



February 19, 2020

Jeremy Sullens
Attn: Kaleigh Maze
Happy Camp/Oak Knoll Ranger District
63822 Highway 96
PO Box 377
Happy Camp, CA 96039

RE: Oak Knoll Range Project EA and Scoping Period

“Drift of KNF-permitted cattle has been an ongoing problem for decades.”

-July 20, 2016 KNF email 8:26 AM from Rangeland Management Specialist Daniel Henklein to William Tripp.

“I am concerned that the permittees are not riding herd enough. Two days per week minimum should be typical. More would be better. I don’t see how he can do it with a full-time job. I’m not happy.”

-June 22, 2017 KNF email 8:07 AM from Rangeland Management Specialist Daniel Henklein to Jeff Marszal.

Greetings,

Thank you for considering these comments on behalf of the Klamath Siskiyou Wildlands Center (KS Wild), the Environmental Protection Information Center (EPIC) and the Western Watersheds Project (WWP).

Bias, Scoping and Project Purpose and Need

Our organizations are under no illusion that comments, science or foreseeable resource impacts will alter the pre-ordained outcome of this project one iota. Indeed, the Forest Service has identified the “purpose” of this project so narrowly as to preclude reasonable alternatives and to ensure a preordained outcome in which grazing levels and practices remain unchanged. Page 3 of the EA indicates that “the purpose of the proposed action is to provide for continued livestock grazing in the East Beaver, Hornbrook and Ash Creek Allotments...” Hence the substantive decision to authorize grazing activities in these allotments has already been made and the agency

has unlawfully committed itself to authorizing grazing activities prior to analyzing the impacts of that decision and prior to considering public comments regarding that decision.

Forest Service grazing proponents have precluded a meaningful public planning process by eliminating the scoping period for this project. The public has been denied an opportunity to identify issues of concern for analysis and an opportunity to suggest reasonable alternatives to the agency's grazing proposals. Had the agency been willing to accept public input prior to developing its single (and inevitable) grazing proposal, our organizations would have suggested that the Forest Service consider the reasonable alternatives of (1) a shortened grazing season to better protect botanical resources, (2) a reduced number of AUMs in the East Beaver Allotment to better allow for range management and (3) the use of a mandatory full time range rider to address decades of "drift" and trespass originating on the East Beaver Allotment. Please note that a March 23, 2010 document from Gibson Hartwell of the Ecosystem Research Group indicates that a Klamath National Forest (KNF) Oak Knoll ID Team member suggested development of an alternative that included use a full-time range rider- yet such an alternative has never been developed or analyzed by the agency. Further, if the agency had not written this EA prior to conducting a public scoping period we would have identified unique ecological values of the Siskiyou Crest that should have been analyzed in the agency's NEPA document.

The agency's reliance on 36 CFR 222.2 to circumvent NEPA, meaningful public input, scoping, and preclude consideration of a reasonable range of alternatives while ramrodding the process to a conclusion that reauthorizes the current level of grazing is misplaced. In fact, 36 CFR 222.2 does not waive the agency's requirements under NEPA and NFMA. Rather, 36 CFR 222.2 does require the KNF to analyze the proposed allotment and to conduct careful and considered consultation with entities including the landowners and the State. The KNF has hand-picked the voices it chooses to hear. While the agency caters to the grazing permittees and Siskiyou County, the KNF has failed to conduct careful and considered consultation with the State of California, the State of Oregon, the Karuk Tribe, affected timber companies (including one who previously appealed renewal of these grazing permit), adjacent private land owners, the public, conservation organizations and staff and officials of the Rogue River-Siskiyou National Forest.

Please also note that while the project is Likely to Adversely Affect Coho salmon and their habitat, the project web site fails to contain a Biological Assessment or any other document addressing the need for the KNF to consult with NMFS about these impacts. Hence the public is precluded from being able to provide timely comments that are informed by a disclosure of the status of Coho in the project area and the effects of the proposed grazing on Coho and their habitat.

Range of Alternatives

The KNF's decision to forego public scoping while developing a single action alternative to meet an extremely narrow project purpose resulted in an unlawfully narrow range of alternatives within the EA. While the Forest Service refused to develop hard and fast on and off dates and AUMs for the East Beaver Allotment (EA page 5) it is clear that reductions in the grazing season or the grazing levels was not considered, contemplated or analyzed in the EA. Had our

organizations been allowed to provide timely scoping comments we would have suggested reductions in the season of use and level of use in order to better allow for range management while reducing significant impacts to botanical, hydrological, riparian, recreational and wildlife values of importance. Similarly, in the May 2010 “Siskiyou Crest Rangeland Management Strategy” KNF grazing staff acknowledges reasonable recommendations regarding changes to the season of use, increased fencing, stricter enforcement, joint allotments and mandatory paid range riding. Exactly none of these reasonable alternatives were developed or considered in addition to the agency’s single, preferred, inevitable maximum grazing alternative. Additionally, please note that a KNF document describing a September 10, 2009 field tour with the permittee indicates that the grazing permit holder “liked the take down fence that existing along the crest 15 years ago” because it “eliminated the drift [trespass] onto the Rouge (sic) NF.” Yet the KNF refuses to consider or analyze the use of such a fence. Further, as previously mentioned, a March 23, 2010 document from Gibson Hartwell of the Ecosystem Research Group indicates that a KNF Oak Knoll ID Team member suggested development of an alternative that included use a full-time range rider- yet such an alternative has never been developed or analyzed by the agency. Lastly, please note that in a February 4, 2016 correspondence to Mr. Marshik, KNF Rangeland Management Specialist Stephanie McMorris writes that:

*KNF is aware of livestock coming off the East Beaver grazing allotment and entering the headwaters of Grouse Creek in the vicinity of recreational lands, and is committed to discouraging cattle from entering the upper reaches of Grouse Creek and the limit drift (sic) over the Siskiyou Crest...KNF is currently working on long-term solutions, but **until an effective drift fence can be constructed** to bar cattle from the Grouse Creek headwaters, we will continue to instruct permittees to remove livestock from the area through herding...”*

Continuing Significant Grazing Impacts

Continued grazing on these allotments will contribute to the significant long-term and chronic impacts to rare plants and fish and wildlife habitat, spoil drinking water for those recreating on the Siskiyou Crest (including PCT through hikers) and harm aquatic and meadow habitats in this important natural area. Grazing trespass has been occurring from cows on the East Beaver allotment for decades and the Klamath National Forest has repeatedly failed to hold permittees accountable. This is a continuous problem, with well-documented impacts over many years, yet there is no evidence that the KNF has ever taken any permit action. Moreover, the intended “fix” that is proposed in this draft is woefully inadequate to address the problem. Only a requirement for permittees or their surrogates to actively ride and monitor this allotment on a daily basis would solve this problem. Instead, the FS monitoring and adaptive management program will only address the minor portion of trespass that is found while it is happening by the public or the agency and will do nothing to prevent trespass before it happens. This arrangement put the onus on the public to ensure that permit conditions are met. This is unacceptable. The object of this planning effort should be to ensure that permit conditions are met, not that complaints are received from the public and then (possibly) responded to while grazing monitoring and range management are subsidized by public money and public employees.

Despite the documented impacts of grazing on these allotments, and the well-documented illegal trespass of cows from this allotment to nearby private and federal lands, the KNF calls for continued grazing in a relatively unchanged status in which AUMs are maintained and the grazing season is unchanged while the FS will again, allegedly “monitor” grazing. This is not appreciably different from the status quo. The grazing numbers and season of use outlined in the single action alternative in the EA for the East Beaver, Hornbrook and Ash Creek Allotments are nearly identical to current management.

The allotments have repeatedly not met grazing utilization standards in the recent past. As previously recognized by the KNF “Past forage utilization monitoring indicates that Forest Plan forage utilization standard 23-15 (page 4-48) has not been met on the Cow Creek key area of the East Beaver allotment for several years.”

As acknowledged during the previous Oak Knoll planning effort in a September 9, 2009 KNF ID Meeting, “fish in the project area...conflicts with users of the Pacific Crest Trail, ***repeated exceedance of standards***, and water quality” (emphasis added) are “BIG ISSUES” for this project (capitalization in the original).

Unique Siskiyou Crest Ecological Values

“During project planning, consider the impacts to biological diversity parameters and the stand and landscape level. The applicable aspects of composition, structure and function should be considered within each environmental analysis. Assess the potential changes to the following parameters that represent Forest diversity:

- a. The capability of species to move through and around an area (distribution opportunities, habitat linkages and population connectivity). Identify opportunities to maintain or restore migration routes...*
- ...c. The connectivity of the landscape to allow for species dispersal.”*

-Klamath National Forest Plan Standard and Guidelines 6-14 page 4-23.

The EA fails to fully acknowledge or address the unique ecological values provided by the Siskiyou Crest. The Siskiyou Crest is a high elevation ridge system that forms a major regional link in Pacific Northwest migration and dispersal patterns. Unlike other high elevation landforms in the area, which run north-south (like the Cascade and Coastal Ranges), the Siskiyou Crest runs east-west, from California’s Siskiyou Wilderness in the west to Oregon’s Cascade-Siskiyou National Monument in the east, a distance of some 90 miles. For the West Coast as a whole it forms the center crossbar in an "H" pattern, with the Cascades and Sierras forming the right-hand backbone, and the Oregon and California Coast Ranges forming the left-hand backbone. This crossbar feature acts as a mid-Pacific continental conveyor to and from its extremes, a land bridge allowing for the ongoing dispersal and migration of species across the landscape, bringing species together to form new genetic combinations. It brings together species from the California coast, the Oregon coast, the Sierra Nevadas, the Cascades, the California Central Valley, the Great Basin, and even the Rocky Mountains. This process is considered by the scientific

community as having been important to the region as a whole for the last 60 million years (Please see the Rogue River-Siskiyou National Forest Mt. Ashland LSR Assessment). This comprises the entire Tertiary and Quaternary geologic periods, from the end of the dinosaurs through the rise to prominence of flowering forbs and grasses, birds, and mammals.

Beyond its function as a land bridge, the Siskiyou Crest also supports extraordinarily high levels of species diversity. Its diversity of elevations, aspects, moisture regimes, its central position at the confluence of many regions, and its great age and geologic diversity, including serpentine outcroppings and glacial features, creates a wide variety of habitat types which support many species whose range limits end at or near the Crest as well as many endemic species. These species intermingle along the Crest, sometimes forming unique natural communities. The importance of this area has been further acknowledged by the creation of the Cascade-Siskiyou Ecological Emphasis Area in the Bureau of Land Management's Soda Mountain area, the Cascade Siskiyou National Monument also in the BLM's Soda Mountain area, and by the identification of over 12 existing (and more proposed) botanical areas by the U.S. Forest Service.

The Siskiyou Crest is one of the most fragmented, yet ecologically-critical areas in the Klamath-Siskiyou Bioregion. Implementing protection and restoration for the Siskiyou Crest is complicated by the multiple jurisdictions within which it rests. These include two states (Oregon and California), two U. S. Forest Service regions (Regions 5 & 6), the Bureau of Land Management, and two National Forests (Rogue River-Siskiyou in Oregon and the Klamath in California).

We specifically request that the Oak Knoll NEPA analysis address the locally and regionally significant issues regarding management of this unique resource. *Please see:*

Stritholt J.R., R. F. Noss, P. A Frost, K. Van-Borland, C. Carroll, G. Heilman, Jr. 1999. A Conservation Assessment and Science Based Plan For The Klamath-Siskiyou.

Rogue River National Forest, Klamath National Forest. 1996. Late-Successional Reserve Assessment; Mt. Ashland Late Successional Reserve Assessment (#RO-284).

Decades of Significant Grazing Trespass Permit Violations Involving the East Beaver Allotment

The KNF has clearly and repeatedly failed to administer the terms of the grazing permit. Cows from the Oak Knoll Allotments regularly and predictably trespass onto the Rogue River-Siskiyou National Forest (RRSNF). It is also clear from the EA that cows move between allotments. Through the Freedom of Information Act, KS Wild has obtained documentation of dozens of instances of trespass. Moreover, several RRSNF correspondence to the KNF document such trespasses. The KNF has ever done anything substantive or effective to address these clear violations of the term grazing permit. Without enforcement of the most basic measure of the allotment (the boundary), the FS cannot with any level of confidence claim that the allotment management plan update for Oak Knoll Grazing will produce the environmental effects described in the EA.

The implementing regulations for NEPA state, "NEPA procedures must insure that environmental information is available to public officials and citizens before decisions are made and before actions are taken...public scrutiny [is] essential to implementing NEPA." 40 CFR 1500.1(b). Also, "federal agencies shall to the fullest extent possible: (b) implement procedures to make the NEPA process more useful to decisionmakers and the public, (d) encourage and facilitate public involvement in decisions which affect the quality of the human environment." Id. at 1500.2.

Yet the KNF cannot even bring itself to use the word "trespass" let alone seriously address the ongoing, predictable, inevitable and ongoing significant trespass. Indeed, at page 5 of the EA the Forest Service indicates that it will not disclose, let alone analyze, the on-off dates or the AUMs that will be authorized by the project. At page 10 we receive a vague assurance of "regular" monitoring by the agency and the permittee which is substantially identical that the assurances that have proven false and ineffective at preventing trespass for the last several decades. There can be no question that the ongoing controversial trespass grazing on the Siskiyou Crest is a significant issue that must be addressed and documented in an EIS. As clearly stated in the 7/24/14 RRSNF Glade Creek Upper Meadows Best Management Practices Evaluation, "cows from the Klamath National Forest illegally cross onto this allotment and graze this area. [The agency] is trying to control this but are still having some problems." The RRSNF is correct, the ongoing trespass grazing is illegal and KNF efforts to address it have consistently proven ineffective.

It is important to note that trespass is occurring in more areas than just McDonald basin. It is also common to find cows at several other locations on the RRSNF, in violation of the permit. Upper Glade Creek is used frequently by KNF cattle with orange ear tags and bells. Spotted livestock in this area throughout the season is tough due to terrain, so hiking is required to view this area. Upper Ashland Watershed, McDonald Basin, Monogram Lakes, Siskiyou Gap, Wrangle Gap, Wrangle Creek, Alex Hole, Glade Creek and other areas have all been identified as places where trespass is occurring. If the KNF is not going to take action to prevent trespass (e.g. take permit action, build a fence or otherwise ensure no trespass), it needs to fully analyze the impacts of grazing in these aforementioned meadows in an Environmental Impact Statement that directly addresses the significant and controversial impacts of continue trespass.

The KNF describes cows regularly and predictably moving off the East Beaver Allotment and onto the RRSNF is merely "drift." This is an unfortunate attempt to downplay a clear permit violation. According to a letter regarding East Beaver from the RRSNF to Ranger Harris "We have had reports as low as 10 and up to 20 to 30 head at a time for up to two weeks." This is far more than casual use as the RRSNF has stated to the KNF.

Perhaps there is so little forage available on the KNF that the cows rely on forage outside the allotment. Suitable range which shows that only about 900 acres of primary range exist on the allotments. The cows are so predictable in their use of the RRSNF, it can hardly be described as drift.

The trespass/permit violations have occurred for many decades, they have been repeatedly reported to the KNF and they have been the topic of discussion on numerous field trips, meetings

and correspondence. It should be no surprise to the KNF nor should the KNF refer to it as some sort of accidental, casual drift. It biases the EA analysis to downplay this issue, which must be identified as a significant issue in the EA. Moreover, the reports from volunteers and the public probably only capture a very small percentage of the violations. It is important to note that the KNF has entered into a contract with the permittee every year to authorize grazing.

Yet, there is no evidence that the KNF has ever taken any meaningful permit action. It is a meaningless permit without teeth or consequence. There has never been the required collection of funds for excess use in light of the numerous reports of trespass. If so, the FS has failed to provide this information to the public. There have been also no reductions in the number of AUMs as a result of the violations, as far as we can determine. The permit season has never been truncated. There have been no years of rest. ***The KNF has been unable and unwilling to enforce its very own Term Grazing Permit and Annual Operating Instructions for this allotment.*** As noted on page 56 of the KNF FY 2018 Monitoring and Evaluation Report, the East Beaver permittee was yet again not in compliance with the terms of the AOI and yet again there were no substantive consequences for non-compliance.

The FS attempt to address this problem is reliance on a Management Strategy that has failed to work. The “Siskiyou Crest Rangeland Management Strategy was developed as a working draft in 1994 and was updated in October of 2004 and in June of 2010.” Permit violations continue under this strategy. Yet, the FS has not issued any cancellations or suspensions, in direct violation of the Grazing Permit Administration Suspension and Cancellation Guidelines. Further, the proposed “adaptive management” in the 2020 EA simply repeats the same failed post-hoc monitoring strategy and toothless enforcement that has failed over and over and over again.

The issues that the KNF associates with the lack of permit compliance and the continued trespass of cows are extensive and significant:

The following are some of the barriers to success for the strategy over the years.

- *Physical, geographical and topographical limitations that prohibit absolute exclusion of open ranging livestock.*
- *Inconsistent approaches to permit administration by Forest Service units.*
- *Lack of resource data, current environmental analysis and updated allotment management plans.*
- *Apparent lack of trust and confidence between permittees and agency personnel regarding management decisions, and the rationale behind them.*
- *Lack of information sharing among agencies and in agency-permittee working relationships.*
- *Frequent turnover of agency personnel.*
- *Failure of permittees to abide by Annual Operating Instruction letters regarding locations of salting grounds, off dates, and movement of livestock during the grazing season.*
- *Lack of agency and permittee flexibility in changing cattle on/off dates and turn out numbers.*
- *Periodically improper care and maintenance of range structures.*

- *Inaccurate information shared between agency and permittees about cattle locations and identification.*
- *Conflicting management objectives regarding allotment monitoring between Forests.*
- *Costly, short-lived range structures due to high elevation snowpack (fencing, etc).*
- *Unpredictable or fluxuating annual range budget for agencies.*
- *Changing/conflicting priorities for limited range resources and dollars.*
- *Reluctance of permittees to consider new or altered grazing strategies proposed by agencies to decrease over use, restore degraded sites, and rest areas for given amount of time.*
- *Lack of permittees checking utilization levels in areas of their allotment. Permittees not taking a proactive approach to meeting objectives.*
- *Ever changing/inconsistence in weather patterns and water sources effecting the and grazing pattern of cattle.*

The proposed mitigations in the EA are not adequate to address this problem. For instance, the FS gives the permittee three days to comply with a trespass violation notice, but dozens of cows (not unordinary, see the aforementioned internal FS letter) could cause significant damage to high elevation meadows in that amount of time. Further, the notice to the permittee only occurs after the cows have trespassed and when the KNF actually documents the trespass. It is entirely a reactive, backward looking process that does little to nothing to prevent trespass. As stated at page 31 of the EA, “attempts to locate and identify drift cattle are dependent on how frequently KNF permittees and range staff are out on the allotments.” Decades of trespass have established the permittees and range staff are unable or unwilling to effectively locate or prevent trespass. The permittee should not have cows outside the allotment boundaries at all, much less for several days after someone else reports them. The permittee must be required to actively ride the allotment and ensure that cows are kept off the RRSNF. If this is not possible (i.e. if the allotment boundaries are not able to be administered), the permit should be modified, suspended or cancelled.

For instance, page 67 of the EA notes that the KNF intends to authorize grazing in 7 **archeological sites** that are at-risk of damage. Yet the agency only intends to implement “Standard Resource Protection Measures” after “degrading damage has occurred.” The KNF’s process of acknowledging the probability of illegal grazing impacts, waiting for those impacts to occur, and then (if the agency is monitoring at the correct time) implementing ineffective mitigation measures while the permittee continues to violate the permit, is unlawful and unethical.

NEPA is primarily a procedural statute: It mandates a particular *process* but not necessarily a particular *result*. Inland Empire Public Lands Council v. USFS, 88 F.3d 754, 758 (9th Cir. 1996). This process must proceed without undue bias from the action agency and ultimate decision maker. Otherwise, neither the public nor the ultimate decision maker is fully aware of the potential consequences of the proposed action. "Bias in the impact statement, of course, renders impossible the fair and careful evaluation of a project's environmental effects demanded by NEPA." NRDC v. Callaway, 389 F. Supp. 1263, 1273 (D. Conn. 1974) citing Calvert Cliffs' Coordinating Comm., Inc. v. US Atomic Energy Commission., 449 F.2d 1109, 1115 (D.C. Cir. 1971).

In this instance, the FS is essentially moving forward with a management plan that is not appreciably different from the one that has failed for decades. Moreover, the KNF is failing to admit (both internally and to the public) that there is even a problem with this well-documented trespass and permit violation. Obviously, the many members of the public and the RRSNF have provided accounts, reports and data to the KNF that this is a problem. However, the KNF did not adequately address this problem in the Oak Knoll Range EA therefore the trespass will likely continue into the future as will the permit violations.

A May 4, 2010 KNF Memo containing Conference Call notes illustrates exactly how the KNF decided, prior to conducting any analysis, to downplay and obfuscate the significant impacts associated with ongoing trespass:

“We need to be careful with how to include the Rogue and the drift issue. We know its occurring, but we need to be careful with what we say -perhaps say something like ‘we know there is drift, but there is no confirmation of any environmental impacts attributable to drift.’ Perhaps there are some effects, but they are probably not necessarily long-term nor degrading...”

The KNF has no ability or intent to limit East Beaver cattle to the lower elevations of the allotment to prevent significant early season harm to botanical resources and aquatic values. As stated in a June 22, 2017 email from KNF employee Daniel Henklein to Jeff Marszal (at 8:07 AM) “I am afraid that cattle have moved through the woods and onto the Crest too early **out of habit**, even though there is still plenty of green forage in the transitory range at lower elevations.” The EA fails to acknowledge or address this “habit” or the resulting impacts to botanical and aquatic resources.

Further note that the impacts are significant and severe. The same June 22, 2017 email continues:

*Yesterday I gained access to Deer Creek Meadow for the first time after 6 pervious attempts were stymied. R. Rainey cows were in there (a big no-no!). I just wrote a half-page into the handwritten administrative record on this. I called Casey Rainey’s voicemail at 3:30PM yesterday upon return, and informed him that the Crest would not be ready to receive livestock this year until August 1st at the earliest. (Normal is July 15th) **Deer Camp Meadow is flooded and has been punched and grazed too early.***

Please note that the permittees are aware of “problem cows” that habitually trespass but elect not to remove these cows from the herds due to a preference for private profit over implementing the terms of the AOI that require cattle to be located within the allotment. As noted in the July 11, 2016 Oak Knoll Forest Service Range Allotment field trip notes “...there are still some problem cows. The problem cows are the most productive ones, which is why permittees are reluctant to get rid of them.” The field trip notes also correctly conclude that “permittees don’t want to cull out [problem cows] and there haven’t been consequences to them.”

Management Indicator and Sensitive Species

The Oak Knoll Grazing EA ignores the direction of the KNF LRMP to survey for and analyze project impacts to steelhead as a Management Indicator Species.

The Klamath LRMP, Standard & Guide 8-19 (page 4-28) directs the forest to “[c]ollect information on sensitive species to assess population distribution and habitat associations.” Given this direction to “collect information ... to assess population distribution,” and given that MIS are designated “because their population changes are believed to indicate the effects of management activities,” it is very difficult to understand how MIS could fulfill their management function if the KNF does not collect information about population size, distribution, and trend.

Please note that pages 9-10 of the Wildlife BE indicate that the proposed grazing and expected trespass grazing are expected to negatively impact numerous FS Sensitive Species including Foothill yellow-legged frogs, Western bumble bees, Willow flycatchers, Great Gray owls, Cascade frogs, Tehama chaparral snails, Franklin’s bumble bees, Mardon skippers, and Siskiyou short-horned grasshoppers. Yet the EA fails to take a “hard look” at impacts to any of these species and the Forest Service proposes no meaningful PDFs or BMPs to protect wildlife from the known and continuous damage caused by the grazing allotments at issue.

Why does the EA not address Gray Blue butterflies? Why does the EA not fully analyze and disclose effects of these grazing allotments on Pacific lamprey and Klamath River lamprey?

The Grazing Allotments Violate NFMA

The NMFA requires the FS to conduct a thorough analysis of the allotment’s suitability for grazing. Grazing suitability is something completely different than grazing capability, which merely determines whether forage is accessible to cows.

According to the Forest Service, approximately 7 percent of the total allotment acres meet grazing capability criteria and only approximately one percent provides quality livestock forage (998 acres of primary rangelands). This small acreage does not constitute a viable allotment, particularly when considering the recreational and environmental consequences of running cattle in these high elevation pastures (these are often wet meadows that are in the protected Riparian Reserve land allocation). The EA does not disclose how many acres of these high elevation meadows have streams and other water features that would designate them as riparian reserves.

It is no wonder that the cows head over to the RRSNF for forage. The primary range acres also include areas of riparian reserves, which should not be included in as range due to the need to protect these streamside areas and wet meadows. The KNF is pushing forward with its proposed alternative when it is clearly not a viable strategy considering the lack of suitable range.

An analysis of the economic and environmental consequences of the alternative uses foregone must be conducted to determine if commercial livestock production is even appropriate in the Oak Knoll Allotments. This analysis must collectively take into account the impacts on federally

listed and Forest Service sensitive species, water quality, recreation and other public values that will undoubtedly be impacted when the agency decides to re-issue a term grazing permit for this area. This analysis must also include an analysis of the cost and benefits of range improvements, fencing and administration. NFMA requires management of national forest system lands in a manner that "maximizes long term net public benefits." This requirement is found in the Forest and Rangeland Renewable Resources Planning Act as well. This analysis was not completed in clear violation of NFMA.

The FS's planning regulations have defined the term "net public benefits" as the "overall value of positive effects (benefits) less all associated inputs and negative effects (costs)." The NFMA requires a sophisticated consideration of benefits and costs, including use of both market and non-market methods of determining existing and future resource values, methods to determine opportunity costs, and use of best available quantitative and qualitative techniques. Costs and benefits must be assessed not only from the perspective of the FS, but also from the perspective of "all other private and public" interests.

The FS must meet the substantive requirements regarding economic analysis set forth in the NFMA. Specifically, the FS must incorporate a wide range of external economic costs that will be passed on to public agencies, private landowners, business owners, and others adversely affected by proposed grazing in the area in combination with other livestock grazing ongoing and planned across the forest, Region 5, and the national forest system as a whole.

The NFMA contains specific requirements that the FS must follow in addressing actions on National Forests. One such requirement is that the FS identifies "the suitability of lands for resource management." Among other things, this means that the FS must determine "in forest planning the suitability and potential capability of the National Forest system lands for producing forage for grazing animals and for providing habitat for management indicator species." Though a 'no-grazing' alternative is included in the EA, the benefits of that alternative to wildlife, watersheds, and non-game species are not fully analyzed and the agency fails to provide a reasonable range of action alternatives that would disclose the trade-offs associated with less grazing or a shorter grazing season. Without answering the absolutely crucial question of this land's particular suitability for continued grazing, the agency fails to determine the appropriateness of its actions.

In these particular allotments, livestock grazing—from strictly an economic efficiency standpoint—does not serve the broader public interest. For example, research shows that the net-income to local communities produced by allocating public forage exclusively to native game is much more valuable than forage allocated to beef cattle. This is particularly true when livestock grazing occurs in deer and elk habitat, valuable fisheries habitat, important recreational areas, and riparian reserves, which is the case for the East Beaver Allotment.

It is quite clear that the intent of the NFMA regulations is to combine environmental and economic analyses that then enable the agency to maximize net public benefit. By not conducting this type of analysis for all uses of the land, the FS fails to consider whether permitting grazing on allotment makes economic sense.

There is no evidence that the Forest Service has ever considered the relative environmental gains that could be achieved by closing the East Beaver allotment to livestock use or reducing the number of authorized AUMs. Likewise, although National Forests include valuable botanical, recreation and fishery values, nothing in the plan shows that the FS considered that the area might be better suited to recreation than to grazing. In addition, the analysis must consider what changes in the levels and types of recreation would result from a discontinuation of grazing in portions of the allotments, or the entire allotments.

The grazing proposed here is not compatible with sensitive, MIS and other wildlife and aquatic species and sensitive native plants. Nor is it compatible with water quality or Aquatic Conservation Strategy objectives. Finally, any determination that the Oak Knoll Range Allotments are "suitable" for grazing is a determination that is not final until the specific decision approves the use. Such use for grazing should not be approved here.

The NFMA requires management of national forest system lands in a manner that "maximizes long term net public benefits." This requirement is found in the Forest and Rangeland Renewable Resources Planning Act as well. Clearly in the case of these allotments, the maximum long-term benefit would be to remove grazing or reduce the number of cows and level of damage so that recreation, clean water, and fish, wildlife and plant habitat is protected.

The EA Violates the KNF LRMP

The KNF failed to consider the impacts to wildlife, including displacement of elk and deer, the loss of habitat for songbirds, and impacts to wildlife dependent on riparian areas. The KNF needs a full and rigorous assessment of these impacts. It has already stated in the Beaver Creek WA that, "[p]otential conflict exists between livestock grazing and many wildlife species that depend upon riparian shrubs and meadows...Desired condition: Livestock distribution and grazing levels minimize impacts to sensitive species in meadow areas, and aquatic and riparian habitats." It is arbitrary and capricious to now ignore those impacts described in this very area or somehow say that they no longer exist despite continuing the same grazing practices that brought about these impacts.

Large stands of willows in the wet meadows and riparian areas which are utilized by grazing cattle in these allotments provide important habitat within the Klamath National Forest for Willow flycatcher. The Willow flycatcher is a Region 5 Forest Service "sensitive species." As such it is subject to the sensitive species monitoring requirements of the KNF LRMP. In this regard the LRMP states:

Monitoring for the type, number, size and condition of special habitats over time will provide a good indication of the potential health of special habitat-dependent species. Although all special habitat areas do not support rare species, there is overwhelming evidence that special habitat types are closely related to the continued existence of certain rare species.

The KNF LRMP's specific monitoring requirements for Willow flycatcher are:

Willow fly-catcher and great grey owl	Determine occupancy of suitable habitat.	Ground-breeding surveys	Annually	Annually	Regional Protocols	Greater than 20% decline in detected presence or occupancy.
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There is no indication that any "breeding ground surveys" have been conducted during the past five years. We are unaware of any plan changes that absolved the FS of the responsibility for doing these surveys. The EA failed to reference the Willow flycatcher monitoring requirements and explain why the required surveys have not been completed. In the absence of the surveys, the FS must use research, which is available.

Continued grazing in the habitats for Region 5 sensitive species foothill Yellow-Legged and Cascade Frogs could lead to a loss of individuals. Along with the impacts to the willow flycatcher, this is particularly troubling. These species are associated with riparian reserves (the cumulative effects analysis relies on riparian reserves to downplay the potential impacts). But it is also known and documented in the EA that cows disproportionately use riparian reserves, thus elevating the potential impacts to these species.

The KNF cannot relying on some future monitoring scheme to mitigate the impacts of grazing. Mitigation or planed restoration is not a substitute for habitat degradation. See NWFP. The KNF is required to determine the effects of the timber sale on MIS through the analyses put forward in the EA and the Wildlife Biological Assessment/Biological Evaluation.

The findings of the EA and Wildlife BA/BE must provide the decisionmaker and the public with enough information to conclusively know that the project will have no significant effect on threatened, sensitive and management indicator wildlife species.

The Klamath Land Resource Management Plan requires that "Project areas should be surveyed for the presence of sensitive species before project implementation." ROD Standards and Guidelines at 6-8; LRMP at 4-23. "If surveys cannot be conducted, project areas should be assessed for the presence and conditions of sensitive species habitat . . ." ROD Standards and Guidelines at 6-8.

It appears that there were no surveys conducted for Forest Service Sensitive or MIS species. Population numbers and trends have not been analyzed by the agency. This is troubling.

The Forest Service must constantly monitor the Klamath National Forest Land and Resource Management Plan's (LRMP) impact, including the impact of specific management actions, so that compliance with the Forest Plan is achieved and any needed revisions are ascertained. Inland Empire Public Lands Council v. United States Forest Service, 88 F.3d 754, 760 n.6 (9th Cir. 1996).

There is no available data for numerous MIS in the project area, and that the Forest Service lacks the necessary underlying information for use of a habitat analysis in lieu of actual population studies. See Earth Island Institute et al., v. Department of Agriculture, Eastern District of California, page 21.

The agency did not provide any analysis or data on current populations of MIS to support its conclusion that the viability of these species is not likely to be threatened by the continued grazing at these allotments.

Lastly, the FS may wish to re-familiarize itself with the holding in KS Wild v. USFS, Eastern District of California 2004, (which is binding precedent for this project) in which the federal district court held that the Klamath National Forest violated its LRMP, and NFMA, by failing to monitor and survey for MIS species in the Beaver old-growth timber sale.

In fact (as recognized by the court in KS Wild v. USFS) the KLRMP (at 5-3) clearly states that “[P]opulation trends of the management indicator species will be monitored and relationships to habitat changes determined.” It simply doesn’t get much clearer than that. Hence the court in KS Wild v. USFS ruled that “MIS may be appreciably affected, use of habitat as a proxy for population surveys was arbitrary and capricious.”

The KNF Is Failing to Implement the Aquatic Conservation Strategy

The Forest and Rangeland Renewable Resources Planning Act, 16 U.S.C. § 1600 et seq. as amended by the National Forest Management Act (NFMA), requires grazing permits to be consistent with the KNF’s LRMP. 16 U.S.C. § 1604(i), 36 C.F.R. § 210. The KNF’s LRMP includes an Aquatic Conservation Strategy (ACS) developed to protect the ecological health of watersheds on public lands. The ACS requires the KNF to manage “riparian-dependent resources to maintain the existing condition or implement actions to restore conditions.” NWFP ROD at B-10. Specifically, the KNF must maintain and restore the “physical integrity of the aquatic system,” the “sediment regime under which aquatic ecosystems evolved,” and the “species composition and structural diversity of plant communities in riparian areas and wetlands.” *Id.* at B-11. Furthermore, the “timing, magnitude, duration, and spatial distribution of peak, high, and low flows must be protected.” *Id.* The KNF LRMP specifically states that grazing practices should be curtailed when they conflict with ACS objectives, which set a bar of doing no harm.

The Northwest Forest Plan defines riparian reserves as portions of watersheds where riparian dependent resources are emphasized and where “special standards and guidelines apply.” NFP at B-12. While the EA is replete with references to cattle barely ever using waterways, the truth is this is exactly where cows congregate. The Klamath National Forest did recognize this in the DEIS for the Mount Ashland LSR project, however. In that DEIS (at 3-125) the same Forest states that, “Cattle congregate...between springs, meadows, and streamside riparian areas which may cause localized seasonal removal of riparian and meadow vegetative cover and localized trampling of stream channels. This may lead to short term, localized impacts to water quality in limited areas adjacent to streams.”

There is no real question that the ongoing significant grazing is negatively impacting virtually all of the watersheds in the project area. Indeed, the impacts from cattle grazing on the Klamath side of the Siskiyou Crest are so acute that the proposed grazing is “likely to adversely affect” both SONCC Coho and their critical habitat (EA page 51). While the ESA (and NFMA) do not permit this result, it is interesting that KNF planners nevertheless contend that harming water quality, streambank stability, listed coho, riparian vegetation while increasing sediment production helps achieve the objectives of the Aquatic Conservation Strategy. We look forward to challenging this dubious conclusion.

Please note that pages 51-51 of the EA establish that the project’s aquatic impacts threaten violations of NFMA, NEPA and the CWA.

Please further note that page 52 of the EA establishes that the KNF will need a Category B Waiver due to water quality impacts (in violation of the CWA and the ACS) from the proposed action. That waiver will require implementation of BMPs that have repeatedly proven ineffective to protect the aquatic resources of the project area.

Page 54 of the EA indicates that the KNF intends to utilize 4 corrals that are located within riparian reserves in violation of the ACS. Additionally, the Hungry Creek Corral is physically adjacent to occupied Coho habitat.

As acknowledged on page 54 of the EA a number of foreseeable livestock actions “may retard or prevent maintenance or attainment of ACS objectives.” These include, but are not limited to, the trampling and eroding of streambanks, harming the physical integrity of channels, reduction of riparian vegetation, harm to bank stability, and cattle trails across and through riparian features. It is incontrovertible that these impacts have occurred, are occurring, and will continue to occur under the KNF’s preferred grazing alternative.

Page 30 of the EA indicates that the KNF is aware that its grazing activities result in “browse and some trampling of streambanks or springs.” The agency is mistaken in its contention that such impacts are “short term and not last more than one year.” In fact damage to streambanks is long-term and lasts significantly more than a year. Additionally, the acknowledged aquatic impact occur every single year. Hence the impacts are long term because they have occurred continuously for decades and will continue into the foreseeable future. While the agency at least acknowledges the impacts of grazing on springs and streambanks within the allotments, it largely ignores the repeated and significant impacts of trespass grazing on the aquatic resources of the adjacent RRSNF. Yet the aquatic impacts to Upper Glade Creek from KNF cows are well established, longstanding and significant.

As stated on page 56 of the EA “cattle trails leading down to the stream channels in Cow Creek, Grouse Creek and Beaver Creek may affect fish habitat due to sediment input into the stream channel during storm events.” This represents a direct violation of the Basin Plan, the CWA, the ACS and the ESA.

Furthermore, as the adjacent Medford BLM also recognized about grazing in the Conde Creek Rangeland Assessment (about 20 air miles from these allotments) grazing in riparian areas is not consistent with aquatic conservation:

Riparian grazing negatively effects aquatic species and their habitat by compromising the physical integrity of stream banks, increasing fine sediment, removing vegetation, and in some cases by trampling the organisms. Degraded streambanks and associated trampling increase compaction, width/depth ratios, and sedimentation all of which negatively influence habitat. Increases in fine sediment occur where cows have direct access to streams and this sediment is transmitted downstream during fall rains. Livestock use, especially in wet areas, change flow patterns in these naturally sensitive sites. Grazed riparian vegetation allows higher levels of solar radiation to reach water surface in seeps/springs/streams resulting in increased water temperatures. Late season grazing does not allow for plant regrowth before fall and winter rains when vegetation acts a sediment trap and bank stabilizer. -Conde Creek Rangeland Health Assessment at 30.

An adequate assessment of the allotments in the planning area by the KNF would describe these impacts on a site-specific basis. The Mt. Ashland LSR Assessment (RO-248) contains a number of findings indicating that the ecological health of the LSR and the Beaver Creek watershed is a problem.

Page 6 of the LSR Assessment (LSRA) indicates:

*The LSR is comprised of **highly unstable granitic and schist soils subject to high rates of erosion and landslides.** Where extensive road development and timber harvesting has occurred, sediment production has been accelerated. **Aquatic systems in many areas of the LSR were identified through Watershed Analysis to have been impacted by timber harvesting and road building, resulting in degraded riparian zones, increased sediment produced to stream channels, and simplified aquatic habitat.** There is a concern for **riparian dependent late-successional species** in these areas. Sedimentation and habitat simplification are identified as the main limiting factors for salmonid reproduction in the Beaver and Bear Creek Watersheds. (Emphasis in the original.)*

The KNF must conduct a full assessment of the impacts of grazing to riparian areas in the allotment area. The KNF did recognize in the DEIS for the Mount Ashland LSR project that these allotments are negatively impacting springs, meadows and streams. In that DEIS (at 3-125) the KNF states:

Cattle congregate...between springs, meadows, and streamside riparian areas which may cause localized seasonal removal of riparian and meadow vegetative cover and localized trampling of stream channels. This may lead to short term, localized impacts to water quality in limited areas adjacent to streams.

These same impacts are well documented in the scientific literature, and throughout the allotment to even the most casual observer. The FS must maintain and restore aquatic ecosystems, not

degrade them. Grazing these allotments would surely degrade aquatic ecosystems. The Northwest Forest Plan states the need to keep cows out of riparian areas:

GM-1. Adjust grazing practices to eliminate impacts that retard or prevent attainment of Aquatic Conservation Strategy objectives. If adjusting practices is not effective, eliminate grazing.

GM-2. Locate new livestock handling and/or management facilities outside Riparian Reserves. For existing livestock handling facilities inside the Riparian Reserve, ensure that Aquatic Conservation Strategy objectives are met. Where these objectives cannot be met, require relocation or removal of such facilities.

Cows are degrading the aquatic ecosystems on the allotments. Some of the riparian areas in the (streams and wetlands) within these allotments are in unsatisfactory condition due to the impacts of livestock grazing. Grazing has impaired stream banks and vegetation near streams, which has increased water temperatures and causes erosion. The courts have rejected the notion that short-term impacts are insignificant, particularly in watersheds where fish species are at risk of extinction, such as those watersheds in these allotments.

Physical Integrity of the Aquatic Ecosystem

Grazing activities within these allotments have resulted in altered stream channels that have led to bank erosion, deteriorated channels and increased width-to-depth ratios. Grazing management has clearly failed to meet this ACS Objective.

Restoring—or even maintaining—the physical integrity of the aquatic ecosystems within the allotment requires livestock to be excluded from all riparian areas. Although management practices may be used to reduce grazing-induced damage, the riparian areas within the allotment have suffered substantial damage and require protection from grazing

The ACS must be administered at the site scale and must adhere to a standard of maintain and restore, regardless of the degree of impact.

Sediment Regime of the Aquatic Ecosystem

Grazing within riparian areas damages the physical structure of the water bodies of the allotments. Stream banks are damaged within the allotments due to grazing damage. Damaged banks result in increased erosion and increased sediment inputs to streams. Within these allotments, stream habitat has been degraded by sediment added from livestock trampling. An increase in sediment input will continue as damaged banks continue to erode even in the absence of future grazing. Appropriate management practices may diminish the rate of sediment input, but maintenance and restoration of the sediment regime requires the aquatic ecosystems within both allotments to be protected from grazing.

Riparian Plant Communities

Cattle in riparian areas trample and consume aquatic and terrestrial plant species. Consumption and trampling result in the reduction of plant species that are intolerant of cattle-induced

disturbance and an increase in the populations of plant species that are tolerant of the disturbance. These impacts make it unreasonable to assume that the Forest Service is adhering to ACS Objective 8. To remind you, it states the Forest Service must,

Maintain and restore the species composition and structural diversity of plant communities in riparian areas and wetlands to provide adequate summer and winter thermal regulation, nutrient filtering, appropriate rates of surface erosion, bank erosion, and channel migration and to supply amounts and distributions of coarse woody debris sufficient to sustain physical complexity and stability. NFP.

Adjusting grazing management practices may reduce adverse impacts, but maintenance or restoration of species composition and structural diversity of riparian plant communities requires that riparian vegetation be protected from grazing.

Flow Characteristics

Meadows within the allotments have been changed substantially as a result of years of livestock grazing. The ability of meadows to absorb water has decreased as a result of soil compaction by livestock. The inability of meadows to absorb rainfall and snowmelt has led to higher peak flows to streams and wetlands.

Adjusting management practices on the allotment may reduce the rate at which livestock detrimentally impact flow characteristics, but protection of natural stream flow characteristics requires that meadows be protected from grazing.

Livestock grazing has substantially and detrimentally impacted the health of aquatic resources within the allotments. Continuing to allow grazing will neither maintain the current conditions nor restore conditions of the aquatic resources within the allotment. Therefore, compliance with the ACS requires that livestock be excluded from all meadows and riparian areas within the allotment to eliminate future injury and to heal from past injuries.

The FS must address research by Derlet, et. al, documenting the impacts of grazing on water quality. The abstract is pasted below:

“Reducing the impact of summer cattle grazing on water quality in the Sierra Nevada Mountains of California: a proposal by Robert W. Derlet, Charles R. Goldman and Michael J. Connon”

The Sierra Nevada Mountain range serves as an important source of drinking water for the State of California. However, summer cattle grazing on federal lands affects the overall water quality yield from this essential watershed as cattle manure is washed into the lakes and streams or directly deposited into these bodies of water. This organic pollution introduces harmful microorganisms and also provides nutrients such as nitrogen and phosphorus which increase algae growth causing eutrophication of otherwise naturally oligotrophic mountain lakes and streams. Disinfection and filtration of this water by municipal water districts after it flows downstream will become increasingly costly. This will be compounded by increasing surface water temperatures

and the potential for toxins release by cyanobacteria blooms. With increasing demands for clean water for a state population approaching 40 million, steps need to be implemented to mitigate the impact of cattle on the Sierra Nevada watershed. Compared to lower elevations, high elevation grazing has the greatest impact on the watershed because of fragile unforgiving ecosystems. The societal costs from non-point pollution exceed the benefit achieved through grazing of relatively few cattle at the higher elevations. We propose limiting summer cattle grazing on public lands to lower elevations, with a final goal of allowing summer grazing on public lands only below 1,500m elevation in the Central and Northern Sierra and 2,000m elevation in the Southern Sierra.

Not only would this research change the effects analysis related to waters quality, it should change the economic analysis that the KNF used to determine the suitability of these allotments.

The Allotments Violate the ESA

Without any data or rigorous analysis, the EA concludes that very little impacts occur to fish species from grazing. In fact these allotments pose a significant threat to the integrity of salmonid habitats. The SONC Coho Salmon are listed as threatened under the ESA. On uplands, grazing compacts soils and the vegetative composition is changed through a grazing regime, increasing runoff and erosion. Closer to the stream, streambank vegetation and stability decline when livestock concentrate near water. The combination of upland erosion, loss of riparian canopies, and breakdown of streambanks lowers local water tables and causes streams to become wider but more shallow, warmer in summer but colder in winter, and poorer in instream structure but richer in nutrients and bacterial populations. All these effects can adversely influence salmonid populations. Yet, none of these impacts were analyzed in the EA.

Please note that a June 6, 2017 Forest Service email (4:49:50 PM) indicates that “the BA and LOC for the East Beaver allotment...was predicated on the assumption that cattle would be herded and kept away from CH in Beaver Cr and WE Beaver Cr.” This assumption is baseless.

Additionally, please note that a July 16, 2017 letter from Felice Pace to District Ranger Jeff Marszal in the Administrative Record documents photos of cattle impacts to Coho critical habitat in May and June of 2017 in Beaver Creek. These impacts are not reflected or analyzed in the EA.

It does not appear that the KNF has consulted with NMFS regarding the impacts of this project on Coho and their habitat.

The Allotments Violate the Clean Water Act

The Forest Service is required to abide by the Clean Water Act and ensure that it is not allowing the pollution of water bodies. The Klamath River and its tributaries have been listed as water quality impaired under the Clean Water Act [303(d)] (listed for nutrients, dissolved oxygen, temperature, and microcystin) and project area streams contain ESA-listed species and CH and Forest Service Sensitive species (coho salmon, Chinook salmon, and steelhead trout). Beaver

Creek is impaired and the and subject to a TMDL and CWA Waiver of Waste Discharge Requirements. The KNF is required to comply with the Basin Plan – including the Klamath TMDL and Waiver of Waste Discharge Requirements.

According to the KNF “Cattle congregate...between springs, meadows, and streamside riparian areas which may cause localized seasonal removal of riparian and meadow vegetative cover and localized trampling of stream channels.” (Mount Ashland LSR DEIS.) How does reauthorization of grazing help the forest meet the TMDL? The waiver discusses the reauthorization of grazing and requires maintenance of “The shade provided by topography and full potential vegetation conditions at a site, with allowance for natural disturbances such as floods, wind throw, disease, landslides and fire.” Certainly, with the reauthorization of grazing and without any attempt to keep cattle from riparian areas, these impacts will continue and violate the Klamath TMDL and Waiver of Waste Discharge Requirements.

There are already severe cumulative impacts in the Beaver Creek watershed.

“Dominant long-term erosion processes in the Beaver Creek watershed are downstream cutting and landsliding in steep areas. In areas covered by granitic soils, stream scour and surface erosion are the primary erosion processes. Grazing historically had major impacts on erosion rates but with reduced stocking rates as occur today (see discussion on historical stocking rates in Range Specialist Report), grazing has minor erosion impacts. Timber harvest and roads are the leading causes of erosion in the Beaver Creek watershed.”

As stated in the January 27, 2016 6:25 KNF email from Laurie Gregory of the KNF:

The EPA listed Beaver Creek and four tributaries in the project area on the 2012 303(d) list of impaired water bodies. The new listings mean that state water quality standards for sediment are not being met in Beaver Creek, Cow Creek, Deer Creek, Hungry Creek and West Fork Beaver Creek.

If there are already severe impacts, grazing is sure to add to those impacts where cattle congregate near streams and wetlands. When past and anticipated future impacts result in unacceptable watershed impacts, the FS may not add additional impacts **even if/when these additional impacts are “minimal.”** The proposal to authorize grazing in Beaver Creek Watershed therefore violates the federal and state CWA anti-degradation policies, the “no further degradation” policy of the Basin Plan and the Klamath TMDL and Clean-Up Plan.

Cumulative Effects are Ignored

The impact of updating the Oak Knoll Range is significant if “it is reasonable to anticipate a cumulatively significant impact on the environment.” Cumulative impact is the incremental impact of updating these AMPs added to the impact of “other past, present, and reasonably foreseeable actions.” Cumulative impact analyses must have data to support their conclusions. See Klamath-Siskiyou Wildlands Center v. BLM (9th Circuit 2004).

As mentioned above, grazing has heavily impacted these allotments. The Forest Service fails to consider the impacts of future activities on the watersheds, Wilderness Area, Recreational Experiences and other resources in these allotments. By the Forest Service's own models and parameters, the impacts of the Oak Knoll Range EA are significant when added to the impacts of past, present and future grazing, logging and road construction activities in and around the allotments. The KNF must prepare an EIS for the Oak Knoll Range because of the cumulatively significant impacts on the human environment. Native plant communities are severely degraded by the spread of non-native species. Non-native plant species alter ecosystems by "increasing fire frequency, reducing wildlife habitat, disrupting nutrient cycling and hydrology, increasing topsoil loss, and altering soil microclimate." Livestock increase the ability of non-native plants to invade native plant communities by disturbing vegetation and soils. Livestock transport non-native seeds in their hair, digestive tracts and in the mud on their feet.

Please note that according to a KNF Forest Service email of January 27, 2016:

"The 2014 Beaver Fire burned several miles of riparian reserves in Beaver Creek. Riparian reserves that burned at high-severity may be more sensitive to grazing than the unburned conditions that were assessed in the [previous] EA. Bare soils along stream banks would be more susceptible to bank trampling, streambank erosion, and delayed recover of riparian vegetation and stream shade."

Additionally, a 11:37 AM email from KNF employee Bobbie email on January 20, 2016 recognizes that there are:

[c]hanged conditions on the KNF side- [and the NEPA document should contain a] Discussion of effects of Beaver Fire and recent debris flow events on vegetation and grazing patterns.

As noted in the July 12, 2016 Oak Knoll Forest Service Range Allotment field trip notes there is "[l]ots of human disturbance (jeeps, trucks, cycles)" in the Siskiyou Crest meadows impacted by trespass grazing.

Please further note that a 2016 hand-written Forest Service notes in the "East Beaver Administrative Record" indicate that the East Beaver permittee is not in fact required by the agency to remove cows on the KNF that are outside of their allotment unless they trespass into the RRSNF. The cumulative impacts of allowing the permittee to graze on the KNF in lands outside of allotment (such as Grouse Creek) is not analyzed or disclosed in the EA. Additionally, the 2017 East Beaver Administrative Record indicates that when the permittee offered to remove 16 cattle that were habituated to grazing at Grouse Gap, the KNF Rangeland Management Specialist encouraged him to retain the cattle on the allotment and not remove them.

The consistent and longstanding overutilization of range in Cow Creek is neither acknowledged or substantively addressed in the EA.

Significant cumulative impacts such as those described above are not fully analyzed or disclosed in the EA and necessitate completion of an EIS.

The KNF Must Prepare an EIS

The significant cumulative, direct and long-term impacts of the Oak Knoll grazing allotments necessitate completion of an EIS. The Forest Service is proposing to authorize significant grazing activities in an ecological critical area with remarkable botanical values while knowing that the proposed grazing will harm Coho and aquatic resources while looking the other way to decades of trespass and AOI violations.

Significant Adverse Impacts

As acknowledged in the EA, the proposed cattle grazing is Likely to Adversely Affect ESA listed Coho and their habitat. The project will also harm key botanical resources, meadows and riparian areas. The grazing conflicts with recreational use of the Siskiyou Crest. The grazing involves longstanding and unabated trespass. An EIS must be prepared for this project.

Public Health

The EA at page 46 is correct that PCT hikers (and others) rely upon springs, seeps and creeks along the Siskiyou Crest as sources of drinking water. While the KNF elects to downplay this use by casting in terms of a hypothetical in which people “could choose to use, undeveloped, available water sources,” in fact the use of these water sources is a known certain requirement of thousands of PCT through-hikers every year. There is no other way for through-hikers to obtain water other than by utilizing undeveloped sources at which cattle are known to congregate. The use of water filters is somewhat effective at reducing the risk of e-coli, but they are not 100% effective. Further, the agency simply ignores the controversial nature of its preference to manage riparian resources for the benefit of a handful of ranchers while ignoring the desires and preferences of the vast majority of public land users.

Unique Characteristics

The KNF is correct that the planning area contains several world-class unique characteristics that may be significantly harmed by the continued permitted and trespass grazing. These unique characteristics include the Pacific Crest Trail, the Klamath River and its tributaries, the Siskiyou Crest Mountain Range, Special Interest Areas, Inventoried Roadless Areas, unique botanical resources, Coho salmon habitat, and scenic resources.

Controversy

The grazing allotments at-issue are some of the most controversial on the West Coast and were a large part of the impetus for a Siskiyou Crest National Monument campaign that may be revisited if the agency continues to value cattle over all other public land values. The scientific controversy regarding these allotments is well established through years of correspondence from the public and the RRSNF to the KNF. The KNF is aware of the conflict between recreation, PCT hikers, world-class botanical values, aquatic health, Coho survival and the Oak Knoll grazing allotments, yet the agency refuses to acknowledge or protect the many other multiple-uses that are harmed and precluded by its singular focus on grazing these public lands regardless of the ecological and social impacts.

The Administrative Record for the Oak Knoll Project and East Beaver Allotment contains numerous letters, emails and correspondence the Forest Service has received documenting the significant impacts the allotments are having on meadows, birding and recreation. None of these concerns or issues were fully addressed in the EA. A July 7, 2017 letter from Frank Lospalluto to the Forest Service states in part of grazing occurring in the Grouse Gap area that:

[t]he wet meadows up there are a bit behind in their normal growth and flowering stages because of the winter and spring we had. As a consequence many of the breeding songbirds are also a bit later than usual. I have some real concerns about a species like the Lincoln Sparrow who nest in the wet vegetation on or close the ground...It is just way too early for cows to be up in this area. I write this as an avid birder and as a professional field biologist who has been working with songbirds for the last few decades.

I will also note that these meadows provide easy access to many tourists and locals who come up to view the beautiful flower display. Our area does depend on tourism and its natural beauty is an integral part of that appeal. The trampling of the meadow is of concern to native plant lovers and bird enthusiasts.

The EA address none of these concerns and rather than attempting to reduce the controversy concerning the allotments and the repeated trespass the KNF grazing staff simply refer to the those who submit such concerns as “anti-livestock.” In fact the concerns involve the controversy associated with the agency’s insistence on valuing grazing over the recreational, botanical, and biological values that many people find in their public lands.

As stated in a July 8, 2017 letter from Barba Massey to the KNF:

The wet meadows along Route 20 near the top of Mt. Ashland (from the campground to Grouse Gap) are a unique natural resource in this area for both plants and birds. I am a retired Ornithologist who has lived in Ashland for 18 years and wrote a book about Rogue Valley Birds. I’ve found the bird use of these meadows is like no other habitat in the region. In addition to the uncommon fresh-water montane plants on the hillsides, a complex community of Lazuli Buntings, Green-tailed Towhees, Lincoln’s Sparrows and Fox Sparrows have nested there annually since I first saw them in the spring of 1999.

Last year and this, cattle have been rampant throughout the area during spring and summer, and they are a serious hazard to the integrity of this delicate habitat. They trample the plants, defecate everywhere and defile the clean water of the streams that wander down the hillside. Why is grazing allowed here? Cattle do nothing but damage to an extremely valuable plant and wildlife area that is also rare in our mountains.

Apparently the problems from the trespass cattle documented above (on July 8, 2017) remained unaddressed on July 12th despite an inaccurate email response from KNF Rangeland Management Specialist Daniel Henklein contending that “the permittee has been very responsive about moving the cattle to lower elevations in a timely manner.” A July 13, 2017 email from Frank Lospalluto to Mr. Henklein documents that:

I was up at Mt Ashland yesterday July 12 and...[n]ear Grouse Gap just below the PCT in the meadow near the willows I observed 16 cows (that includes calves). They were grazing in the meadow...I still however find it unacceptable that the cows are up in the wet meadow area where there are still nesting neotropical migrant birds and the flowering plants are just coming into peak flowering.

As stated in a November 23, 2015 correspondence to Mr. Henklein from Larry Marshik:

...preventing cows from using or accessing this general area of the headwaters of Grouse Creek would not materially impact grazing supplies. But ensuring that cattle are excluded from this area would substantially help maintain the recreation values, natural landscape and botanical diversity. Such exclusion would also likely minimize surface soil erosion and the incursion of non-native grasses and forbs.

The KNF loses credibility when it is unwilling to acknowledge the legitimate controversy associated with the significant impacts of its grazing program on the vast majority of forest visitors.

Uncertainty

One cannot know how the Forest Service will administer the Oak Knoll grazing allotments because the agency does not know how it will administer the allotments. Rather than disclose and analyze a management plan or strategy, the EA relies upon “adaptive management” in which the subjective whims of KNF staff determine when and how grazing management occurs. As disclosed on page 5 of the EA, the KNF does not disclose such basic information as the on-off dates or the exact number of AUMs to be authorized. Hence analysis of the impacts of the agency’s grazing proposal is impossible. Further, page 24 of the EA significantly under-reports the amount of trespass that has occurred for decades. The contention on page 30 of the EA that some years there is “no drift at all” is simply false. The description of trespass as “incidental” is inaccurate and misleading. The trespass is regular, routine, and has occurred for decades. The KNF has no idea how much trespass is occurring because “attempts to locate and identify drift cattle are dependent on how frequently KNF permittees and range staff are out on the allotments.” As stated in the May 4, 2010 KNF Memo:

“We need to be careful with how to include the Rogue and the drift issue. We know its occurring, but we need to be careful with what we say -perhaps say something like ‘we know there is drift, but there is no confirmation of any environmental impacts attributable to drift.’ Perhaps there are some effects, but they are probably not necessarily long-term nor degrading...”

Precedent

The Oak Knoll Grazing EA establishes the significant and unfortunate precedent that decades of trespass and unwillingness or inability to implement AOIs will be rewarded and by continued grazing at current levels by the enabling agency. The Oak Knoll Grazing EA also establishes the precedent that the requests, statements and concerns of the public and the adjacent RRSNF

should be subservient the desires of a handful of individuals who financially profit from public lands grazing.

Significant Cumulative Impacts

The Administrative Record is replete with acknowledgements of the ongoing and severe cumulative impacts from largely unregulated Off-Road Vehicle damage to the meadows and aquatic features that attract the cows in this project area.

Significant Cultural and Historic Resources

As disclosed on page 50 of the EA the Forest Service intends to authorize and encourage grazing at three archeological sites “located within moderate [cattle] use areas,” and four sites “located within high use areas...considered at-risk of potential adverse effects as a result of permitted grazing activities.” The proposal to knowingly place these resources at risk must be documented in an EIS. Additionally, the KNF proposal is a direct violation of the National Historic Preservation Act. Please note that the PDFs to mitigate damage to these locations would only be implemented after “degrading damage has occurred.” See EA page 67.

Private Property

As established by the L&M Timber Company Appeal of January 2011, the Forest Service has not worked with local landowners to manage grazing in the Oak Knoll Allotments as required by 36 CFR 222.2. Indeed, it appears to be the KNF’s position that cows from the Oak Knoll allotments should be allowed to trespass on both private property and onto the RRSNF with impunity. The KNF’s reliance upon “open range” as a shield against meaningful range management and as a surrogate for NEPA analysis is misplaced.

As established in the 2011 L&M appeal, the Ash Creek grazing allotment:

1. Involves a “taking” of 130 acres of private property without compensation;
2. Is not suitable for grazing due to steep topography, limited forage, limited water and domestic water concerns;
3. Results in significant negative impacts to private property, the Ash Creek Watershed and deer populations;
4. Is unsupported by meaningful data or analysis;
5. Negatively impacts hydrologic, aquatic and domestic watershed values.

Please also note that a KNF Forest Service email of March 15, 2016 (11:01AM) indicates that “a landowner expressed concern about vegetation and riparian impacts to private land located on Sterling Mountain, T48N, R9W...” This information is not reflected or analyzed in the EA.

Noxious Weeds

As acknowledged on pages 37 and 61 of the EA “cattle grazing may contribute to the spread of noxious weeds by creating by creating disturbed areas where weed species can become established and/or by spreading noxious weed seeds to new areas.” Page 61 of the EA is correct that EO 13112 and EO 13751 prohibit this result from Forest Service approved actions.

Additionally, the proposed spread of noxious weeds through authorized grazing runs afoul of NFMA and KNF LRMP.

Please note that the agency's reliance upon adaptive management has proven ineffective at halting grazing-related noxious weed spread in the project area and that the EA contains no data, analysis or site-specific information regarding noxious weeds and cattle grazing.

A March 17, 2016 email from KNF employee Stephanie McMorris (1:35 PM) indicates that the KNF is aware of a houndstongue infestation in one of the East Beaver corrals. Yet this information is not included or addressed in the EA. As noted in the July 11, 2016 Oak Knoll Forest Service Range Allotment field trip notes but not in the EA:

Main concern for botany: there's a high priority invasive species (houndstongue, especially) and Dyer's Woad coming over the ridge now. We have an infestation of houndstongue in Stirling corral (totally on the KNF side); it could be vectored up and over

Significant Botanical Impacts

The KNF is correct (EA page 35) that the proposed grazing and inevitable trespass will result in direct impacts to Forest Service Sensitive species including (but not limited to) *Carex nervina* because "the wet, open habitat in which this species occurs tends to see heavy use by cattle" in part due to the fact that the vast majority of the proposed allotments are unsuitable for grazing such that cattle are drawn to the few productive meadows on the Siskiyou Crest and trespass is inevitable.

Lupinus arduus ssp. Ashlandensis, Pinus albicaulis, and Tauschia howellii will all be harmed by the Forest Service grazing proposal in that "direct effects to individuals may occur from trampling [and] indirect effects may occur from spread or introduction of noxious weeds by cattle." EA page 36. Please note that there is only one population of *Lupinus arduus* in the world and that "cattle drift (sic) [trespass] into this area almost every year..." If this is not a "unique characteristic" or a "significant impact" than nothing is.

A July 17, 2017 email from KNF employee Daniel Henklein to District Ranger Jeff Marschal documents the Forest Service intent to allow and authorize grazing in high elevation Siskiyou Crest meadows even when it is known that a sub-set of the meadows are too wet to sustain grazing without significant damage. Henklein writes that he "believes the animals should be allowed on the Crest NOW in the East Beaver Allotment because 90-95% of the range resources ARE ready, and they should not continue to be held back because 5-10% of the resources may not be ready regarding soil moisture." The EA fails to disclose or analyze the effects of encouraging and allowing grazing in meadows that are too wet to graze. Additionally, it appears that the KNF encourages permittees to avoid the terms of the AOIs that would limit such grazing.

Please note that unlike the Oak Knoll EA, the Wagner Butte EA indicates that "continued cattle drift...and resulting trampling and displacement of soil could lead towards listing *Tauschia*

howelli under the [ESA].” Further, trespass by KNF cows “is considered a threat to the continued viability of the tauschia populations.” In addition to neglecting its NEPA duties to analyze these impacts, the KNF grazing proposal violates NFMA.

Conclusion

The longstanding unwillingness of the Forest Service to hold permittees accountable for decades of trespass and AOI violations is baffling. The agency’s preference for cattle grazing over all other multiple uses, including Coho salmon habitat, PCT recreation, unique botanical values, private property rights, the Aquatic Conservation Strategy Objectives and archeological resources is arbitrary and capricious. The agency’s refusal to reduce grazing pressure on the Siskiyou Crest and to right-size the number AUMs to match the available forage is unlawful.

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