orders, or other resource needs" Forest Service Directive 2231.61 and 36 CFR 222.4(a)(7).

4. Term Grazing Permits can be changed "to comply with forest land management plans, laws, regulations, and policy." Forest Service Directive 2231.6

5. The Forest Supervisor has authority to establish or modify range allotments and to set terms and conditions in grazing permits. Forest Service Directive 2204.3

Sincerely

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