HELLS CANYON PRESERVATION COUNCIL

July 30, 2009

Via E-Mail at: comments-pacificnorthwest-umatilla-wallawalla@fs.fed.us

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Re: EA Comments on Brock Cattle & Horse Allotment

Please accept the following comments made on behalf of Hells Canyon Preservation Council (HCPC) , the Oregon Chapter Sierra Club, and the League Of Wilderness Defenders-Blue Mountains Biodiversity Project (hereinafter collectively referred to as "HCPC"), regarding the Forest Service's Brock Cattle & Horse Allotment Draft EA.

HCPC is a non-profit conservation organization based in La Grande, OR with over 1,000 members. HCPC's mission is to protect and restore the inspiring wildlands, pure waters, unique habitats and biodiversity of the Hells Canyon-Wallowa and Blue Mountain Ecosystems through advocacy, education and collaboration, advancing science-based policy and protective land management. HCPC actively participates in Forest Service proceedings and decisions concerning the management of public lands within the Umatilla National Forest (UNF), and is an interested public on the Brock allotment. HCPC actively monitors the ecological conditions of grazing allotments within the UNF.

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. LOWD-Blue Mountains Biodiversity Project has many members and volunteers throughout the Northwest. 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. 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.

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HCPC is pleased to see that the EA addresses many of the concerns/inadequacies raised in our scoping comments and other public comments. However, the EA still fails to include a reasonable range of alternatives or adequately address cumulative impacts, water quality standards, and impacts to riparian habitat. These deficiencies suggest the need for supplemental analysis.

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).

The Brock Cattle & Horse Allotment consists of 1,222 acres, separated into two pastures, Transitory and Pearson. The grazing system is currently a fixed rotation with the Transitory pasture grazed first every year. Season of use on the allotment is from 06/15-10/15 with 81 cow/calf pairs (65 cow/calf pairs Term Grazing Permit, 16 cow/calf pairs Private Land Permit) for a total of 310 head months annually. The EA considers the Proposed Action, a No Action Alternative (maintains current management), and a No Grazing Alternative (Alt.1, Alt, 2 and Alt. 3 respectively). The Proposed Action and No Action Alternatives allow the same number of calf/cow pairs, but the former calls for a decrease in Head Months grazed, 205 down from 310. The No Grazing alternative would disallow any permits, remove any federal fences and ponds would remain but would not be maintained.

Though the Proposed Action decreases the amount of head months grazed initially, this is trumped by a later provision that states: "If forest treatments lead to increased forage capacity and allotment objectives and annual standards are being met, the district ranger may temporarily increase capacity up to, but not to exceed, 310 Head Months." If this were to happen, the proposed alternative and the current management would be nearly identical. In order to "rigorously explore and objectively evaluate all reasonable alternatives," this option to increase would need to be removed from the Proposed Action, to truly be an alternative to Current Management.

There were also 2 other alternatives considered but not developed in detail, neither of which would have accomplished the stated objective, which is "to implement direction in both the Forest Plan, as amended, and in Acts of Congress (described below) to provide grazing on National Forest System lands" (EA 3). Of the three alternatives that were discussed in detail, there is only a no-action alternative, and two action alternatives, one of which is nearly identical

to the current management. The EA should have included an action alternative that would permanently reduce grazing levels.

Cumulative Impacts

The analysis of the cumulative impacts of the alternatives in this EA is inadequate. NEPA requires an analysis of the cumulative effects of the proposed action. *See* 40 C.F.R. §§ 1508.7, 1508.25(a)(2). An EA may be deficient if it fails to include a cumulative impact analysis or to tier to an environmental impact statement that reflects such an analysis. Cumulative impacts are defined as the impact on the environment, which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions. *Id*. § 1508.8. The Forest Service must actually assess the cumulative effects of the proposed action, with respect to wilderness resources, new fencing and water projects, impacts to elk and federally listed fish species, impacts to native vegetation and plant populations, and weeds.

The EA does a good job of walking through all possible affected areas and conducts an indirect, direct, and cumulative impacts analysis for each, but some of these areas require additional information. For example, in the "Invasive Species" portion of the EA, the cumulative effects analysis for each alternative discusses the effects of wildlife and vehicle spread of weeds, but does not discuss the effect of cattle and invasive weed spread when combined with these other causes.

We are also concerned with the evaluation of the effect on Rocky Mountain Elk habitat, because the EA relies on certain mitigation measures (hardwood protection and treatment of invasive weeds) to claim that winter and summer forage would be increased. (EA 62) This assumes that treatment of invasive weeds and hardwood protection measures would be successful, but the EA points out that hardwood exclosures fall down every year due to faulty design. Effects to Rocky Mountain Elk are understated in the EA.

Finally, the EA is deficient with respect to cumulative impacts to the Gray Wolf, which is listed as a sensitive species under the Oregon ESA. The EA states:

> "Because wolves in this area are not considered essential to the overall Northern Rocky Mountain population, and there are no foreseeable conflicts with cattle, the Brock Cattle allotment **may impact gray wolf**, but would not cause a trend toward listing on the federal Endangered Species List." (EA, p. 65)

Please provide supporting rationale for why wolves in this area are not considered "essential" to the overall gray wolf population. Moreover, whenever wolves and cattle are present in the same area there are foreseeable conflicts. Thus, the analysis should include a discussion of proposed proactive measures to avoid wolf-livestock and wolf-human conflicts.

Overly Restrictive Purpose and Need

An agency may not define the objectives of its action in terms so unreasonably narrow that only one alternative would accomplish the goals of the agency action. *City of Carmel-by-the-Sea v. United States Dept. of Transp.*, 123 F.3d 1142, 1155 (9th Cir.1997). *See also Simmons v. U.S.*

Army Corps of Eng'rs, 120 F.3d 664, 666 (7th Cir. 1997); *City of New York v. U.S. Dep't of Transp.*, 715 F.2d 732, 743 (2d Cir. 1983) ("an agency will not be permitted to narrow the objective of its action artificially and thereby circumvent the requirement that relevant alternatives be considered"). As the Simmons court explained:

> One obvious way for an agency to slip past the strictures of NEPA is to contrive a purpose so slender as to define competing "reasonable alternatives" out of consideration (and even out of existence). The federal courts cannot condone an agency's frustration of Congressional will. If the agency constricts the definition of the project's purpose and thereby excludes what truly are reasonable alternatives, the EIS cannot fulfill its role. Nor can the agency satisfy the Act. 42 U.S.C. § 4332(2)(E).
>
> *Simmons*, 120 F.3d at 666.

The Purpose and Need for this project is to " implement direction in both the Forest Plan, as amended, and in Acts of Congress to provide grazing on National Forest System lands." (EA 3) By describing the Purpose and Need as explicitly "to provide grazing on National Forest System lands," the UNF has artificially limited the scope of the analysis to only those alternatives that would allow cattle grazing. As a result, the No Grazing Alternative is automatically ruled out. It is impossible for this alternative to meet the Purpose and Need for the project, thus, the UNF ended up with an EA that analyzed two action alternatives that are almost identical in scope.

Impacts to Water Quality/Failure to Comply with CWA

As previously stated in our scoping comments, the EA or 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. As you likely know, the evidence linking livestock grazing to riparian degradation and water quality problems is overwhelming and conclusive. Grazing degrades water quality by causing bacterial contamination, decreasing oxygen levels, stimulating algal blooms, and causing increased 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 EA provides a discussion of the various alternatives in regards to hydrology and focuses on streambed degradation and limiting grazing near streams, but omits any discussion of large bodies of water in the area. The discussion revolves around Fry Creek and its tributary in Fry Meadow, and these water sources are protected by the CWA requiring an analysis of the damage being done to these sources through livestock grazing. The CWA was addressed at the end of the environmental impacts chapter of the EA, but simply claimed "The proposed action and alternatives comply with the Clean Water Act and Oregon State Water Quality Regulations by the implementation of Best Management Practices; channel stability guidelines, bank alteration guidelines, vegetation utilization standards, and green line stubble height." None of these considerations addresses water quality degradation nor does the EA state whether any water bodies within the project area are listed on the State of Oregon's 303(d) list. Please include this information in the revised EA, whether any corresponding TMDLs have been established, and address any proposed compliance measures. In the event the area does contain 303(d) listed streams, the Forest Service must insure that its proposed adaptive management approach does not lead to violations of the CWA.

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).

The EA categorizes the public scoping comments into 3 major areas: Meadow condition, Upland condition (upland forage production), and Bank stability. (EA 5) Not surprisingly, all three of these central issues are connected to sensitive riparian habitat. Riparian area concerns are evidenced by increasing amounts of early grass and forb species, particularly high frequencies of coneflower and false hellebore relative to mid and late seral grass and forb species in tufted hairgrass sites. (EA 5) The Proposed Action Alternative (Alt. 1) addresses disparate impacts to riparian areas and relies on the flexibility of the grazing schedule as a solution because it "will enable managers to better manage for reproduction of desired forage species and improved plant health and vigor."(EA 55) Deferral will allow fall regrowth along stream banks to improve bank stability and sediment capture and would likely result in an increase in native sedge communities that are composed of obligate (OBL) wetland species and/or facultative (FACW) wetland species with good to excellent bank stabilization capabilities. (EA 55) This is a step in the right direction as Alt. 1 provides a means of addressing over-grazing and streambank degradation.

The Proposed Action Alternative (Alt.1) also allows flexibility as grazing days are not tied to particular dates, but this alone will not alleviate the stresses on the sensitive riparian areas within this project. Alt. 1 must indefinitely permit less grazing time than current management. As studies have shown, the less grazing there is, the less chance for invasive weed intrusion and spread, the greater chance for forage production and an increase in bank stability.

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

As noted in HCPC's scoping comments, another chief concern is grazing's role in the establishment and spread of noxious weeds. This is a high priority problem throughout the 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 EA should address how the further spread of invasive weeds 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 weeds invade, threatening grass and shrub ecosystems and disturbing the soil surface. Even under moderate stocking rates, livestock grazing can substantially contribute to deterioration of soil stability. This leads to increased soil erosion. Soil

[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.

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.

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 "fish and wildlife habitat be managed to maintain viable populations of existing … species in the planning area." To insure this, the regulations direct: "Provide, develop, and enhance effective and well-distributed habitats throughout the Forest for all existing native and desired nonnative vertebrate wildlife species." UFP 4-2.

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 UFP also imposes a forest-wide requirement for surveying for MIS species. UFP 4-29. 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).

HCPC's scoping comments recommended the EA contain a thorough analysis of soils and native vegetation to determine the effects of the proposed grazing on these. The EA subdivides all possible effects to the various concerns, but repeats much of the same language for each. The emphasis was on 40% reduction in grazing as measured in Head Months (EA 68) and soils in wet areas are among the most productive of all soils, therefore little to no damage would be done. The Proposed Action Alternative (Alt. 1) is the closest to what HCPC would want to see here, but an additional alternative with fewer grazing months would be the best choice. Also, the fact that riparian soils are the most productive does not serve as a justification for preserving the status quo. Reduced grazing to ensure recovery and enhancement should be the ultimate goal.

Forest Plan utilization standards for riparian vegetation and PACFISH green line stubble height standards are prescribed, which would limit grazing near streams and channels. (EA 69) "Implementation of green line stubble height standards, riparian utilization standards, and the bank alteration standard would substantially reduce cattle caused disturbance to the two streams in the allotment." PACFISH standards will help identify how much damage is being done to the streambank, but a permanent grazing reduction is the only way these standards are going to be met.

In regards to TES Species (rare plants), the EA states that are no sensitive plants documented in the analysis area, resulting in No Impact on any region sensitive plant species. (EA 59) The invasive species analysis was expanded to include adjacent areas based on the number of acres previously mapped and newly located invasive plant sites, and on the amount of

ground disturbance and plant or seed transfer anticipated from the proposed grazing levels. In general, Alt.1 would allow less grazing and theoretically less spread of invasive species and a greater number of native species left to compete. But none of these statements were supported by actual data, and theoretical success is not enough. Because both the Propose Action and Current Management Alternatives (Alt. 1 and 2) involve grazing and handling of cattle in existing weed sites, invasive weed spread is dependent on how many cattle are moving through the area. (EA 60) Thus, it follows the fewer cattle you have moving through the area, the lesser the chance of spreading invasive species. Having fewer cattle also extends the window for which native grasses can flourish and out-compete the invasive species.

The EA states that Management Indicator Species (MIS) will be unaffected, but this seems to be an assumption that so long as no trees are being cut, these species will be fine. What about the trampling effect of all the grazing cattle? Those species that nest in old logs, down woody material, etc. will be affected by grazing. Forage for elk will be affected by grazing as well. The proposed alternative is an improvement to current practices, but still fails to quantify anything—instead using measurements like "slightly less" and "slightly more." HCPC would like numerical baseline data on these MIS in the allotment area to support these claims. The discussion on land birds within the EA is incomplete at best, and actually claims that the degree to which grazing affects these species is unknown. (EA 63) Within the Summary of Effects for Threatened, Endangered or Sensitive species, only the Gray wolf has been documented in the analysis area and the Canada Lynx, Canadian Wolverine, and Columbia Spotted frog are among the species that carry a potential for being in the area. Mitigation for Gray Wolf presence is referenced to in the OR Wolf Plan (ODFW 2005), but really offers no solution as to what should happen when wolves attack cattle other than to kill the wolves. (EA 65) Greater depth of discussion is needed, including methods for preventing wolf-livestock conflicts.

Impacts to Federally Listed Fish Species

As you know, the change to Umatilla NF 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. Past monitoring reports indicates that monitoring data for many DMAs is lacking. The EA or EIS must provide quantitative monitoring data demonstrating the effectiveness for meeting PACFISH/INFISH standards.

The Grande Ronde Watershed and portions of Sheep and Jarboe Creeks contain federally listed and sensitive fish species. For this analysis, the resident native salmonid species of concern in the Grande Ronde River system at present are Columbia River bull trout, which are federally listed as Threatened under the ESA, and redband/rainbow trout, the inland life form of steelhead, which are a Regional Forester's Sensitive species and a Forest Plan management indicator species. Steelhead are also a Forest Plan Management Indicator Species. (EA 29) In the EA's discussion of habitat distribution it outlines all of the areas where the fish are not found due to either waterfalls or dry periods. (EA 30) The area additionally contains Designated Critical Habitat for the Columbia River bull trout in both the Jarboe and Sheep Creeks. The numerous "no impact" conclusions are based on the fact that the threatened or sensitive species do not exist in the portion of the streams that are within the allotment. This analysis fails to take downstream effects into account, which would likely change the determination, especially since the lower 3 miles of Jarboe Creek has been determined Essential Fish Habitat (EFH) under the Magnuson-Stevens Act, based on a conservative judgment or potential for seasonal use by Juvenile Chinook Salmon. (EA 30)

The EA claims that Current Management (Alt. 2) meets PACFISH and thus is consistent with the Umatilla Forest Plan by claiming even though "At the allotment-scale, stream channels would not meet the RMO for bank stability, the PACFISH RMO's are intended to be applied at watershed scale, not at the allotment scale." (EA 78) By comparing the effects of grazing to the entire watershed (very large) rather than to the streambanks themselves (very small), the FS is able to conclude that bank stability is still maintained at over 80% and "grazing management in the Brock allotment does not appear to be retarding attainment of RMO's at the scale intended by PACFISH." (EA 79) This is incorrect. To use this scale of comparison would nearly always lead to a PACFISH consistency finding. We must look at the purpose of PACFISH, which is to protect anadromous fish species, based on protection of their habitat. We must evaluate the effects of grazing at the Brock Allotment on the streams and streambanks it affects directly to achieve PACFISH standards. HCPC would like to see a discussion on the rate of recovery for these species.

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 Proposed Action and Current Management Alternatives assess the grazing allowances in terms of revenue attained from sale of livestock and effects to grazing related jobs, and finally in terms of overall profitability of the ranching operation. (EA 75/76) The EA provides a cost/benefit analysis for the above grazing-related employment and revenue, but fails to provide any analysis to the broader public. Public lands grazing can deter other recreational uses, which should be considered in this analysis. As we suggested in our scoping comments, a cost-benefit analysis remains to be completed beyond effects to a small minority of grazing permittees.

Cultural Resources

The EA or 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

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[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).

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 EA or 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).

NHPA requires more than what the EA contains. Though the Forest Service did consult with he Confederated Tribes of the Umatilla Indian Reservation as well as the Nez Perce Tribe, the EA contains no discussion of what questions were asked, specific names of possible Historic Properties which fails "good faith effort" to identify historic properties. This portion of the EA consisted of only a few sentences, and simply stated that the tribes were consulted and "no concerns were expressed by either tribe." (EA 81) Applicable regulations (36 CFR § 60.4) for evaluating National Register elgibility for properties requires specifically identifying those properties that may have a cultural significance and this identification and/or dismissal cannot happen without, at the very least, naming the property and discussing why it does/does not meet the criteria.

Conclusion

HCPC thanks you for the opportunity to participate in this planning process and for your careful consideration of these comments. If you have any questions or wish to discuss these comments further, please feel free to contact me at the address below or Jennifer Schwartz at Jennifer@hellscanyon.org.

Sincerely,

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