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Re: Objection to the FEIS and Draft Record of Decision High Uintas Wilderness Domestic Sheep Analysis.

Submitted Electronically To: <https://www.fs.usda.gov/r04/ashley/projects/44503> and [bethany.nickison@usda.gov](mailto:bethany.nickison@usda.gov)

Forest Service:

This objection is filed in accordance with 36 CFR Part 218 on behalf of Yellowstone to Uintas Connection, Gallatin Wildlife Association, Sage Steppe Wild, Western Watersheds Project, Western Wildlife Conservancy, WildEarth Guardians, and Wilderness Watch. We have previously submitted scoping comments and comments in response to the Draft Environmental Impact Statement (DEIS) for the High Uintas Wilderness Domestic Sheep Analysis Project, which was released June 25, 2019, and the Supplemental Draft Environmental Impact Statement High Uintas Wilderness Domestic Sheep Analysis which was released in June 2023. We find this FEIS and ROD violate the APA, NEPA, NFMA and the Wilderness Act. The remedy must be to cease future domestic sheep grazing in these project allotments and the adjacent West Fork Blacks Fork allotment, which is being used as part of the sheep driveway.

#### HIGH UINTAS WILDERNESS CHARACTER vs. LIVESTOCK GRAZING ABSTRACT

In the following, I argue that the Forest Service misunderstands the Wilderness Act due to an institutional bias toward resourceism together with a conception of resources that systematically ignores relationships among things (Earth, water, atmosphere, plants, animals, decomposers, etc.). As a consequence, when faced with the task of making decisions involving conflicting values, the FS tends to favor the anthropocentric values of resource extraction above all others. Those values are regarded as being of paramount importance and all competing

values, such as wilderness character, are regarded as being of subordinate importance - contrary to the intent of the Wilderness Act of 1964. This bias is clearly evident in the Forest Service's management of the High Uintas Wilderness, where livestock grazing has first priority and other values, particularly wilderness character, are sacrificed for the benefit of a few private parties who operate commercial livestock grazing enterprises in the wilderness. The bias stems mainly from a fundamental misunderstanding of the meanings of two concepts that are central to the Wilderness Act: 'trammel' and 'impair' combined with an institutional bias of misplaced values.

#### Definition of wilderness & management of wilderness

The Wilderness Act of 1964 (WA) defines wilderness as ". . . areas where the earth and its community of life are untrammelled by man" and "retain their primeval character and influence . . ."

Wilderness areas within the National Wilderness Preservation System (NWPS), as the word preservation implies, are to be ". . . administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character."

Additionally, management agencies ". . . shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character."

#### Summary

Wilderness areas within the NWPS, including their communities of life, shall be managed by the responsible agencies to preserve their primeval character and influence and shall not be trammelled by man. Furthermore, other management purposes, such as recreation and livestock grazing, must be managed so as to preserve this wilderness character. In accordance with this, there shall be no commercial enterprise in wilderness.

#### Analysis

Two concepts are of central importance to understanding wilderness character: 'trammel' and 'primeval':

1. Merriam-Webster defines 'trammel' as "a restriction or hindrance that impedes free action, movement, or progress."
2. The Oxford English Dictionary defines 'trammel' as "[to] deprive of freedom of action."
3. Merriam-Webster dictionary defines 'primeval' as "of or relating to the earliest ages (as of the world or human history) : ancient, primitive."
4. The Oxford Advanced Learner's Dictionary define 'primeval' as "from the earliest period of the history of the world, very ancient."

From these definitions it follows deductively, i.e., with logical necessity, that wilderness is essentially a place or area, including a community of life, where ancient natural processes are not impeded or hampered by humans. Clearly, this does not imply that conditions are static in wilderness, since static conditions cannot be impeded or hindered. (This is a definitional or logical truth, not a contingent empirical claim.) The important point is that change is driven predominantly by non-human forces - hence is untrammelled by humans.

In short, a unit of wilderness in the National Wilderness System must be administered and managed so as to preserve its wilderness character, which is a process that retains its primeval nature untrammelled by humans and unimpaired. The concepts of 'trammel' and 'impair' are related but differ in emphasis. To trammel something is to hinder or impede the natural flow (change) of something. To 'impair' something is to damage it by interfering with its natural functioning and expresses a valuation - a negative one. It is possible to impede a process, such as the erosive force of a stream with riprap, without necessarily damaging it or harming it in any respect. To say that the flow of the stream is impaired is to imply that its proper functioning is damaged, harmed, or injured, which expresses a valuation. The fact that the WA emphasizes both without distinguishing between them suggests that, so far as the WA is concerned, land that has been trammelled by humans has to that extent been impaired.

Of course, human influence pervades the biosphere in our times, but importantly, wilderness is not "all or nothing." It is a matter of degree. Those areas that possess wilderness character to a high degree and are officially designated wilderness under the WA must be managed so as to preserve their wilderness character = the primeval character of the processes that constitute their wildness. Unfortunately, in the case of the High Uinta

Wilderness (HUW), the Forest Service has repeatedly chosen to manage for values that compromise wilderness character. The science of wilderness character is ecology - not botany or zoology or geology per se, but ecology, which is the science concerned with how all the parts (soil, water, plants, animals, etc.) interact together. And interaction implies a process or many interrelated processes.

Rather than base management decisions on the appropriate and best available science - ecology - the science of ecology is entirely ignored in favor of granting highest priority to continued livestock grazing (cattle and sheep) in the HUW. In the case of domestic sheep, this amounts to 10,300 ewe-lamb pairs and 3,000 dry ewes on 10 allotments in the most biologically fragile areas of the HUW, totaling approximately 161,000 acres of predominantly alpine basins, or approximately 1/3 of the area of the HUW for about two months every summer - a practice stretching back in time for more than a century. The purpose of this is to support two families in Southwest Wyoming. There is nothing more to be said in its favor than that

Of subordinate importance is doing what can be done to keep domestic sheep away from the wild native Rocky Mountain bighorn sheep in order to minimize the threat of lethal disease transmission to the native sheep. (All other wilderness related values, such as the quality of the wilderness experience, are also thereby relegated to secondary importance.) In short, providing economic support for two families and their employees is valued more highly than the ecological integrity of the HUW, which would require removing the domestic sheep and allowing the reintroduced bighorn herd to expand.

What the FS fails to consider is the ecological effects on the community of life in the HUW. It's as though that simply does not matter, even though the WA mandates that wilderness areas and their communities of life remain untrammelled by human activity and that wilderness character not be impaired. The WA also mandates that there be no commercial enterprise in wilderness areas. Livestock herding for the purpose of grazing, with the ultimate goal of producing income for a few private individuals and their families, is undeniably both a human activity and a commercial enterprise.

#### Evolution, ecology, and agency responsibility

Evolution is a process that is comprised of many sub-processes, including ecosystem processes. The evolutionary process, via natural selection, produces plant and animal organisms that tend to be optimally fitted for their roles in ecosystem processes. Thus, the central importance of primeval conditions and their value in the WA. Herbivory and predation are two such processes. The WA requires agencies to manage wilderness areas so as to protect and preserve these processes unimpaired. This means they are obligated to not interfere significantly in the lives of native herbivores and carnivores that are part of the community of life of a wilderness, lest the wild character of the wilderness be impaired by human trammeling.

Importantly, this doesn't mean that trammeling will be avoided if animal populations are managed so that the number of animals remains more or less constant from year to year. Numbers matter of course: populations should tend toward the natural carrying capacity of the land. But demographics also matter. For example, when dominant male mountain lions, which are the ones most prized as trophies, are removed from a population, it affects the fates and behaviors of all other mountain lions in the population - kittens, juveniles, subadults, and adults of both sexes. When many dominant males are removed from a population, the demographics of the population becomes skewed, cultural transmission is disrupted, and social chaos replaces relative order and stability. Research projects in the last 30 years have confirmed this repeatedly. And while the details differ, the same is true for other carnivore species as well, including bears, wolves, and coyotes. Removal of a dominant animal or a breeding pair can lead to the destruction of a family group, and consequently also disrupt natural ecological processes through trophic cascading effects.

When influential individual carnivores are removed from a population, not only are the social dynamics of the population upset, prey populations are adversely affected too, which in turn adversely affects the plant community. The effects ripple throughout the food web, as Aldo Leopold observed long ago in "Thinking Like a Mountain." The same basic story is also true for herbivorous species, such as Rocky Mountain bighorn sheep, elk, and mule deer. When a population of ungulates is decimated or extirpated, wilderness character, which includes a community of life, is impaired. Prey species and plant communities are adversely affected. 'Adverse impact' is any resulting condition that deviates substantially from the primeval norm that wilderness is supposed to be managed to preserve. And this primeval norm is not a static condition, but a process involving a multitude

of interrelated processes. It is not something that land or wildlife managers, or anyone, gets to define, but an objective feature of reality as defined by the WA. Put a bit differently, it is not a matter of human valuing concerning good or bad, but an objective state or condition of the community of life that qualified it for wilderness designation in the first place. The less it has been subjected to human trammeling and consequent impairment, the better. Of course, implicit in this is the presupposition - or rather, the stipulation - that primeval character is in some sense optimal and therefore best. And this simply means that fitness is good for organisms. The WA is responsive to this fact by recognizing that human trammeling reduces the fitness of native organisms. This valuation encompasses the idea that restoration of impaired processes is also desirable. In other words, it is wrong to think that a wilderness that has already been trammeled and impaired by human activity (tie-hacking, trapping, mining, grazing, etc.) at the time of designation, can't or shouldn't be rehabilitated to improve its wilderness character. In fact, if we simply cease trammeling it, wilderness character will often return on its own, like the healing of a wound.

The question is, when have wild processes been trammeled by humans, and hence impaired? There is some room for informed discretion as to when impairment occurs, but it is tightly constrained by empirical facts. Discretion is not *carte blanche* permission. This means that land and wildlife managers have a professional obligation to be reasonably up to date on the relevant research concerning predator-prey interactions, and other ecological processes. There is no bright line between healthy and impaired, just as there is no definite demarcation between being bald and not being bald. That said, President Eisenhower was definitely bald and President Kennedy definitely was not. When it comes to administering and managing wilderness areas, informed unbiased judgment is essential.

Additional analogies: It is probably not harmful to your car to occasionally drive it 1,000 miles past the factory-recommended distance between oil changes; but to go 10,000 miles beyond the recommended limit would definitely be going too far, especially if it is done repeatedly. Similarly, having a single glass of wine with dinner each evening probably won't harm a healthy human adult, but drinking a gallon of wine every day most definitely will, especially if this goes on for many months or years.

#### Community of life

Unfortunately, the Forest Service exercises poor judgment in its management of the Uinta-Wasatch-Cache and Ashley National Forests by allowing domestic sheep grazing in 10 contiguous grazing allotments in the HUW, year after year, ongoing for over 100 years. What is missing is a consideration of the community of life that is an integral part of the wilderness and is, thanks to Aldo Leopold, a central concept of ecology. Instead, members of the community of life are viewed, perhaps unconsciously, as discrete entities having no significant causal interconnections with other members of the community. This almost necessitates reckoning health of a species in terms of abundance only - hence, the ludicrous idea that a minimum viable community of bighorn sheep or Canada lynx, is satisfactory. The community concept appears to be entirely missing from Forest Service analyses, planning, and decisions as regards livestock grazing in the HUW.

Ecology teaches us that a community of life is not just an aggregation of individual organisms of various kinds, like so many building blocks. It is the individual organisms plus their multifarious interactions, including reproduction of kinds. These interactions are far reaching, including proximate causal and remote causal relations, as well as a multitude of feedback loops, some positive and some negative. Moreover the abiotic environment is part of the causal network too. The interactions among the parts reverberate throughout the system.

#### The High Uintas Wilderness and domestic sheep grazing

The character of the High Uinta Wilderness has already been trammeled and impaired by the anthropogenic decimation of the original native bighorn sheep population via disease transmission from domesticated sheep; and the impairment has not yet been successfully repaired through reintroduction of bighorns. Yes, there are native bighorn sheep in portions of the Uintas, but they are almost nothing but museum pieces because their numbers and distribution do not begin to approximate what must have been the primeval situation. The

reintroduced native bighorn sheep population has struggled to reach viability and natural distribution since the first transplants over 40 years ago. Non-native Rocky Mountain goats, which the Utah Division of Wildlife Resources transplanted to the Uintas, and non-native domesticated sheep, are not adequate ecological substitutes for the missing bighorn sheep. They are different species with different habits and dietary preferences, and different vulnerabilities to predation and other natural causes of mortality. In this connection, studies of the bison in northern Yellowstone National Park have revealed that the natural grazing regime of the bison does not harm the soil, but actually enriches it, making it more productive. The same cannot be said for the domestic sheep, numbering in the thousands, that concentrate for a few weeks each year in the fragile alpine basins of the HUP, scouring it of plant life, resulting in an impact to the plants, soil, and water that is much greater than occurs under the natural grazing regime of native species. The result is fewer native ungulates for native predators to hunt and eat, which in turn results in fewer predators and fewer native scavengers, with consequential adverse impacts to the soils, water, and plants. This is a human trammeling if there ever was one, since it all starts with the domestic sheep grazing that is permitted by the Forest Service and conducted by private individuals for their own economic advantage.

#### Commercial enterprise in the High Uintas Wilderness

Speaking of economics, domestic sheep grazing in the HWU is a commercial enterprise. It is not done as a hobby, nor is it not done for the benefit of the wilderness or its community of life. It is done by private individuals strictly for monetary gain. Selling the sheep at auction may be where the money transactions occur, but it is not all there is to the enterprise. An enterprise is a much bigger and more complicated thing than a transaction. The sheep must also be raised, and this means they must be fed - fed at a cost that the enterprise can bear. Hence the low grazing fees that are not sufficient to cover the cost of funding the federal grazing program. Never mind how it affects forest creatures such as the lynx, fox, fisher and wolverine, or hawks and eagles. The FS seems to specialize in concocting ludicrous, woefully weak alternative explanations for the demise of these species where they were once abundant.

Sheep grazing in the HUW is an extractive commercial enterprise that inevitably hinders and impedes wilderness character (natural primeval processes) to some degree. And that is an impairment of wilderness character.

#### Illegal killing of native predators

The HUW is home to large native predatory animals, including black bears, mountain lions, Canada lynxes, and golden eagles. Grizzly bears, gray wolves, fishers, and wolverines were present historically. Are we to believe that sheep herders never kill these animals when they have a chance? This is evidently the position of the FS, ignoring the fact that sheepherders tend to carry guns (some of us have witnessed this first-hand), and the fact that it is unlikely that anyone would ever know about individual instances of predator killing that are not reported. Sheepherders have a motive for killing predators when chance provides opportunities, as well as a motive for not reporting the kills. While we may never know how many predatory animals are illegally killed by sheep herders, reason and common sense support the conclusion that it happens. Mere lack of concrete evidence of particular instances is not evidence that it doesn't happen. As David Hume noted, "A man who at noon leaves his purse full of gold on the pavement at Charing-cross, may as well expect that it will fly away like a feather, as that he will find it untouched an hour after." It is appropriate to point this out in the present context because incidental predator killing is another anthropogenic (not to mention illegal) assault on the character of the wilderness - on the integrity and stability of the community of life - that undoubtedly accompanies domestic sheep grazing. In this connection, it bears noting that the FS tends to disregard hypotheses that scientists have not been able to confirm, regardless of how plausible they are and instead proposes alternative hypotheses that are no more plausible or credible. For example, it is at least plausible, even quite probable given historical documentation, that Canada lynx once thrived in the Uinta Mountains and surrounding areas. The Uinta Mountains alone may or may not have been capable of supporting a viable population of lynxes, but they certainly provided important habitat for lynxes as well as a movement corridor for them between the southern and the northern Rockies - a corridor that is almost certainly still used as of the reintroduction of lynxes to the San Juan Mountains of Colorado. In light of this, it is plausible as well to assume that breeding pairs of lynxes were not uncommon in the Uintas. Despite this, the FS and the USFWS, prefers to grant greater probability to the far less plausible hypotheses that lynxes

only ventured into the Uintas during cyclic high periods of lynx reproduction farther north. They get away with this because they carry the authority of the label "scientist." But this isn't science by any stretch. In fact it is bullshit, making up a possibility and treating it as fact without serious regard whether it really is. For more on this, readers can consult previous documentation provided to the FS by the contributors to this document.

This same kind of intellectual dishonesty shows up in the assumption that a minimal viable herd size is good enough for bighorn sheep and its role in the ecosystem of the HUW, as well as in the hypothesis that pocket gophers, not domestic sheep, are the cause of alpine basins being denuded of plant cover, as well as the hypothesis that avalanches are responsible for the devastation of the West Fork Black's Fork stream channel and lack of native trout. This tendency to discount plausible hypotheses in favor of invented implausible ones that allow the FS to save domestic sheep grazing is morally and professionally reprehensible.

Livestock grazing in wilderness is conditionally permissible

"The grazing of livestock, where established prior to the effective date of this Act, shall be permitted to continue subject to such reasonable regulations as are deemed necessary by the Secretary of Agriculture."

Livestock grazing in wilderness is permitted subject to two conditions: where it was established prior to the effectiveness of the WA; and under reasonable regulations as deemed necessary by the Secretary of Agriculture.

Does this mean that whatever the Secretary says is automatically right? No. Otherwise any regulations, or even no regulations at all, will automatically be "reasonable" if the Secretary arbitrarily deems them necessary. The point is that potential regulations must be reasonable before they can rightly be judged necessary. Furthermore, what is necessary is itself a matter of fact, not preference. What is necessary cannot be optional, dependent only upon the fiat of land managers. That would be to rob the term 'necessary' of all meaning. So, what grazing regulations are both reasonable and necessary in the HUW?

Another part of the WA is responsive to this question: "Except as otherwise provided in this Act, each agency administering any area designated as wilderness shall be responsible for preserving the wilderness character of the area and shall so administer such area for such other purposes for which it may have been established as also to preserve its wilderness character."

## Conclusion

Except as otherwise provided in the WA, wilderness must be managed so as to preserve its wilderness character, period. Does any part of the WA make an exception for livestock grazing, granting it greater importance than preserving the character of wilderness? This is the crux of the issue. After all, there can be no serious doubt that livestock grazing in wilderness, especially on the scale that occurs in the HUW, impairs wilderness character and is antithetical to the very idea of wilderness. So, does the provision that conditionally permits grazing in wilderness areas trump the mandate to manage wilderness areas so as to preserve their wilderness character? In short, does the WA mandate that where a conflict between wilderness character and livestock grazing exists, livestock grazing must take priority? Clearly not. The WA plainly states that preserving the wilderness character of the wilderness must be given top priority under the WA, and all permitted uses of the wilderness, including livestock grazing, must be subordinate to it. This means that if there is going to be any compromise between the two, preserving the character of the wilderness is to be given top priority. Therefore, the Forest Service ought to elevate preserving the wilderness character of the HUW to the position of first importance and dramatically scale down or totally eliminate livestock grazing in the HUW.

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