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First name: Vance

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Organization: JRB, LLC

Title: Manager

Comments: Re: Objection to the Ashley National Forest Draft Land Management Plan and Draft Record of Decision

Dear Ms. Farnsworth,

JRB, LLC submits the following objection to the Forest Supervisor's, Susan Eickhoff, Ashley National Forest Final Environmental Impact Statement (FEIS), Draft Land Management Plan (LMP), and Draft Record of Decision (ROD). This objection is submitted in compliance with 36 C.F.R. [sect][sect] 219.53, 219.54. JRB also requests the opportunity to participate in any objection resolution meetings that address livestock grazing, bighorn sheep, recreation management areas, and others that are associated with the positions of JRB in the following objection. 36 C.F.R. [sect] 219.57(a).

JRB is a fifth generational ranching entity that grazes livestock on federal, state, and private lands in Wyoming and Utah. JRB operations include the grazing of both cattle and domestic sheep, and more specifically the grazing of domestic sheep in the Uinta Mountains for generations. Due to the substantial amount of public lands (approximately 50%) in both these states, JRB, as many other ranchers, relies heavily on its federal grazing permits, including on the Ashley National Forest, to run a successful ranching operation. JRB is a longstanding steward of the land and its resources, and manages its livestock grazing activities to ensure healthy vegetation conditions persist for both its livestock and other wildlife in the area.

The Forest Service has spent many years on this LMP revision, working with cooperating agencies and considering a multitude of public comments. JRB does appreciate the efforts of the Forest Service in addressing some of its specific concerns from the Draft EIS, but still has some remaining objections to the LMP that have the potential to adversely impact the grazing community and JRB ranching operations. The objections are as follows:

1) Objections Related to Management Actions to Protect Bighorn Sheep and Their Habitat

JRB has appreciated the amendments the Forest Service has made between the Draft EIS and the FEIS as it related to management actions to protect bighorn sheep and their habitat. It specifically appreciates some of the adjustments made in response to JRB's and others' comments on the Draft EIS that would adversely impact the domestic sheep industry. JRB also appreciates the inclusion of the Utah Bighorn Sheep Statewide Management Plan, the 2019 Memorandum of Understanding (MOU) for the Management of Bighorn Sheep on National Forest System lands in the State of Utah, and the 2022 Site-Specific MOU (which involved the Forest Service, relevant state agencies, and applicable permittees), as well as recognizing the importance of collaboration with the State agencies in applying any site-specific management strategy. See FEIS at 161; FEIS, Appendix D at 19-21.

JRB has filed an objection to the Regional Forester's inclusion of bighorn sheep as a species of conservation concern (SCC) and the inclusion of this listing decision in the Ashley National Forest LMP revision process. JRB has requested that bighorn sheep be removed from the SCC list and would similarly request appropriate amendments to the FEIS, LMP, and ROD if this listing is rescinded. However, JRB still recognizes that certain reasonable, site-specific management actions, goals, guidelines, etc. may still be appropriate in the LMP revision related to bighorn sheep and their habitat even without the listing.

JRB also still has some remaining concerns related to specific guidelines and goals under the LMP and ROD, which are as follows:

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1. Objection 1: WILDL Guideline 09 [ndash] Sheep Grazing Allotments Should Not be Left Vacant

WILDL Guideline 09 states [ldquo]When a domestic sheep or goat grazing permit for an allotment is voluntarily waived without preference, and if the allotment does not provide separation from bighorn sheep, then authorized use of the allotment should provide separation of domestic sheep and bighorn sheep by one or more of the following methods: (1) mitigate the threat of pathogen transfer from domestic sheep and domestic goats to bighorn sheep consistent with the most current state bighorn sheep management plans, (2) mitigate the threat of pathogen transfer from domestic sheep and domestic goats to bighorn sheep in accordance with reasonable management guidelines pursuant to a new site-specific memorandum of understanding, (3) leave the allotment vacant of domestic sheep and domestic goats, (4) work with the State of Utah to remove or translocate bighorn sheep, or (5) implement another method that would provide separation of the species or that would reduce the threat of pathogen transfer from domestic sheep and domestic goats to bighorn sheep.[rdquo] LMP at 36.

JRB commented on the Draft EIS objecting to the guideline that was based on voluntary waivers and closure of domestic sheep grazing allotments. If voluntary waivers and closures are utilized, then this will kill the domestic sheep industry. JRB continues to object to the option under Guideline 09 that would leave an allotment vacant of domestic sheep and domestic goats if it is voluntarily waived without preference. Historical experience demonstrates that when allotments are voluntarily waived without preference and listed as vacant, the allotments rarely open to grazing in the future.

JRB also objects to the Forest Service continuing to put the focus of [ldquo]pathogen transfer[rdquo] on the transfer from domestic sheep and domestic goats to bighorn sheep. Pathogen transfers can also occur between bighorn sheep themselves and through contact with mountain goats. FEIS, Appendix D at 20. Mountain goats are found in close proximity to the same habitat of bighorn sheep all year long on the Ashley National Forest. Whereas domestic sheep grazing on federal allotments are not in close proximity to bighorn sheep habitat and potential commingling only occurs a few months during the summer when bighorn sheep venture from the mountain cliffs and other outcrops into grazing allotments of domestic sheep.

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1. Objection 2: WILDL Guideline 10 [ndash] Local Information and Best Available Science Not Determinative on Whether Separation Will be Obtained

Under WILDL Guideline 10, it states that [ldquo][n]ew permitted domestic sheep or goat allotments should not be authorized unless the Ashley National Forest determines, based on local information and the best available science, that separation of the allotment from bighorn sheep will be obtained.[rdquo] LMP at 36.

JRB commented on the Draft EIS on February 16, 2022, about how the Ashley National Forest LMP revision process must recognize the cooperative efforts, management plans, the 2019 MOU developed in Utah, and the 2022 Site-Specific MOU, to mitigate the comingling between domestic and bighorn sheep. Further, it explained the importance of continued grazing on the Ashley National Forest and the use of adaptive management as outlined in the respective State Plans and MOUs to address any conflicts that may arise between bighorn sheep and domestic sheep.

Utah Division of Wildlife Resources (UDWR) has authority and responsibility over the protection, management, and conservation of the state's wildlife, including bighorn sheep. Utah Code [sect] 24-14-1(2)(a). UDWR can set policies that [ldquo]seek to maintain wildlife on a sustainable basis,[rdquo] and recognize the balance between habitat requirements of wildlife with the social and economic activities of man and the associated rural communities. Utah Code [sect] 24-14-3(2)(a)-(b). As part of its management, the UDWR has used translocation to reestablish and sustain bighorn sheep populations and has entered into site-specific MOUs with livestock

permittees and the Forest Service in an effort to reduce disease transmission and other potential conflict between bighorn sheep and domestic sheep. They also have a Utah Bighorn Sheep Statewide Management Plan that was last updated in 2018 (Ex. 1).

It is the UDWR that has established the necessary strategies to mitigate any commingling between bighorn and domestic sheep. Ex. 1, Utah Bighorn Sheep Statewide Management Plan, at 15-16 (2018). They have also developed an MOU with the Forest Service to manage bighorn sheep on the Ashley National Forest to help minimize any risk of contact with domestic sheep. See FEIS, Appendix D at 20-21. Therefore, it is unclear why Guideline 10 predicates any new domestic sheep or goat allotments on “[best available science]” that shows separation will be obtained. UDWR, Utah Department of Agricultural and Food (UDAF), and the Forest Service, with the involvement of permittees, have developed those management actions to mitigate any contact between bighorn and domestic sheep.

This phrasing of this Guideline also does not make sense, because it is the best available science that would potentially determine the amount of separation that is required or the distance required between grazing allotments and bighorn sheep habitat, and not determine whether this separation is necessarily achievable through appropriate management. Whether separation can and will be obtained will be based on the management of both grazing and bighorn sheep in accordance with the State Plan and MOUs. For example, the UDWR proposes the use of natural and man-made barriers to prevent the commingling of domestic and bighorn sheep. Ex. 1, Utah Bighorn Sheep Statewide Management Plan at 14 (2018).

Guideline 10 is also inconsistent with Guideline 09, which recognizes that separation between bighorn sheep and domestic sheep is obtained through following site-specific MOUs and the Utah Bighorn Sheep Statewide Management Plans. LMP at 36. JRB requests Guideline 10 be revised to reflect the recognition that separation and mitigation of contact between bighorn sheep and domestic sheep is accomplished through the use of the State Plan and site-specific MOUs involving State agencies, Forest Service, and the grazing permittees.

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1. Objection 3: WILDL Goal 03 [ndash] Site-Specific Management Strategies Do Not Belong in Annual Operating Instructions

Wildlife Goal 03 calls for minimizing the risk of contact between bighorn sheep and domestic sheep or domestic goats through collaboration with the State of Utah through the use of MOUs and “[applying site-specific management strategies described in domestic sheep permit annual operating instructions.]” LMP at 37.

JRB commented on the DEIS on February 16, 2022, about how the Ashley National Forest LMP revision process must recognize the cooperative efforts, management plans, and MOUs developed in Utah to mitigate the comingling between domestic and bighorn sheep. Further, it explained the importance of continued grazing on the Ashley National Forest and the use of adaptive management as outlined in the respective State Plans and MOUs to address any conflicts that arise between bighorn sheep and domestic sheep. It also described the history of translocating bighorn sheep in the Hoop Lake area in 1989, and the assurances Forest Service representatives made to permittees and related County Commissioners that grazing operations would not be adversely impacted or altered.

JRB agrees with Goal 3 to the extent that it calls for the minimization of risk of contact between bighorn sheep and domestic sheep through collaboration with the State and the use of MOUs. However, JRB strongly objects to any site-specific management strategies being added to a permittees’s annual operating instructions (AOI). The 2022 site-specific MOU previously mentioned, discusses the parties (Forest Service, relevant State agencies, and permittees) continuing relationship, ongoing cooperation, and collaboration to develop and implement reasonable site-specific management strategies to minimize the risk of commingling between

domestic sheep and big horn sheep, along with considered management tools to minimize and mitigate possible instances of commingling on or around the site-specific allotments. The issue with including site-specific strategies in AOIs is that they become mandatory under the permits, result in permit action if not complied with, and can be placed within the AOI irrespective of objections from the permittee.

While term grazing permits are issued for 10-year periods, the annual grazing under a permit is authorized each year through the issuance of a bill for collection and through preparation of an AOI. See FSM 2200, Ch. 2230, [sect][sect] 2231.41, 231.5 (Sept. 9, 2005). All term grazing permits and associated allotment management plans include a provision that the period of grazing use and stocking number will be designated in AOIs, and other annual maintenance projects are also listed. The permits then generally contain Part 2, Section 8(a), which explains that allotment management plans are part of the permit and the permittee is required to carry out its provisions and any other instructions. The AOIs also generally contain language that the AOI [ldquo]supplements and becomes part of your Term Grazing Permit.[rdquo] This explanation is important, because the result is that failure to comply with AOI can result in suspension or cancellation of permittee[rsquo]s permit. 36 C.F.R. [sect] 222.4(a)(4).

Therefore, the inclusion of [ldquo]site-specific management strategies[rdquo] into permittees AOIs could result in these [ldquo]strategies[rdquo] becoming requirements that can be the basis for permit action if not completed. It is not uncommon for a permittee to develop or offer some type of voluntary management action to improve their grazing operations, and the Forest Service will then adopt it within the AOI indefinitely or require it on another allotment. It becomes no longer voluntary but mandatory. Placing [ldquo]site-specific management strategies[rdquo] within AOIs moves away from the voluntary best management practices found in the site-specific MOUs developed in collaboration with UDWR, UDAF, the Forest Service, and permittees.

The State[rsquo]s Management Plan and MOUs are predicated on UDWR[rsquo]s position that [ldquo][t]he only mechanism acceptable to the [UDWR] for altering domestic sheep grazing practices to avoid risk of commingling is through voluntary action undertaken by the individual grazers. Ex. 1, Utah Bighorn Sheep Statewide Management Plan at 2 (2018). It does not support any [ldquo]involuntary restriction, reduction, limitation, termination, or conversion of permitted domestic sheep grazing for purposes of protecting bighorn sheep on public or private property.[rdquo] Id.

If the various reasonable site-specific management strategies currently contained in the site-specific MOU were to be placed in the AOI, JRB, as one of the permittees, would not have executed the 2022 Site-Specific MOU. Additionally, said MOU does not afford such wholesale inclusion in the AOI. Further, it is conceivable that, due to ongoing cooperation and collaboration of the parties, additional reasonable site-specific management strategies may be developed. The parties would not, and should not, commit now to such potential future strategies to be included in future AOIs. There are too many unknowns and changing conditions to presently make a commitment. JRB requests that reference to AOIs be removed from WILDL Goal 03.

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1. Objection 4: Inclusion of a Goal for Mountain Goat and Bighorn Sheep Interaction

JRB recommends the inclusion of a management action for dealing with ways to minimize the risk of contact and pathogen transfer between mountain goats and bighorn sheep. While commenting on the Draft EIS, JRB addressed the absent analysis and discussion of the issue of commingling between mountain goats and bighorn sheep. JRB, through its prior comments on the Draft EIS, has already demonstrated that moving domestic sheep from the Ashley National Forest alone will not ensure a persistent or viable bighorn sheep population and would not eliminate pathogen transfer or commingling. JRB appreciates the Forest Service including some discussion about mountain goats into the FEIS and Appendix D in response to the comment.

Mountain goats and bighorn sheep are in direct contact in the same habitat 365-days a year, and likely transfer pathogens (possibly nose to nose) in the eastern Uinta Mountains where the Ashley National Forest is located. See Utah Mountain Goat Statewide Management Plan at 7. The domestic sheep grazing on the federal allotments share the same ecosystem (not habitat) of the bighorn sheep less than 90 days during the summer. UDWR is still investigating the relationship between mountain goats and bighorn sheep and any possible disease transmission, but there are documented instances where pneumonia was passed between mountain goats and bighorn sheep in Nevada. Id. There was also the recent decision in the Grand Teton National Park where no domestic sheep were involved, and mountain goats were culled for the benefit of bighorn sheep and, among other matters, the reduction of disease transmission from said goats. In order to ensure the ecological conditions exist for a viable population of bighorn sheep (36 C.F.R. [sect] 219.9(b)(1)), the Forest Service must also help the UDWR manage the commingling of mountain goats and bighorn sheep.

JRB strongly recommends including a goal within the LMP that calls for collaboration with the State of Utah and incorporation of the Utah Mountain Goat Statewide Management Plan to implement strategies to minimize the risk of contact and pathogen transfer between mountain goats and bighorn sheep. JRB believes the management of the Ashley National Forest is undoubtedly familiar with this Plan since Jeff Schramm, a recent Ashley National Forest Supervisor, was on the committee which created said Utah Mountain Goat Statewide Management Plan.

1) Objection to the Creation of Recreation Management Area

JRB makes a general objection to the Forest Service newly created [ldquo]recreation management areas.[rdquo] The ROD describes these as [ldquo][p]lan land allocations[rdquo] that [ldquo]supports the increasing demand for recreation opportunities and contributes to the recreation community.[rdquo] ROD at 10, 15; see also FEIS at 84. In its Draft EIS comments from February 16, 2022, JRB expressed concern about the creation of both destination recreation areas and backcountry management areas. These comments addressed the possible impacts to livestock grazing, wildlife habitat, and other uses.

Pursuant to 16 U.S.C. [sect] 1601(e)(1), it is the policy that all forested lands in the National Forest System shall be maintained [ldquo]to secure the maximum benefits of multiple use sustained yield management in accordance with land management plans.[rdquo] In addition, consistent with the Multiple-Use Sustained Yield Act of 1960, the Forest Service manages the National Forest System to [ldquo]sustain the multiple use of its renewable resources in perpetuity.[rdquo] 36 C.F.R. [sect] 219.1(b). The multiple uses of the National Forests include outdoor recreation, range, timber, watershed, and wildlife and fish purposes. 16 U.S.C. [sect] 528.

While recreation is one of the multiple uses of the National Forest, the LMP should not be placing one multiple use above all others or at the exclusion of others. See *In re Big Thorne Project*, 857 F.3d 968, 975 (9th Cir. 2017) ([ldquo]The NFMA is about managing competing uses, none to the exclusion of others.[rdquo]). JRB recognizes that management direction related to recreation opportunities is appropriate, but the Forest Service already has this in place through the use of the [ldquo]recreation opportunity spectrum,[rdquo] which also has specific management actions associated with it. LMP at 59-63. The addition of recreation management areas is duplicative of the management direction for the recreation opportunity spectrum.

There is also a concern that these [ldquo]management areas[rdquo] will in turn develop to some type of [ldquo]designated[rdquo] areas, such as a National Recreation Area, inventoried roadless area, or wilderness, at some point in the future. While JRB supports recreation on the National Forests consistent with multiple uses, it does not support the over designation of the entire Forest at the expense and exclusion of other multiple uses, such as grazing.

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1. Objection 1: Destination Recreation Management Area Boundaries Should be Redrawn to Exclude Grazing Allotments and Bighorn Sheep Habitat

In its February 16, 2023, comments on the Draft EIS, JRB expressed concern with the destination recreation areas overlapping with grazing allotments and the potential closure of such allotments under certain alternatives. It also objected to destination recreation management areas overlapping with bighorn sheep habitat due to impacts from human interactions and loss of vegetation would have on the persistence of the bighorn sheep population.

In the Draft EIS, one of the alternatives considered exclusion of grazing activities in destination recreation management areas. See FEIS, Appendix B at 23. While this management area direction was not selected in the LMP, this still raises concerns for JRB and the future of grazing allotments that overlap with these areas. One of the desired conditions for destination recreation areas includes providing [ldquo]amenities and sustainable infrastructure to support a variety of recreation activities in close proximity to each other.[rdquo] LMP at 85. What happens when this infrastructure gets developed in or near long-term grazing allotments? There is the potential for increased motorized vehicle collisions with livestock, conflict between permittees and recreationists, and loss of forage due to development. How will conflict between grazing and recreation be resolved on the Ashley National Forest within the destination recreation management areas?

JRB opposes destination recreation management area boundaries that include grazing allotments. Grazing and recreation can co-exist on the National Forest and has for many years. But conflicts are more likely to arise when allotments are intermingled with parking lots, campgrounds, resorts, etc. See id. It would be more appropriate to include these grazing allotments within general recreation management areas, which are defined as an area [ldquo]where the concept of multiple use is most evident.[rdquo] Id. [ldquo]It is the working landscape where dispersed and developed recreation, fuelwood gathering, vegetation management, livestock grazing, electrical transmission infrastructure, communication sites, and oil and gas production may occur.[rdquo] Id. at 85-86.

Destination recreation management areas also overlap with Greater Sage-Grouse habitat, 9,000 acres of bighorn sheep habitat, and 17,500 acres of bighorn sheep Core Herd Home Range. FEIS at 183. Absolutely ludicrous. What happened to the Forest Service[rsquo]s concern about substantial stress factors on wildlife, including bighorn sheep, due to human interaction? This directly conflicts with the Greater Sage-Grouse Guideline 11 in the LMP: [ldquo]management actions should avoid degradation of occupied sage-grouse habitat.[rdquo] LMP at 36. It also conflicts with the 2012 Planning Rules, which require [ldquo]the ecological conditions necessary to . . . maintain a viable population of each species of conservation concern within the plan area.[rdquo] 36 C.F.R. [sect] 219.9(b)(1). As of now, bighorn sheep are listed as an SCC on the Ashley National Forest and key threats to persistence include [ldquo]habitat loss and degradation from human caused disturbance.[rdquo] FEIS, Appendix D at 19. In addition, human-caused activities can cause [ldquo]fragmenting habitat, reducing forage, and creating surface disturbance that increases the risk of noxious weed establishment.[rdquo] Id. at 20.

While the Forest Service concludes that bighorn sheep are [ldquo]somewhat tolerant of recreation and human disturbances,[rdquo] there is questionable support for the conclusion that they would be tolerant of recreation development that reduces and/or fragments their habitat. Destination recreation management areas include [ldquo]the most intensive recreation development[rdquo] on the Forest and has the highest demand for recreation experiences. LMP at 85. This management direction and desired condition of increased infrastructure is inconsistent with the requirement to ensure adequate conditions exist for bighorn sheep viability.

The Forest Service[rsquo]s conclusion that bighorn sheep are [ldquo]somewhat tolerant of recreation and human disturbances[rdquo] must be commented on by this rancher. As one spending most of his life in nature and open spaces with livestock and wildlife, this is at best shoddy thinking. I have yet to see a bighorn sheep, mountain goat, elk, deer, antelope, mountain lion, or bear [ldquo]somewhat tolerant[rdquo] of any of our ranch workers walking or on horseback in their habitat. The only remote instances of tolerance are when they are wounded, sick, or someone leaves them food. By the way, this also goes for elephants, lions, cape buffalo, leopards, hippos, cheetahs, rhinoceros, giraffes, and many other species we have seen on photo safaris in Africa. As you

know, coyotes are a different story; but you should be well aware of that scenario. Please [ldquo]do not shop for shoddy conclusions[rdquo] in an attempt to support a flawed proposal. How do you on the one hand want to promote healthy and thriving wildlife populations, and on the other hand place upon wildlife, including bighorn sheep, extreme stressors of frequent human contact and recreationalists. This is a non-sequitur. It is like a shady used car salesman trying to sell his mother a used [ldquo]lemon[rdquo] vehicle. The obvious, natural residual effects to wildlife, especially bighorn sheep, would be further dispersion, compounding management problems for UDWR, stress related illnesses, and other untenable negative elements. Please do not create this no-win situation.

JRB strongly recommends removing any bighorn sheep habitat, and most specifically any of the Core Herd Home Range from inclusion within destination recreation management area boundaries. These areas, similar to livestock grazing, fit more squarely within general recreation management areas that recognize multiple uses and landscapes where vegetation management occurs.

1) Conclusion

JRB strongly desires and intends to continue as a livestock rancher and continue its grazing permits on the Ashley National Forest. As indicated above, due to the substantial percentage in the states of Utah and Wyoming being public lands, livestock producers like JRB, are required to heavily rely on public land grazing permits. Without such permits, it would be very difficult for JRB, and many other ranchers, to remain in business. JRB is, as are most permittees, well integrated in the communities they live in and extended areas where they operate. To the various vendors and service suppliers in such areas, they are supportive and valued customers. The socio- economic impact to JRB and other permittees is extremely high if grazing allotments are closed and/or permits are cancelled due to the implementation of some of the management actions under this LMP. Further, for numerous reasons today, the sheep industry is under significant pressure, and is literally being hammered. If JRB or other permittees lost their grazing permits, it could very likely put them out of business, it would be of irreparable damage to the families that own and manage JRB and other permittees, and of significant pain to the communities and areas in which they live and operate. Please note that agricultural industries are of significant importance to the States of Utah and Wyoming.

Thank you for the consideration of these objections and for your continued willingness to work with the public and interested parties during the LMP revision process.

Sincerely, JRB, LLC

by: Vance S. Broadbent, Manager

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