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September 22, 2009

Comments on the Proposed Renewal of the Swale Creek C&H Grazing Allotment

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The Oregon Chapter Sierra Club and the League Of Wilderness Defenders – Blue Mountains Biodiversity Project have reviewed the Umatilla NF's scoping letter dated August 21, 2009 giving notice of the proposed renewal of the Swale Creek C&H grazing allotment. Jointly our organizations have the following comments on the proposed allotment renewal and the NEPA requirement for foundational NEPA analysis for this proposed allotment management action and possible livestock grazing continuity.

The Oregon Chapter Sierra Club represents over 20,000 members throughout Oregon, including the Club's Juniper Group, which has over 1,000 members throughout central and eastern Oregon. Sierra Club members feel strongly about nature, wilderness, natural forest ecosystems - including ecological recovery, wildlife, fisheries, and the environment. Sierra Club members regularly enjoy hiking, camping, wildlife watching, birding, ecological study, and photography within the national forests of central and eastern Oregon, including the allotment areas within the Umatilla National Forest.

LOWD-Blue Mountains Biodiversity Project has many members and volunteers throughout the Northwest. Members and volunteers of the LOWD-Blue Mountains Biodiversity Project regularly use the Umatilla National Forest, including the allotment areas, for hiking, ecological study, watching wildlife, viewing forest native botanical diversity, and avian species study. The Sierra Club and the Blue Mountains Biodiversity Project have long-standing and well-documented interest in the management of the forests in which the proposed continued livestock grazing is located.

I. Adequate Depth and Range of NEPA Analysis

The Swale Creek C&H Allotment encompasses approximately 27,051 acres of Umatilla National Forest public lands within Morrow and Grant Counties, Oregon. The allotment contains many areas of significant ecological concern, including:

- inventoried and uninventoried roadless areas,
- salmonid waterways and tributaries,

- 303(d) listed watersystems,
- old growth forest,
- important habitat for listed and regionally sensitive species,
- elk winter range,
- and popular recreation hiking trails and use areas.

Additionally, the proposed allotment renewal area is within the planned Wildcat Project logging, thinning, burning, and road construction areas. While Wildcat is currently under going federal judicial review, significant cumulative impacts issues exist throughout the allotment area, especially if some portion of the Wildcat project is eventually implemented. Similarly, proposed Umatilla Invasive Plant Treatment Project actions that may affect the allotment area, the proposed Potamus Vegetation Management Project, as well as management actions on adjoining BLM and private lands all have cumulative impacts issues that must be addressed in conjunction with the proposed allotment renewal.

Given the significance of natural resource concerns, we request that an EIS NEPA analysis be conducted for this proposed grazing allotment renewal; and that the agency take responsible interim measures including grazing deferrals and/or termination as necessary to ensure the natural environment is protected through the duration of the requisite NEPA analysis period.

As part of the analysis, we request that the agency clearly disclose and assess:

- All inventoried roadless and uninventoried unroaded areas that are within or adjacent to the allotment area;
- The names and status of all waterways in, adjacent to, and downstream from the allotment, including the Oregon State 303(d) listed status of streams in the greater allotment area and downstream watersystems;
- Water system recovery plans, including cooperative recovery efforts with ODFW, for all Oregon State 303(d) listed watersystems within and downstream from the proposed allotment renewal area;
- Old growth areas, RHCAs, and areas of special concern that may exist within or adjacent to the allotment area;
- Wildlife habitat and corridor areas within and adjacent to the allotment;
- Terrestrial wildlife and avian species of concern with current and historical habitat within or nearby the allotment area (including roadless and wildland dependent species in the greater area);
- Recreational trails and use in the area, and the cumulative impacts and degradation to natural resource recreational amenities resulting from continued livestock grazing;
- Past, current, and foreseeable future predator and animal control management actions and planning in the allotment area and throughout the greater adjoining Umatilla NF Heppner and North Fork John Day Districts and BLM lands, as well as existent programs on private allotment lands and area state lands within Morrow, Grant, and adjoining Wheeler Counties;
- Aquatic species that currently or historically have habitat within the greater allotment area, including species found within downstream waterways;
- Salmonid watersystem restoration and recovery efforts throughout the greater allotment area;

- Native plant species of concern that current exist or historically were found within or nearby the allotment area;
- Locations of invasive exotic plants within, adjacent to, or downstream from the allotment area, including locations and extent of these on public and private lands within and nearby the allotment;
- Past, current, and likely future management actions addressing invasive exotic plants both within the allotment and in the overall greater area;
- Allotment use-compliance monitoring for the past 10 years, allotment resource trends, direct and cumulative impacts from past and current livestock grazing in, nearby, and downstream from the allotment, and all significant resource issues of concern. Are RMOs for the greater allotment area, including downstream of the allotment, being met?, etc.;
- Monitoring frequency and effectiveness of agency efforts to prevent resource damage and permittee compliance with allotment management goals and provisions;
- Cumulative impacts from past, current, known, and foreseeable future projects in the greater allotment area, including adjoining Forest Service, BLM, Oregon State, County, and private lands;
- Scientific research recommendations pertaining to natural ecological recovery and functioning and livestock grazing, roadless and unroaded area environmental significance, vegetation management impacts and objectives and livestock grazing, imperiled species recovery and livestock grazing, salmonid watersystems and livestock grazing, burn area recovery and livestock grazing, public and private lands economics including restoration and monitoring costs pertaining to livestock grazing, and other scientific research pertinent to livestock grazing and cumulative resource issues;

II. An EIS should be prepared pursuant to NEPA.

NEPA requires the Forest Service to prepare an EIS for all major federal actions that “may significantly affect the quality of the human environment.” 42 U.S.C. § 4332(2)(C). If an agency decides not to prepare an EIS, it must supply a “convincing statement of reasons” to explain why a project’s impacts are insignificant. *Blue Mtns. Biodiversity Project v. Blackwood*, 161 F.3d 1208, 1212 (9th Cir. 1998) (also holding that a “plaintiff need not show that significant effects will in fact occur” that it is enough for the plaintiff to raise “substantial questions whether a project may have a significant effect” on the environment). Because this proposed livestock grazing renewal decision will result in significant landscape-scale impacts irretrievably affecting roadless areas, unroaded areas, habitat and populations of ESA listed and regionally sensitive species, imperiled salmonid populations and watersystems, and the objectives of other management projects; an EIS NEPA process must be conducted for this proposed livestock grazing allotment renewal. The EIS must analyze the following issues, which were given inadequate disclosure in the scoping letter:

- Ensure that the analysis adequately assesses and discusses the cumulative effects of continued grazing. The analysis should include quantifying previous and cumulative impacts.
- Ensure that the preferred alternative meets the mandatory standards in INFISH and PACFISH.
- Conduct viability assessments for regional fish, wildlife, and plant species populations adversely affected by livestock grazing.

- Evaluate the population trends of all management indicator species, based on field monitoring and relationships of populations to habitat changes caused by grazing.
- Evaluate not only the effects of livestock grazing on riparian areas, but also on the ecological integrity of upland areas.
- Address all aspects of riparian conditions, including the presence of water quality-limited streams and whether livestock grazing contributes to non-complying water parameters such as temperature, turbidity, bank stability, and any changes in density or type of riparian vegetation that have occurred either due to previous grazing or that are likely to occur as a result of the proposed project, including the cumulative impacts of the proposed renewal in combination with other past, current, and future management actions.
- Discuss how and when scheduled TMDLs will be integrated into allotment planning.
- Discuss how far current soil conditions deviate from their potential natural conditions and how long the Forest Service anticipates it will take to restore soils to normal function.
 - It is essential to disclose and address the full impacts of livestock grazing on soils, soil microbial communities, soil hydrological functioning, and seasonal water retention – addressing current conditions in comparison with ungrazed areas and historical pre-grazing conditions.
- Discuss the project area’s suitability and capability for grazing. Provide a citation regarding whether the allotments are capable and suitable for domestic livestock grazing, when such determination was made, and based upon what site-specific analysis and NEPA process? If there has not been foundational NEPA analysis substantively supporting a livestock grazing determination, the EIS must initiate such analysis before livestock grazing may continue or be considered for renewal in whole or part.

We request the agency include in its NEPA analysis disclosures of the range of scientific research recommendations, and any range of related controversy, pertaining to livestock grazing and management resource objectives in the greater allotment area. We also request the NEPA analysis include a full range of reasonable alternatives, including eliminating livestock grazing from the allotment area, both in whole and part. As the project area contains ecologically significant roadless areas and salmonid waterways, the EIS must disclose scientific research and recommendations pertaining to the recovery and maintenance of natural resource objectives in these areas.

III. Reasonable Range of Alternatives

NEPA requires that federal agencies provide a detailed evaluation of alternatives to the proposed action in every NEPA document. 42 U.S.C. § 4332; 40 C.F.R. § 1502.14(a). This discussion of alternatives is essential to NEPA’s statutory scheme and underlying purpose. *See, e.g., Bob Marshall Alliance v. Hodel*, 852 F.2d 1223, 1228 (9th Cir. 1988), cited in *Alaska Wilderness Recreation & Tourism Ass’n v. Morrison*, 67 F.3d 723, 729 (9th Cir. 1995). Indeed, NEPA’s implementing regulations recognize that the consideration of alternatives is “the heart of the environmental impact statement.” 40 C.F.R. § 1502.14.

The Forest Service must “[r]igorously explore and objectively evaluate all reasonable alternatives” in order “to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of [the agency’s] actions upon the quality of the human

environment.” 40 C.F.R. §§ 1502.14(a), 1500.2(f). In this instance, the Forest Service should analyze reasonable alternatives such as reducing the level of authorized AUMs, implementing rest and rotation deferrals, include an alternative which terminates livestock grazing and implements needed restoration actions, and an alternative which establishes significant acres of grazing exclosures across the areas diverse PAGs to act as natural ecological templates by which to gauge, compare, and address grazing impacts, and revise grazing allotment provisions to better protect and restore the natural environment.

IV. Impacts to Water Quality

The EIS should assess the impacts of large amounts of livestock waste deposited on the land, with nutrients, coliform bacteria and other disease organisms washing into downstream waters. This assessment should determine the amount of vegetation available to slow down water and nutrient runoff into these stream systems. Any new grazing plan should be accompanied by a protective level of utilization, trampling standards and other mandatory, measurable use standards. This should include mandatory, quantifiable standards for riparian area use, such as stubble heights, bank damage/stability standards, riparian browse standards, width-to-depth ratios, and the use of these standards to trigger livestock removal from pastures or riparian areas.

The primary cause of water quality degradation on the public lands is pollution from nonpoint sources. The evidence linking livestock grazing to riparian degradation and water quality problems is overwhelmingly conclusive. Grazing degrades water quality by causing bacterial contamination, decreasing oxygen levels, stimulating algal blooms, and causing increased sedimentation and water temperatures as a result of trampled stream banks and denuded riparian vegetation. *See, e.g., A.J. Belsky et al., “Survey of Livestock Influences on Stream and Riparian Ecosystems in the Western United States,” 54 J. Soil & Water Cons. 419 (1999).*

In addition, the Forest Service is subject to the requirements of the Clean Water Act (CWA), 33 U.S.C. §§ 1271–1387. Section 303 of the CWA addresses water quality via water quality standards, which specify the appropriate uses of water bodies and set standards to protect those uses. Implementation of water quality standards requires states to place those waters not meeting water quality standards on the 303(d) list. 33 U.S.C. § 1313(d)(1)(A)–(B). States must then calculate total maximum daily loads (TMDLs) for those waters not meeting water quality standards. *Id.* § 1313(d)(1)(C); 40 C.F.R. § 130.7.

The scoping notice does not indicate what, if any, water bodies within the analysis area are listed on the State of Oregon’s 303(d) list. Please include this information in the EIS, whether any corresponding TMDLs have been established, and address any proposed compliance measures. As the area does contain 303(d) listed streams, the Forest Service must insure that its proposed management approach does not lead to violations of the CWA.

V. Impacts to Sensitive Riparian Habitat

Of particular concern are adverse impacts from livestock grazing on sensitive riparian areas. Dozens of peer-reviewed studies have concluded that grazing has serious impacts on

public land and particularly on riparian areas. In a paper summarizing dozens of peer-reviewed papers on the impacts of grazing, the authors concluded:

Livestock grazing has damaged approximately 80% of stream and riparian ecosystems in the western United States. Although these areas compose only 0.5-1.0% of the overall landscape, a disproportionately large percentage (~70-80%) of all desert, shrub, and grassland plants and animals depend on them. The introduction of livestock into these areas 100-200 years ago caused a disturbance with many ripple effects. Livestock seek out water, succulent forage, and shade in riparian areas, leading to trampling and overgrazing of stream banks, soil erosion, loss of stream bank stability, declining water quality, and drier, hotter conditions. These changes have reduced habitat for riparian plant species, cold-water fish, and wildlife, thereby causing many native species to decline in number or go locally extinct. Such modifications can lead to large-scale changes in adjacent and downstream ecosystems. Despite these disturbances, some people support continued grazing. These advocates argue that most of the damage occurred 50-100 years ago; however, recent studies clearly document that livestock continue to degrade western streams and rivers, and that riparian recovery is contingent upon total rest from grazing.

A.J. Belsky, A. Matzke, S. Uselman, Survey of Livestock Influences on Stream and Riparian Ecosystems in the Western United States, *Journal of Soil and Water Conservation*, 1999, Vol. 54, pp. 419-431 (emphasis added).

VI. Impacts to Native Vegetation, Soils, TES Species, MIS and Wildlife Habitat

The proposed grazing renewal may negatively impact native vegetation throughout the extensive 27,051 acre allotment. The potential adverse impacts of grazing on native vegetation are well documented. Grazing impacts are a root cause in the establishment and spread of invasive exotic plants. This is a high priority problem throughout public lands in the West. The Department of Agriculture recently observed that on the western ranges and wildlands, “[t]he foremost issue in most restoration or rehabilitation projects is the establishment of seeded [noxious weed] species.” USDA Forest Service, *Restoring Western Ranges and Wildlands*, RMRS-GTR-136-vol. 1, at 62 (2004). The EIS should address how the further spread of invasive exotic plants will be avoided or mitigated under each proposed alternative.

The detrimental effects of cattle grazing on wildlife and federally listed threatened and endangered species are numerous and far reaching. Nearly one-quarter of all of the imperiled species listed under the ESA are imperiled by livestock grazing.¹ Grazing depletes food sources necessary for sustaining wildlife by denuding the landscape of vegetation. Native plants are integral components of the ecosystem, and they not only provide direct nutritional value for herbivorous species, but this serves to nourish the prey base for carnivorous ones. As native vegetation is overgrazed, exotic plants invade, threatening grass and shrub ecosystems and disturbing the soil surface. Even under moderate stocking rates, livestock grazing can

¹ Flather, C. T., L. A. Joyce, and C. A. Bloomgarden. 1994. Species endangerment patterns in the United States. Pp. 42. USDA Forest Service, Ft Collins.

substantially contributes to deterioration of soil stability. This leads to increased soil erosion. Soil erosion is further exacerbated by increased surface runoff triggered by loss of vegetation cover and litter, both of which have been shown by numerous studies to be reduced by livestock grazing. The EIS should engage in a thorough analysis of soils and native vegetation and the effects of the proposed grazing on the soils and vegetation within the planning area.

Monitoring data for the presence of TES species must be gathered prior to environmental analysis and incorporated into that process. The Forest Service must additionally demonstrate that project level surveys have been conducted and current population data gathered for forest plan Management Indicator Species (MIS). The Forest Plan for the UNF states that the applicable National Forest Management Act (NFMA) implementing regulations require that “[h]abitat conditions for management indicator species, as well as for all other wildlife species on the Forest will be managed to maintain viable populations.” LRMP at 2-9.

The point of conducting TES and MIS surveys is to determine population numbers so that viability can be assured and so impacts from management can be known. The UNF LRMP also imposes a forest-wide requirement for surveying for MIS species. LRMP 5-11. In some instances, a habitat model may be used as a proxy to determine MIS viability in lieu of surveys. Inland Empire Pub. Lands Council v. United States Forest Serv., 88 F.3d 754, 760 n.6 (9th Cir. 1996). However, where the Forest Service’s “methodology does not reasonably ensure viable populations of the species at issue,” using habitat evaluation as a proxy for monitoring population trends can be deemed arbitrary and capricious. See Idaho Sporting Congress, Inc. v. Rittenhouse, 305 F.3d 957, 972 (9th Cir. 2002).

The UNF Forest Plan was amended by two regional aquatic conservation strategies, commonly referred to as PACFISH and INFISH, to protect anadromous and inland native fish species. To achieve riparian goals, the plans set Riparian Management Objectives (RMOs) as “criteria against which attainment or progress toward attainment of the riparian goals is measured.” INFISH DN at A-2. The RMOs are “good indicators of ecosystem health, are quantifiable, and are subject to accurate, repeatable measurements.” Id. at A-3. The RMOs include: pool frequency; water temperature (no measurable increase in maximum water temperature, which must be below 59 degrees F in adult holding habitat and below 48 degrees F in spawning and rearing habitats); bank stability (more than 80% stable); lower bank angle (more than 75% of banks must have an angle of less than 90 degrees); and width/depth ratio (the mean wetted width divided by mean depth must be under ten). Id.

To achieve the RMOs, INFISH grazing standard GM-1 requires the Forest Service to:

[m]odify grazing practices . . . that retard or prevent attainment of [RMOs] or are likely to adversely affect listed anadromous fish. Suspend grazing if adjusting practices is not effective in meeting [RMOs] or avoiding adverse effects on listed anadromous fish.

To “retard” means “to slow the rate of recovery below the near natural rate of recovery if no additional human caused disturbance was placed on the system.” INFISH DN at A-3. In other words, the “do not retard” standard prohibits status quo grazing practices where those practices

are degrading, maintaining, or slowing the rate of recovery in areas with unacceptable ecological conditions. Instead, it imposes an affirmative duty on the Forest Service to move toward achievement of RMOs and riparian recovery. Thus, to determine compliance with INFISH, the Forest Service must monitor both RMOs and the rate of recovery. The EIS must provide quantitative monitoring data demonstrating the effectiveness for meeting PACFISH/INFISH standards.

VII. Socio-Economics and Impacts to Recreation

Although continued grazing on this allotment may bring a slight benefit to an individual permittee or small handful of permittees, public lands grazing delivers a heavy burden to the public at large. The Government Accountability Office (GAO) has reported that the federal government spends at least \$144 million each year managing private livestock grazing on federal public lands, but collects only \$21 million in grazing fees. This equates to an annual net loss of at least \$123 million.² Considering the additional direct and indirect costs not included in the GAO report, economists have estimated that the federal public lands grazing on BLM and USFS lands may cost as much as \$500 million to \$1 billion annually.³

The benefits that would flow from the elimination of cattle, however, are numerous. Besides its inherent value, livestock-free and fence-free wildlife habitat enhances opportunities for ecological services and recreational uses. There is rising demand for outdoor recreation on our public lands. As a recently released report emphatically illustrates, the economic contribution of recreationists to the national economy is staggering in the United States today.⁴

From birdwatchers to mountain bikers, outdoor enthusiasts bring in almost \$300 billion in annual retail sales, and contribute more than twice that to the United States economy. Outdoor recreationists spend \$46 billion a year on the gear they need to recreate in the American woods, rivers, and slopes. They spend five times that much--\$243 billion--on the food, lodging, entertainment, and transportation they require along the way. In all, active outdoor recreation pumps \$730 billion annually into the United States economy. The recreation industry supports about 6.5 million jobs, and associated annual tax revenues add up to \$88 billion a year. Wildlife viewing is currently the most common outdoor activity, with birding alone attracting 66 million people last year. The Forest Service should include a cost/benefit analysis in its NEPA document that encompasses the socio-economic impacts to the broader public, the owners of public lands, and not just a small minority of grazing permittees.

² GAO. 2005. Livestock grazing: federal expenditures and receipts vary, depending on the agency and the purpose of the fee charged. GAO-05-869. Government Accountability Office. Washington, D.C.

³ Moscowitz, K. and C. Romaniello. 2002. *Assessing the full cost of the federal grazing program*. Center for Biological Diversity. Tuscon, AZ. The estimated cost of the federal grazing program at \$500 million is consistent with estimates developed by other experts.

⁴ Joanne Kelly, *US Impact of Outdoor Recreation: \$730 Billion*, Scripps Howard News Service, Sept. 18, 2006 (information cited in the following paragraph also came from this article).

The allotment area in particular contains the Madison Butte-Texas Butte-Copple Butte hiking trail. The EIS must address the significant qualitative differences between renewed grazing impacts in the area and terminating grazing, either across the allotment or at a minimum within the roadless and unroaded portions of the allotment, providing a roadless wildlands recreational experience absent the degradation and disturbance caused by livestock grazing. Similarly, the EIS must address the comparative qualitative cumulative differences to downstream salmonid watersheds and populations that would result from either deciding to renew or terminate livestock grazing in the allotment.

VIII. Cultural Resources

The EIS must present evidence that the Forest Service has complied with Section 106 of the National Historic Preservation Act, 16 U.S.C. § 470(f), and its implementing regulations, 36 C.F.R. §§ 800 *et seq.* The purpose of the NHPA is to preserve the history and prehistory of this country and protect for future generations the historical and cultural resources that are part of the Nation's heritage. Section 106 requires federal agencies to consider the impact of their "undertakings" on historical properties:

Section 106 of NHPA is a "stop, look, and listen" provision that requires each federal agency to consider the effects of its programs. . . . Under NHPA, a federal agency must make a reasonable and good faith effort to identify historic properties; determine whether identified properties are eligible for listing on the National Register based on criteria in 36 C.F.R. § 60.4; assess the effects of the undertaking on any eligible historic properties found; determine whether the effect will be adverse; and avoid or mitigate any adverse effects.

Muckleshoot Indian Tribe v. U.S. Forest Serv., 177 F.3d 800, 805 (9th Cir. 1999) (citations omitted).

The EIS must also contain information that demonstrates the Forest Service adequately consulted with members of the interested public, including potentially affected tribes or tribal members concerning cultural resources. *See* 36 C.F.R. § 800.4(a) (requiring the Forest Service to "determine and document the area of potential effects, as defined in [36 C.F.R.] § 800.16(d)," identify historic properties, and to affirmatively seek out information from the State Historic Preservation Officer, Native American tribes, consulting parties, and other individuals and organizations likely to have information or concerns about the project's potential effects on cultural properties). As the Umatilla NF allotment area contains ceded treaty lands and tributaries and spawning habitat to important salmonid watersheds, renewed livestock grazing must be in accord with treaty rights and resource protection objectives.

IX. Purpose & Need

The stated "purpose" of this proposed project must be revised to meet NEPA's basic requirements. NEPA's requires the agency to develop a sound purpose and need, and incorporate expert advice and high quality science in developing a full range of reasonable alternatives that are all capable of meeting the purpose and need, and thus of selection, and which "take actions that protect, restore, and enhance the environment" (CEQ 1500 §1501.1(c)). NEPA directs that analysis include "reasonable alternatives to proposed actions that will avoid or minimize adverse

effects of these actions” and which “contribute to the preservation and enhancement of the environment.” Instead the foundational analysis inclusion of “the purpose of this project is to continue authorization of livestock grazing” as the primary purpose of this proposed project violates the requirements of federal law.

In *Muckelshoot Indian Tribe v. U.S. Forest Service*, 177 F.3d 800, fn. 7 (9th Cir. 1999) the Court held that the purpose and need cannot be so narrow that only one type of action alternative will work. In this case, the Forest Service has drawn its purpose too narrowly, with the unfortunate result that only action alternatives that renew livestock grazing could be considered acceptable. As the “purpose” is “to continue authorization of livestock grazing consistent with the goals and objectives of the Umatilla National Forest Land and Resource Management Plan (Forest Plan) to maintain or improve resource conditions” the selection of a no grazing alternative is not possible. Additionally, under the stated purpose it is questionable whether sufficient prohibitions and restrictions could be placed upon grazing location and extent to prevent irretrievable and undue livestock grazing caused degradation to the allotment’s vast natural landscapes.

NEPA requires that analysis must be scientifically sound and objective, must be based upon minimizing harms to the environment, and that a full range of reasonable action alternatives must be developed and these must all be suitable for possible selection by the decision maker. However, the stated purpose for this project would violate the NEPA and related judicial caselaw (noted above) by effectively requiring the renewed authorization of livestock grazing regardless of what analysis issues and natural resource concerns exist. Such a predetermined analysis violates the nation’s environmental policy requirements from the onset.

While it is laudable that environmental qualifiers are placed upon continued grazing, this still has the end result of preventing the development and selection of a no grazing alternative, and predisposing the decision-maker to the selection of only a grazing action alternative. As a result of the proposed project’s narrowly contrived purpose, the Forest Service undermines the NEPA process and would not likely give serious objective consideration to a no grazing action alternative, or to the development of other grazing-restrictive alternatives based upon sound ecological science and long-term restoration objectives and needs.

X. Towards the Development of a Legally Responsible Purpose and NEPA Analysis

In addition to the NEPA and legal citations above, we include herein the following from the NEPA’s core tenets to assist the agency in legally developing the EIS and reaching an ecologically and legally acceptable decision for management in this area (and as additional evidence that the agency’s stated purpose and proposed authorization of continued livestock grazing is in contravention to the NEPA and the intent of Congress):

- 1) Directing that actions not harm the environment: "NEPA, CEQ Regulation part 1500 - Purpose Policy and Mandate" "Sec. 1500.1 Purpose. (c) Ultimately, of course, it is not better documents, but better decision that count. NEPA's purpose is not to generate paperwork - even excellent paperwork - but to foster excellent action. The NEPA process is intended to help public officials make decisions that are based on understanding of environmental consequences, and take actions **that protect, restore, and enhance the environment**. These regulations provide the direction to achieve this purpose."
- 2) Directing the agency to develop and analyze a reasonable range of alternatives that avoid or minimize environmental harms: "Sec. 1502

- a. (e) Use the NEPA process **to identify and assess the reasonable alternatives to proposed actions that will avoid or minimize adverse effects of these actions upon the quality of the human environment.**
 - b. (f) Use all practicable means, consistent with the requirements of the Act and other essential considerations of national policy, **to restore and enhance the quality of the human environment and avoid or minimize any possible adverse effects of their actions upon the quality of the human environment.**
- 3) More directions on the range of alternatives: "Sec. 1502.14 Alternatives including the proposed action. This section is the heart of the environmental impact statement. Based on the information and analysis presented in the sections on the Affected Environment (Sec. 1502.15) and the Environmental Consequences (Sec. 1502.16), it should present the environmental impacts of the proposal and the alternatives in comparative form, thus sharply defining the issues and providing a clear basis for choice among options by the decisionmaker and the public. In this section agencies shall: (a) **Rigorously explore and objectively evaluate all reasonable alternatives,** and for alternatives which were eliminated from detailed study, briefly discuss the reasons for their having been eliminated."
- 4) And finally, the very core of NEPA - Congressional intent and directives to "prevent or eliminate damage to the environment" From "The National Environmental Policy Act of 1969; Purpose Sec. 2 [42 USC § 4321]. The purposes of this Act are:
- a. (a) To declare a national policy which will encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man; to enrich the understanding of the ecological systems and natural resources important to the Nation; and to establish a Council on Environmental Quality."
 - b. (b) In order to carry out the policy set forth in this Act, it is the continuing responsibility of the Federal Government to use all practicable means, consistent with other essential considerations of national policy, to improve and coordinate Federal plans, functions, programs, and resources to the end that the Nation may –
 - i. 1. fulfill the responsibilities of each generation as trustee of the environment for succeeding generations;
 - ii. 2. assure for all Americans safe, healthful, productive, and aesthetically and culturally pleasing surroundings;
 - iii. 3. attain the widest range of beneficial uses of the environment without degradation, risk to health or safety, or other undesirable and unintended consequences;
 - iv. 4. preserve important historic, cultural, and natural aspects of our national heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice;
 - v. 5. achieve a balance between population and resource use which will permit high standards of living and a wide sharing of life's amenities; and
 - vi. 6. enhance the quality of renewable resources and approach the maximum attainable recycling of depletable resources.

(c) The Congress recognizes that each person should enjoy a healthful environment and that each person has a responsibility to contribute to the preservation and enhancement of the environment.”

Conclusion

Thank you for your consideration of our scoping comments. Our organizations appreciate the motivations to improve and protect the natural resource qualities of this large ecologically important allotment area. Please retain both the Oregon Chapter Sierra Club and the LOWD-BMBP on the project mailing list and continue to update us with any developments, such as the release of the project EIS or other NEPA analysis for public review. We look forward to working with agency staff and decision-makers on proactive efforts to protect and restore the area’s natural resources. If you have any questions regarding these comments, please contact me.

Sincerely, for the natural heritage of us all,

A handwritten signature in black ink that reads "Asante Riverwind". The signature is written in a cursive style and is positioned above a horizontal line.

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