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***Comments on the proposed Big Summit, Brush Creek, Pringle, Lost Horse,
and North Fork Allotment Management Plans***

The Oregon Chapter Sierra Club and the League Of Wilderness Defenders – Blue Mountains Biodiversity Project have reviewed the scoping notice for the proposed Big Summit, Brush Creek, Pringle, Lost Horse, and North Fork Allotment Management Plans. We have the following comments on the proposed management actions:

The Oregon Chapter Sierra Club represents over 23,000 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 allotments and surrounding area forests and watersheds.. The Sierra Club has a significant, lengthy, and well-documented interest in the management of the forests and watersheds in which the allotments' livestock grazing is located.

The League Of Wilderness Defenders - 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 Ochoco National Forest, including the allotment areas and surrounding forest watersheds, for hiking, ecological study, watching wildlife, viewing forest native botanical diversity, and avian species study. The LOWD - Blue Mountains Biodiversity Project has a long-standing and well-documented interest in the management of the public lands and waterways in which the allotments' livestock grazing is located.

Our organizations appreciate the Ochoco NF's efforts to reduce the adverse impacts from livestock grazing in these and other allotments. The proposed actions, while perhaps incrementally helpful, likely do not provide for sufficient management changes to effectively prevent ongoing natural resource cumulative degradation resulting from allotment grazing and associated management actions.

The proposed management changes are best assessed in an EIS process, especially given the size of the combined allotment areas, significant resource concerns and ecological objectives, and the extent of past, current, and likely future cumulative impacts in the greater project area. We look forward to

reviewing allotment impacts and monitoring records for the allotment areas. It would be helpful to have a field trip to allotments, reviewing both problem areas and areas where proactive grazing management may be beginning to accomplish resource recovery. It would be most helpful if this trip was open to the public and involved permittees as well as responsible agency staff. Additionally, it would help analysis development to conduct the trip during the early stages of NEPA analysis if feasible, sometime early this spring.

We refer the project planning staff and decision-makers to our comments (below) sent in previously on adjacent allotment projects. We also incorporate by reference our previous comments, appeals, and appeal resolutions for the Burns & Crystal Springs Allotment Management Plan, and for the Maury Mountains Allotment Management Plan EIS. The range of issues raised in our previous comments, appeals, and appeal resolutions represent recurrent conservation issues concerning livestock grazing in the Ochoco's public lands forests and watersystems. These can help provide guidance regarding the environmental issues that need to be disclosed and addressed in the EIS for the proposed allotment management plans.

Of course, where imminent management changes are needed before the onset of this spring's grazing season, we encourage agency decision-makers to implement interim ecologically proactive protective provisions to prevent irreparable resource degradation. However, decisions affecting long-term management plans and provisions must be addressed in a more comprehensive EIS analysis process.

We thank you for this opportunity to comment, and look forward to addressing conservation objectives and management actions during this NEPA analysis process.

For Our Public Lands Natural Heritage,



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Our previous comments on the Burn & Crystal Springs AMP EA

Submitted as part of these comments to assist in identifying analysis issues and resource concerns.

Burn & Crystal Springs AMP EA, a few 'interesting' issues:

The Forest Service identified just one "significant issue" of several raised during internal and external scoping:

“Issue: The Proposed Action does not sufficiently address livestock-related impacts to stream banks and riparian vegetation in the Crystal Springs allotment. The condition of riparian vegetation in the Crystal Springs allotment is not currently consistent with resource objectives. Areas within the Crystal Springs allotment do not meet Forest Plan and INFISH riparian management objectives (RMOs) for stream shade and bank stability; monitoring has indicated that livestock grazing is a contributing factor. The Proposed Action does not go far enough in addressing these concerns.

Measures:

- Streambank alteration. Streambank alteration is a surrogate measure for alteration of channel morphology. Changes in width to depth ratio, entrenchment, and sediment yield are indirect effects of streambank alteration.
- Riparian vegetative cover (shade). Stream temperatures will be discussed as an indirect effect of changing riparian vegetative cover.”

We herein refer the agency to our and other conservation organization comments and the other critically imperative significant issues raised therein that have been largely ignored.

Imperiled aquatic species and degraded watersystems

The EA also identifies both 303(d) listed water quality impaired waterways and creeks where temperatures and conditions merit 303(d) listing but which are currently not listed as such within the project area. Area watersystems contain habitat for sensitive listed redband trout and for Columbia spotted frog.

Sensitive and invasive plants and degraded vegetative systems

“Under Alternatives 2 and 4, grazing could be initiated earlier in the year than has historically occurred, before plants are fully developed and soils are dry. Therefore, *Calochortus longebarbatus* var. *longebarbatus* habitats would be at greater risk of damage from livestock post-holing, pedistalling, trampling, trailing, and pulling and consumption of plants. Such damage could result in damage to sensitive *C. longebarbatus* var. *longebarbatus* plants and habitat, and would be inconsistent with Forest Plan direction for protection of meadow habitat itself (Appendix B, USDA 1989). Scabland habitats associated with *Achnatherum hendersonii* and *A. wallowaensis* could also be affected by early season use if livestock are turned out before soils are sufficiently dry. Therefore, monitoring of *C. longebarbatus* var. *longebarbatus* sites and scabland habitats is recommended under these alternatives to ensure range readiness before livestock are permitted to enter the Forest.”

However, the agency fails to disclose its track record of the effectiveness of such monitoring nor ensure that this monitoring will take place responsibly and effectively to ensure adverse impacts do not occur.

Limited and Non-Existent Documentation of Allotment Trends

“Trend could not be established for the Burn Allotment because sites were first established in 2005 and have not been re-read yet; range condition was estimated using other method.” “The C& T in the Crystal Springs allotment was re-read in 2004 and data supported an upward trend and a fair forage rating.” The information supplied in the EA is scanty at best, and not effectively quantified or substantiated to determine how much of an upward trend exists in Crystal Springs (is this trend slight or substantial? And does this show an upward trend in all areas and categories? for example). Conditions in the area from our organizations surveys do not support agency conclusions, particularly near area waterways and springs, and towards the end of the grazing season. Agency records indicate utilization standards have been not met for recurrent seasons and evidence a spotty record at best in permittee compliance with standards.

General Overview of EA Issues & the Need for an EIS

A few months ago, our organizations commented on the agency's scoping notice plans to proposing the reauthorization of "livestock grazing in four allotments encompassing 46,267 acres in the Marks Creek and Upper Ochoco Creek watersheds." At that time we noted the extensive landscape scale of the proposed analysis area, and a series of significant concerns from past and ongoing cumulative impacts in the area. Among these are the Spears timber sale, which is still being implemented in the area, areas with significant damage from ongoing OHV abuse, cumulative impacts from past timber sales and ongoing grazing, regionally sensitive listed redband trout waterways, as well as habitat for biodiverse native forest species of concern. We commented that an EA would be insufficient to adequately address the full extent and complexity of management concerns and environmental impacts directly and indirectly connected with this proposed reauthorization (cumulative, etc). We stated that an EIS was clearly necessary for a project of this magnitude.

Apparently the agency has decided to break their original four allotment analysis into two or more segmented allotment management plan EA's instead of conducting the NEPA requisite EIS assessing the proposed continuation of livestock grazing. However, two issues of significant legal, ethical, analysis, and ecological importance must be addressed.

First, the current EA analysis encompasses 11,850 acres, including sensitive redband trout watersystems that either are on the Oregon State 303(d) list or that evidence temperatures and conditions that merit such listing. The area contains sensitive plant species populations, and habitat for regionally sensitive and federally listed species of concern. Even though the current analysis area has been reduced from the originally proposed four allotment area covering 46,267 acres to now two allotment areas covering 11,850 acres, there exists sufficient significant analysis issues, geographic scale, and long-term cumulative impacts that an EIS rather than an EA is necessary to address this proposed action.

Second, NEPA forbids the segmentation of concurrent, contiguous, similar projects into separate analysis processes. Hopefully the separation of the four allotments needing the development of updated allotment management plans and decisions is occurring only as a matter of management priorities and resource capabilities, and not in an attempt to avoid conducting an EIS on all four allotments simultaneously as originally recommended. If possible, the decision-maker and the public would likely benefit from one EIS rather than segmented analysis processes, as the landscape scale and site-specific issues addressed are similar in nature, and overall this would facilitate a greater understanding of management impacts, concerns, and possible alternative action direction to begin to restore resource conditions throughout the greater district area. If one EIS is simply not feasible at this time, the agency must disclose why segmentation is necessary for the analysis of these allotment areas. Whether the four allotments are addressed in one analysis process or two, an EIS is imperative to meet the requirements of the NEPA, especially for the first two of these allotments (by which potentially the next two can be tiered in a subsequent EIS).

Consequently, we once again recommend an EIS rather than an EA for this proposed action.

Grazing Suitability or Lack Thereof

The agency must assess if all or some of the proposed allotment areas lands "are suitable for grazing and consistent with land and resource management plans" as per not only the FSM, but as governed by all applicable environmental policy laws, the LRMP as amended, and as consistent with resource recovery objectives. Among resource concerns that need to be addressed by this proposed reauthorization are the recovery of: redband trout populations, aquatic species habitat, water quality, restoration of impaired soils, recovery and abundance of biodiverse native botanical species, prevention of the spread of invasive exotic plants, abundance and viability of ground nesting birds, restoration of hydrological historical patterns essential to restoring forest ecosystems fire resistance and resiliency from severe fires – and addressing the impacts of ongoing climate change patterns, etc. NEPA analysis must identify areas that are not suitable for continued livestock grazing, and effectively remove these from

further grazing. Areas that have had significant harms, or a trend towards resource damage, must be withdrawn from grazing.

While grazing should be rested for five or more years throughout much of the area, especially where the Spears project is active with soil disturbing logging and burning, if grazing is to be allowed additional resource protective conditions must be incorporated. Permittees that have failed to responsibly uphold livestock grazing standards must be restricted or terminated from continued grazing, with acreage and livestock AUMs reduced to address resource concerns and attainable responsible management objectives and standards. If resource goals are not attainable under current practices, the extent of livestock grazing must be curtailed so that resource protection and recovery goals can be reached.

Though the EA included a no grazing alternative for this area, this was utilized not as an action alternative with potential for selection, but instead as just a no action alternative that is essentially precluded from selection due to the agency's inappropriate inclusion of authorizing grazing within its project purpose (addressed in detail below). An EIS is still necessary for this proposed project. The EIS must improve upon the EA and accurately disclose and assess the full impacts of past and continued livestock grazing to native forest vegetation, native species biodiversity, upland forest and wildlands habitat, forage and cover needs for diverse wildlife species, native predators of ungulates, riparian areas, salmonid redband trout watersheds, water quality, and soil hydrology and quality. The EIS must also provide for a sufficient percentage of the allotment areas to be excluded from grazing impacts, across all habitat types – from riparian to upland forests and wildlands – over an extended period of time (10 years at a minimum). These non-grazed areas can be utilized as baseline natural templates for how ungrazed portions of the ecosystem naturally function, helping to develop standards for grazed areas and fully assess the real impacts of livestock grazing. As such, exclosure areas must be of sufficient size and overall ecological complexity to accurately assess differences in grazing impacted areas and those not subjected to ongoing grazing year after year. Riparian habitat in particular is of considerable concern throughout this area.

Little mention is made of potential conflicts between livestock permittees and natural predators, including cougars and other wildlife species. This issue must be adequately addressed in the EIS, with provisions protecting wildlife predators from repercussions resulting from possible predation on livestock within their hunting territories.

The length of grazing periods and AUMs in this area are excessive, given the cumulative impacts upon the land and vegetative resources. Many diverse native species depend upon adequate forage for survival. Grazing period extent and duration must be reduced as necessary to ensure adequate resources exist for native ungulates and other wildlife species. This is especially so given the Spears project cumulative impacts on vegetation and ecological conditions. The agency must establish effective actions including mid season reviews and responsible regular agency monitoring, including curtailing allotment use as may be necessary if resource objectives are not being met. These issues must be addressed more fully within the EIS.

The Crystal Springs allotment is already failing to meet resource objectives. Merely shuffling cattle about more, and rearranging grazing timing is likely not to be sufficiently responsible to alleviate resource harms from grazing. OHV abuses in this area are also compounding watershed problems. It is likely significant portions of this area need to be removed from livestock grazing, thus reducing AUMs throughout the area.

Beginning grazing before June 15 will result in significant resource damage to riparian vegetation, water quality, aquatic species, ground nesting birds, bank stability, forest vegetation (especially rare forest flowers), and soils from cattle being in the area while it is still quite moist. Grazing, if it occurs at all in this area, should not begin until soils have dried and ground nesting birds have fledged. Mid to late June would be the earliest that livestock grazing should be considered for any areas in the Ochoco forests. Additionally, livestock should never be permitted to graze within Peck's mariposa lily exclosure areas, and these areas may need to be enlarged to provide for the recovery of this sensitive plant species. While adding riparian pastures that exclude such grazing is a possible beginning, it fails to address overall issues

and concerns comprehensively. The EIS for this proposal must address these issues more fully and adequately.

Similarly, the Burns allotment raises the above grazing period issues strongly. Trading resource harms from fall season reduction to native ungulate forage to moist season impacts from early cattle grazing is not a responsible nor wise management proposal. Again, livestock grazing should not occur – if at all - until the dry season is well-underway (mid June at the earliest). Livestock numbers, grazing extent, and duration must be reduced – or the allotment eliminated in whole or part – so that resource needs of native ungulates for forage are met, and other important resource objectives are also met, including protecting area soils, native birds, biodiverse plants, and redband trout watersheds, populations, and spawning habitat. Compounding errors and adverse impacts of past and recent grazing with additional harms as is proposed by authorizing early moist season grazing would harm sensitive aquatic species and their habitat, in violation of the Clean Water Act, National Forest Management Act, and the ESA. Again, NEPA documents for this proposal must address these issues fully, offering a full range of ecologically reasonable, legally compliant, and achievable management alternatives.

Impaired water quality resulting from ponds and troughs that reduce instream water, increase water temperatures as sun-warmed trough and pond waters overflow into area streams, and result in increased evaporation reducing available waters, must be addressed and corrected – not augmented, compounded, and continued. If water ponds and troughs are to be employed, they must be located where shading and conditions are sufficient to maintain water temperatures and flows at levels necessary for aquatic species survival and viability. Algae toxins must also not be introduced into aquatic species habitat from blooms in solar exposed ponds and troughs. These and related issues must be addressed in the EIS for this proposed reauthorization.

Exclosure fences must be maintained and in good repair before livestock are permitted in allotment areas. Monitoring of livestock must be done on either a daily or at a minimum every other day basis, including monitoring of exclosure areas. If exclosures are breached or broken, they must be repaired or cattle must be removed without delay until such time as exclosures are effectively functional. Where appropriate, additional exclosures or reduction in livestock or grazing time-periods must be employed to ensure natural resources are not impaired, degraded, or adversely impacted.

As noted in our previous comments, we incorporate by reference our comments, appeal, and appeal resolution agreement for the Maury Mountains livestock grazing EIS and ROD. We also incorporate by reference our past comments, appeals, and litigation on the Bandit I and II timber sales, and subsequent comments, protective appeal, and settlement on the Spears timber sale. The EIS must address the cumulative and direct resource impacts concerns as noted in these documents, noted above, or as otherwise responsibly applicable to this current EA – which must be redone as an EIS due to the reasons noted herein.

General Review Observations & Recommendations

In reviewing the Environmental Assessment for the Burns and Crystal Springs Allotment Management Plan EA (B&CS EA), we've generally appreciated the underlying intentions to begin to recover the resiliency and natural resource qualities of the allotment areas. Plans to recover riparian area vegetation and water quality are especially important. The EA's brief summary of allotment management history and ecology helps place current grazing issues and problems in perspective. Indeed, livestock grazing and associated management-caused degradation has been ongoing for many decades in the greater analysis area. In reading the EA, with its disclosures of environmental issues and impacts from livestock grazing, it becomes ever-more apparent that it will likely require a similar lengthy period of time for sufficient recovery of the natural resources of the area to be successfully achieved.

With this current EA, it is important to recognize that despite agency provisions attempting to rectify the harmful impacts of livestock grazing have none-the-less largely been incapable of meeting management resource recovery objectives, LRMP standards, and state water quality requirements.

Additionally, the area has ongoing cumulative impacts and vegetation recovery issues related to the implementation of the Spears project thinning and burning actions. Logging and burning impacts soils, watersheds, wildlife and aquatic species habitat, and vegetation. Impacted forest systems, riparian areas, and soils are more readily disturbed and degraded by the additional significant impacts of livestock grazing, and such systems are more susceptible to the spread and introduction of invasive plants and other livestock-caused degradation.

Our organizations emphasize the imperative need to implement a minimum five to ten-year rest period from any livestock grazing throughout all portions of the allotment areas affected by Spears project actions, especially ground and vegetation disturbing thinning and burning. Once the Spears project has been completed in its entirety, and there has been at least three to five years of post-project recovery time, the agency could then assess and disclose area ecological recovery progress and current conditions in each of the allotment management areas of concern: forest, meadow, riparian, etc; before considering implementing the proposed resumption of reduced and deferred rotation allotment grazing plans. While long-term recovery of desired resource conditions in areas evidencing livestock grazing degradation may take many years, as for example Clary and Webster (1989) note “that 10-12 years was not sufficient for riparian willow community recovery after severe livestock use, but acceptable wildlife habitat may occur after five years,” it is important to note that the combined impacts of the Spears project implementation and past and ongoing livestock grazing are significant. Resource recovery objectives as such should preclude the presence of livestock in the affected overall area allotments at a minimum until these areas begin to exhibit natural recovery from the cumulative impacts of the ongoing Spears project implementation. Burned areas for example, require a three to five year recovery period before livestock presence may be considered. The Spears project involves considerable burning in the project area in addition to ground disturbing thinning.

The EA identifies many areas of significant ecological harms, including extensive landscape scale downward trends, unknown trends (the NEPA requires the agency to explain why this important information is not available, and disclose when it may be available – not just merely state it has not yet been established), and/or stasis in area resource conditions, with upward trends noted only in limited categories and/or locations. Given the extent of ecological recovery needs and other area project objectives; from recovering riparian area vegetation, instream water quality, recovery and maintenance of redband trout and Columbia spotted frog habitat and populations, adequate sustaining forage for native wildlife populations, control and elimination of invasive plants, and viable abundance and diversity of native botanical species, etc; it is clear from the disclosures within the EA that significant harms must be curtailed for an extended period. Proposed continuing livestock grazing in this area must be further addressed in an EIS after a five or more year period of rest, with recovery progress disclosed and assessed at the conclusion of this extended rest period, before active grazing management could begin to be reasonably considered legally and ecologically acceptable in this area.

An EA Decision Immediately Resting the Area From Grazing for a Minimum of Five Years Should Be Issued, & an EIS Should Be Conducted Pursuant to NEPA

The Burns & Crystal Springs Allotments EA contains a hodgepodge of documentation and disclosures that include significant resource degradation and failures to comply with the Ochoco’s grazing standards, the Ochoco LRMP as amended, and with applicable environmental policy laws such as the Clean Water Act with regards to 303(d) listed and as yet non-listed waterways that meet 303(d) listing criteria. Cumulative impacts from the ongoing Spears project are also significant, with inadequate and/or unclear provisions in the EA regarding how these will be addressed by the proposed allotment provisions. 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 decision includes eventually re-authorizing broad-scale grazing in an area

with significant ongoing resource degradation and active cumulative impacts, and the EA has identified and disclosed quite a number of significant concerns, NEPA then requires an EIS before a decision approving livestock grazing may be issued.

The EA at present can ecologically and legally be justifiably employed for a decision resting the some or all of the area allotments from livestock grazing for four or more years as proposed. It is ecologically imperative that this necessary management action be implemented as soon as possible without further delay, to prevent further irreparable resource degradation in the allotment area.

The EA may not however, be utilized to authorize resumed livestock grazing four years from now in rested areas, nor may it be employed to authorize continued livestock grazing in the allotments in other non-rested areas. The agency's contention that this area is "suitable for livestock grazing" is based upon outdated LRMP contentions that have not been revised to incorporate new scientific research, area restoration objectives, updated 303(d) waterway surveys, invasive plant conditions, and other current site-specific conditions. As such this contention is unsubstantiated, legally unreasonable, and potentially unwarranted given the preponderance of ongoing natural resource recovery management, cumulative impacts from active projects, and evidence in the EA disclosing significant resource degradation and long-term management failures to meet utilization and water system standards and goals.

Past attempts to rectify harmful grazing impacts have largely failed to achieve LRMP standards and recovery objectives in this area. The EA proposes once again, after a long period of ongoing management failures to effectively prevent grazing harms, to incrementally reduce grazing numbers and adjust grazing patterns. It is known that similar reductions and adjustments have failed to achieve goals elsewhere, yet the agency proposes to resume grazing after a rest-period of only four years. The proposed eventual resumption of grazing in rested areas would only serve to incrementally degrade the greater area, harming whatever recovery has been made within the short time-span of rest from grazing impacts.

Decades of harmful grazing abuse require extensive periods of time before ecological recovery may begin to be attained. A full EIS analysis of recovery progress, grazing suitability or lack thereof, and the likely direct and cumulative impacts of grazing resumption must be conducted assessing area conditions after the scientifically recommended five or more years (rather than the proposed four years) of grazing rest has allowed for initial ecological recovery. Given the long track record of grazing management adverse impacts and failures, it is not possible at this time without further in-depth analysis to speculate whether grazing could reasonably and feasibly be resumed 4, 5, 10, or even 50 years from now without significant resource degradation. To meet the requirements of the NEPA, applicable environmental policy laws, and LRMP standards and objectives, an EIS assessing recovery progress and direct and cumulative environmental impacts and resource conditions is necessary before livestock grazing may be resumed in both the proposed rested portions of the area and the area as a whole.

As such, we recommend a partial EA decision, closing either all or most of both allotments to livestock grazing for a minimum of five years, along with associated restoration actions. Portions closed should include all of the areas within the Spears project boundaries and all areas with riparian, upland, forest vegetation, and resource degradation concerns. Grazing resumption provisions, interior allotment fencing in preparation for future grazing, and other actions that would be necessary only if livestock grazing is resumed in this area, should be deferred from this decision. Such grazing related actions require an EIS as noted above before a decision authorizing them may be legally and reasonably reached.

Purpose and Need

The EA identifies the "purpose" of the proposed action as being: "to authorize livestock grazing in a manner that is consistent with the Ochoco Forest Plan as amended." It states that authorization is needed on this allotment because:

- "concerns associated with increased water temperature, decreased bank stability and modifications to riparian vegetation need to be addressed within the Burn and Crystal Springs allotments;
- there continues to be a demand for livestock forage in the Crystal Springs and Burn

allotments.

This action responds to the goals and objectives outlined in the Ochoco Forest Plan, as amended, and helps move the project area towards desired conditions described in that plan for livestock grazing as well as for resource conditions in the Crystal Springs and Burn allotment areas (USDA Forest Service 1989).

Bank Stability: There is a need to alter grazing practices to promote the recovery of deep-rooted vegetation including willows and sedges to protect banks from erosion, capture sediment, and control stream channel pattern, profile and dimension. The desired condition is to have at least 80 percent bank stability (Forest Plan, p. 4-237 and INFISH, p. A-4). Stream survey information from riparian areas in the Crystal Springs allotment indicates that riparian vegetation generally has been impacted and that streambank stability does not meet Forest Plan and INFISH standards.

Stream Shade: There is a need to adjust livestock management to promote the recovery of vegetation in riparian areas to increase the amount of stream shade. The desired condition for stream shade is to provide greater than 80 percent shaded surface, or 100 percent of the site potential (Forest Plan, p. 4-240). In the Crystal Springs allotment, stream shade is less than desired and does not meet Forest Plan standards on portions of Whitney Creek, Coyle Creek, Ahalt Creek, and Crystal Creek. Monitoring has indicated that livestock grazing is a contributing factor.

Livestock Distribution: There is a need to develop grazing systems and improvements that will provide for better distribution of livestock to allow recovery of riparian vegetation, greater utilization of forage in uplands throughout the pastures, and maintenance of sufficient forage for wintering big game animals in the project area. Portions of the Burn Allotment are within the general forest winter range management allocation. The Forest Plan (p. 4-85) indicates that management in this allocation should be implemented to recognize big game habitat needs. In portions of the Hohn Spring and Wheatgrass Pastures, livestock have exceeded the maximum allowed use and inadequate forage has been left for wintering big game animals. Observations indicate there is little re-growth of herbaceous vegetation after the grazing season.”

The above disclosures are appreciated, but our organizations’ surveys and knowledge of the area evidence that the above issues represent only a small fraction of actual resource degradation resulting from recent and current livestock grazing. However, the EA fails to adequately address the inherent agency assumption that, despite decades of significant livestock grazing-caused harms and consistent overall failures to meet grazing utilization standards and resource maintenance and recovery objectives, how the public lands in this allotment can yet be reasonably considered as “suitable for livestock grazing.” Indeed, the analysis information and “need” for this project call into serious substantive question the agency’s unwarranted foundational perspective that area lands are at all suitable for livestock grazing.

Our organizations appreciate the disclosures within the EA of some of the significant resource degradation impacts, issues, and concerns that exist within the allotment area. We note that the disclosures, while compelling evidence of the need for an extended rest of the area from grazing, fail to disclose or address all of the resource degradation impacts, especially cumulative impacts, and foundational issues in this area. Additionally, the disclosures noted above, within the EA, and evidenced in the allotment itself, offer strong substantiation that the agency’s stated “purpose” of authorizing livestock grazing in this area is at odds with the LRMP and federal policy laws.

Additionally, Oregon State 303(d) and INFISH water quality standards are not being met. Before livestock grazing may be considered for authorization and/or resumption in this area, the agency must demonstrate within an EIS that this significant issue has been rectified, that area water quality has an

established trend towards recovery or has indeed recovered, and that the resumption of grazing will not impair or harm water quality recovery and resource conditions.

The Stated “Purpose” of the EA Violates the NEPA

The stated “purpose” of this project fails to begin to meet NEPA’s most 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 inclusion of the “authorization of livestock grazing” as the primary purpose of this EA 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 one of its presented action alternatives could be considered acceptable. As the “purpose” is “to authorize livestock grazing in a manner that is consistent with the Ochoco Forest Plan as amended,” the selection of a no grazing alternative is not possible.

Yet, despite NEPA’s requirement that all action alternatives presented must be suitable for possible selection by the decision maker, the EA violates judicial caselaw (noted above) and NEPA requirements in its purpose for this project. While it is laudable that environmental qualifiers are placed upon continued grazing, this still has the end result of preventing the selection of a no grazing alternative, and predisposing the decision-maker to the selection of one of the grazing action alternatives presented instead. As a result of the EA’s narrowly contrived purpose, the Forest Service undermines the NEPA process and does not give serious consideration to the no grazing action alternative, or to the development of other potential alternatives based upon sound ecological science and long-term restoration objectives and needs.

In *Methow Valley Citizens Council v. Regional Forester*, 833 F.2d 810, 815, rev’d in part, 490 U.S. 332 (1989) (internal citations omitted) the Court determined that the EIS was inadequate because it failed to examine all reasonable alternatives. The Court held that “the range of alternatives considered must be sufficient to permit a reasoned choice.” Here, beyond the statutorily required “no action alternative,” only grazing alternatives were effectively developed, as the “no grazing – no action” alternative really is unavailable for selection due to the legally deficient contrived “purpose.” As such, the Forest Service failed to comply with the NEPA by developing a scientifically sound legal purpose consistent with the needs of the project area, and by failing to fairly and objectively develop and assess all reasonable action alternatives.

Given the extent of significant resource degradation in the area; the failures of past management; and the scientific research recommendations concerning achieving resource recovery goals, grazing suitability, and grazing impacts; the purpose for this project should have read more appropriately as per the NEPA as: “The Purpose of this project is to provide for resource management and recovery in the allotment analysis area in a manner that is consistent with the Ochoco Forest Plan as amended.” Such a legally unbiased and NEPA compliant purpose would have allowed for the full development, objective analysis, and potential selection of either the proposed grazing actions or the no grazing alternative, and the potential development of other reasonable grazing rest and/or termination and restoration action alternatives.

As noted before, given the unreasonable delay in the agency addressing and preventing resource degradation in these allotments, a decision authorizing the immediate suspension of livestock grazing in this allotment for a period of at least four or more years is not only ecologically warranted, it is legally required. As such the EA should not be withdrawn. A two-part decision should be made instead, part one

of which rests the area from livestock grazing for four or more years, and part two of which compels the agency to conduct an EIS assessing conditions and recovery progress at the end of four or more years – before the authorization of livestock grazing may be considered. If the EIS indicates that resource recovery and long-term resource maintenance goals require a longer suspension or permanent termination of livestock grazing in this area, the EA’s decision to rest the area for four or more years could be extended or revised accordingly. As the Ochoco LRMP is outdated, and its determination of this area as suitable for livestock grazing likely has proven to be erroneous, the EIS and/or the revised LRMP should also reassess this determination based upon the conditions, goals and objectives, and analysis in the EA and forthcoming EIS for this project.

Towards the Development of a Legally Compliant Purpose and EIS

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 responsibly and legally developing a future 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

Our organizations appreciate the motivations to improve and protect the natural resource qualities of the allotment areas. We look forward to reviewing the progress of natural recovery and restoration in the project area over the coming years, and working with the agency and community to address long-term management in these allotments and in the greater region. We also look forward to assessing the ongoing impacts of the Spears project in the area, especially as relates to issues of concern pertaining to grazing, riparian areas, and wildlife and aquatic species of concern, as well as native vegetation, and invasive plants. We encourage the agency to effectively protect the allotment area by implementing the closure and restoration provisions of the EA, and by deferring further consideration of continued livestock grazing in this area until at least four or more years have passed and an EIS has been completed.

Thank you for your consideration of our comments. Please retain the Oregon Chapter Sierra Club and the LOWD-BMBP on the project mailing list and continue to update each organization separately with any developments, such as the release of a decision and plans for a future EIS. If you have any questions regarding these comments, please contact me.

Sincerely,

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Quotations, however, eloquent or inspiring, cannot compare to a day spent free amidst the wonders of wild nature...