

# GRAZING

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## HEARING

BEFORE THE

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

OF THE

COMMITTEE ON

ENERGY AND NATURAL RESOURCES

UNITED STATES SENATE

ONE HUNDRED NINTH CONGRESS

FIRST SESSION

TO

REVIEW THE GRAZING PROGRAMS OF THE BUREAU OF LAND MANAGEMENT AND THE FOREST SERVICE, INCLUDING PROPOSED CHANGES TO GRAZING REGULATIONS, AND THE STATUS OF GRAZING REGULATIONS, AND THE STATUS OF GRAZING PERMIT RENEWALS, MONITORING PROGRAMS AND ALLOTMENT RESTOCKING PLANS.

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SEPTEMBER 28, 2005



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## **GRAZING**

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**WEDNESDAY, SEPTEMBER 28, 2005**

U.S. SENATE,  
SUBCOMMITTEE OF PUBLIC LANDS AND FORESTS,  
COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington D.C.*

The committee met, pursuant to notice, at 2:30 p.m. in room SD-366, Dirksen Senate Office Building, Hon. Larry E. Craig presiding.

### **OPENING STATEMENT OF HON. LARRY E. CRAIG, U.S. SENATOR FROM IDAHO**

Senator CRAIG. Good afternoon, everyone, and welcome. Today's oversight hearing is on grazing programs of the Forest Service and the BLM administered on Federal Lands. I am hoping Senator Wyden will show along with other members. A variety of committees are meeting right now, so I know there's a cross conflict with a good number of my colleagues.

I also want to welcome our witnesses on our first panel. We have Jim Hughes, Deputy Director for the Bureau of Land Management and Fred Norbury, Associate Deputy Chief of the National Forest Service System. On our second panel we have Mike Byrne, chairman of the NCBA's Federal Lands Committee from Tule Lake, California; along with Will Whelan, with the Nature Conservancy from Boise, Idaho; and Rick Knight, wildlife ecologist, from Colorado State University, Fort Collins, Colorado.

The ranching industry continues to be under assault. Whether by benign neglect, lack of adequate priorities, interest, or intention, anti-grazing actions of the past decade—we've reached a state of urgency for addressing our Federal grazing programs. This administration has shown a commitment to solving these problems and maybe we are beginning to turn the corner, but there still is much to do. It is my intention to continue with oversight hearings in the future until I'm confident and my colleagues are that there has been sufficient progress that we have sustainable programs on the ground that will support a viable industry.

I expect within the next year this subcommittee will expand this oversight effort to other aspects of the Federal Land Management Programs. I would like to ask my colleagues to help us identify the priorities of programs we might address first. As a former rancher I know the benefits and the challenges of grazing. In Idaho the cattle industry is one of our most valuable agriculture industries and products from our State.

I've proudly stated my support for the use of public lands for grazing because I believe that multiple use on public lands is a win/win situation. Ranchers are good stewards of the land. They know that their livelihoods are dependent upon the land and if they abuse it they will not prosper, and in some instances they could lose the right to use it.

I am confident that we can preserve the historic use of public lands while protecting our environment. I know I'm not alone in this perspective and we will hear more of that from our witnesses today.

It's becoming increasingly clear that the circumstances that our ranchers and our land managers operate under today have changed dramatically from the past. We have processes that no longer seem to serve us well. I've asked my staff to begin exploring opportunities for legislative reform that will streamline the time-consuming and costly permitting and decisionmaking procedures that seem to hamstring our land managers. It's not my intention to abandon or waive environmental law, but we must find a better way to administer our public lands and get land managers out of the courts and back on the ground, and get our lands back into the hands of professional managers.

Today we will hear from the administration. They will discuss the current status of their grazing programs and their progress on rangeland management. I've asked the agency witnesses to speak on the current management situation with respect to finalizing new grazing regulations, the status on the permit backlog and the use of monitoring funds. I look forward to their testimony on what I believe is really a fundamentally important issue on public rangelands.

I've not yet been joined by my colleagues so we will move to our first panel. I'd ask Mr. Hughes and Mr. Norbury to come forward, please. Once again, Jim Hughes, Deputy Director Bureau of Land Management and Fred Norbury, Associate Deputy Chief of our National Forest System.

Gentlemen, welcome before the committee. Jim, we'll start with you.

[The prepared statement of Senator Smith follows:]

PREPARED STATEMENT OF HON. GORDON H. SMITH, U.S. SENATOR FROM OREGON

I believe that this hearing is well-timed to address the concerns of my constituents. The cost and delays of legal challenges to public lands grazing is truly threatening their livelihood.

The eastern part of Oregon, where I come from, is largely owned by the federal government. Places like Harney and Malheur Counties are over 70% federally owned and managed. These places are literally surrounded by the great "unshorn fields" of the West. Eastern Oregon is cattle country—not because it's romantic or trendy—but because that's what has worked there for a hundred years. Public lands grazing is more than a "way of life"—but it is one that is in jeopardy.

I am astounded by the complex web of regulations that land managers must implement. I heard about them first-hand just a few weeks ago in John Day, Oregon. I also recognize that appeals and litigation are often encouraged by declining federal budgets and the attrition of experienced employees. On the Malheur National Forest alone, there are two grazing lawsuits on appeal in the 9th Circuit. Environmentalists have announced that they will file a third.

I have already seen this pattern with the federal timber program in Oregon. I have seen what it does to communities, and ultimately to the land itself.

Updating our regulations is necessary. Strengthening partnerships with stakeholders and land grant universities is necessary. Legislation may be necessary as well.

Our goal should be to return range management to local expertise, rather than legalese.

**STATEMENT OF JIM HUGHES, DEPUTY DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR**

Mr. HUGHES. Thank you, Mr. Chairman, and especially for this opportunity to discuss the work we're doing at the BLM to provide good stewardship of the public rangelands and to discuss livestock grazing on public lands in particular. With me today, I just wanted to recognize him, this week we're having a national monitoring strategy conference in town and one of our key leaders in that effort is our Idaho State BLM Director, K. Lynn Bennett, who is here with me today.

Senator CRAIG. Thank you for recognizing Director Bennett.

K. Lynn, thank you for being with us and thank you for your leadership.

Mr. HUGHES. We submitted our testimony and in the interest of time I'll summarize my written remarks for the record.

The administration recognizes that the conservation and sustainable use of rangelands is especially important to those who make their living on these landscapes, and is vital to the economic well-being and cultural identity of the West and to rural Western communities.

The BLM continues to work in collaboration with our partners to make progress in our understanding and management of rangelands and we are working diligently to evaluate and improve rangeland health, to update our regulations, to improve grazing management and assure stability of ranching on public lands, and to make progress in reducing the grazing permit renewal backlog.

The BLM manages grazing on nearly 160 million acres of public rangeland, with grazing use authorized by approximately 18,000 permits and leases on about 20,600 allotments.

These permits and leases allow the sustainable annual harvest of up to 12.7 million animal unit months. In fiscal year 2004, actual use was approximately 6.6 million animal unit months primarily due to fires and the drought of the past several years.

In 1999, BLM began evaluating the health of the rangelands based on land health standards developed in consultation with local Resource Advisory Councils. The BLM collects monitoring and assessment data to compare current conditions with the land health standards and land use plan goals. This information is used to complete environmental assessments, develop alternative management actions, and to modify management as needed to meet these land health standards and objectives.

Mr. Chairman, as you know, the BLM is in the process of finalizing the documentation associated with new proposed grazing regulations. These regulatory changes were proposed with the objective of improving grazing management and continuing to promote stability for ranching on public lands. This has been a lengthy but productive process that has involved extensive public review and comment. And we anticipate publication of a final rule in 2006.

The proposed changes are, we believe, an important step forward to improve BLM grazing administration, and will draw upon the lessons learned since the previous revisions of more than 10 years ago. The BLM undertook this regulatory initiative in recognition of the economic and social benefits of public lands grazing, as well as the role of ranching in preserving open space and wildlife habitat in the rapidly growing West.

The major objectives set forth in the proposed rule are to improve the agency's working relationships with public land ranchers, conserve rangeland resources, and address legal issues, while enhancing administrative efficiency. It should be noted that the new regulations would not affect the Resource Advisory Council System, and would leave intact the substance of the rangeland health standards and guidelines developed in consultation with the RACs. Additional details about the proposed regulations are included in my written testimony.

Another emphasis of BLM's range program is dealing with the backlog of grazing permit renewals and the spike in grazing permit renewals in 1999 and 2000, when over 7,200 permits were due for renewal, as compared to the annual average of about 1,800.

The BLM is in its sixth full year of reducing the grazing permit renewal backlog created by the spike and at the end of fiscal year 2004, we have fully processed nearly 85 percent of the grazing permits that have expired since fiscal year 1999.

Processing a permit consists primarily of analyzing environmental impacts using appropriate National Environmental Policy Act documentation and, where applicable, Endangered Species Act consultation.

While other workload demands on range personnel can reduce the number of grazing permits that can be fully processed in a given year, the BLM's goal is to eliminate the backlog of grazing permits and to issue permits in the year they expire by the end of 2009—as we have indicated in the past. We will continue to keep the committee informed of our progress in this regard.

In conclusion, Mr. Chairman, the BLM is dedicated to the future well-being of the public rangelands, and is committed to managing them for the many uses that serve the broad public interest. We look forward to continuing to work with the committee to ensure their long-term viability and health.

Thank you again for the opportunity to testify on this important issue. I would be happy to answer questions from the committee. [The prepared statement of Mr. Hughes follows:]

PREPARED STATEMENT OF JIM HUGHES, DEPUTY DIRECTOR, BUREAU OF LAND  
MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. Chairman, thank you for the opportunity to discuss the work we're doing at the Bureau of Land Management (BLM) to provide good stewardship of the public rangelands and to discuss livestock grazing on public lands in particular. Our nation's rangelands provide and support a variety of goods, services, and values that are important to every American. They conserve soil, store and filter water, sequester carbon, provide a home for an abundance of wildlife, provide scenic beauty and the setting for many forms of recreation, and are an important source of food and water for domestic livestock. The Administration recognizes that the conservation and sustainable use of rangelands is especially important to those who make their living on these landscapes, and is vital to the economic well-being and cultural identity of the West and to rural Western communities.



The BLM takes seriously its challenge to conserve and manage this vital component of our Nation's natural resource base and great legacy of the American west for current and future generations. We continue to work in collaboration with our partners—ranchers, other Federal agencies, state and local governments, researchers, conservation groups and others—to make progress in our understanding and management of rangelands.

As I will discuss further below, as part of these efforts, we are working diligently to evaluate and improve rangeland health; to update our regulations to improve grazing management and assure stability of ranching on public lands; and to make progress in reducing the grazing permit renewal backlog.

#### RANGELAND MANAGEMENT BACKGROUND / FACTS & FIGURES

The BLM performs its rangeland management duties under the authority of several laws, primary among which are the Taylor Grazing Act (TGA), the Federal Land Policy and Management Act (FLPMA), and the Public Rangelands Improvement Act (PRIA). The BLM manages grazing on nearly 160 million acres of public rangeland, with use authorized by approximately 18,000 permits and leases on about 20,600 allotments.

These permits and leases allow the sustainable annual harvest of up to 12.7 million animal unit months (AUMs; or the amount of forage necessary to sustain a cow and her calf for a month). In Fiscal Year 2004, actual use was approximately 6.6 million AUMs due to drought and fires. As the Committee is well aware, much of the West has been in the grip of a drought during the last five years, affecting the availability of forage and water in many areas, resulting in reduced grazing use. These reductions were the most pronounced in 2002, 2003, and 2004.

#### LAND HEALTH STANDARDS

In 1999, BLM began evaluating the health of the rangelands ("Land Health Evaluations or Assessments") based on Land Health Standards that were developed in consultation with local Resource Advisory Councils (RACs). These standards are based on the four fundamentals of rangeland health found in BLM's Grazing Regulations, and address 1) water quality, 2) wildlife habitat, 3) soil stability, and 4) energy flow and nutrient cycling. By the end of FY 2004, approximately 45% of the allotments had been evaluated, and about 78% of these were meeting all Land Health Standards under current management. About 16% were not meeting at least one standard because of current livestock grazing management, while the remaining 6% of allotments were not meeting at least one standard due to other, non-grazing, factors. Adjustments in livestock grazing management have been made on 85% of the allotments where it was needed, and BLM is coordinating appropriate adjustments on the other 15%.

The BLM collects monitoring and assessment data to compare current conditions with the Land Health Standards and land use plan objectives. This information is used to complete environmental assessments, develop alternative management actions, and to modify management as needed to meet these Land Health Standards and objectives.

#### ASSESSMENT, INVENTORY & MONITORING INITIATIVE

In order to enhance the efficiency and effectiveness of BLM's assessment, inventory, and monitoring efforts, the BLM in August 2004 initiated a multi-year strategy ("Assessment, Inventory, and Monitoring Initiative") to manage the collection, storage, and use of data regarding resource conditions and uses across the Bureau. This new effort is working to aggregate certain local and site-specific resource information so that it can be more easily utilized to address regional or national management questions.

The multi-year effort will identify a limited number of natural resource condition measures that are common to most BLM field offices, and comparable to measures used by other land managing agencies for reporting at the national level. We will standardize data collection, evaluation, and reporting in a way that improves our land use decisions, and enhances our ability to manage for multiple uses. Finally, we will refine BLM information gathering efforts at the local level, thereby improving the BLM's ability to report on land health conditions.

The initiative is already producing promising results. In the first year, the BLM conducted pilot projects throughout the Bureau that tested ways to improve and standardize protocols for measuring the effects of off-highway vehicle use and energy development on the public lands. The pilot projects also examined technologies to make our process of collecting vegetative condition data more efficient, and identified a common set of land health indicators for use by all Federal agencies. The ini-

tial progress with the initiative suggests that an overall BLM strategy can be implemented in a way that improves our efficiency and effectiveness for many years to come.

#### PROPOSED GRAZING REGULATIONS

The BLM is in the process of finalizing the documentation associated with the proposed grazing regulations. The regulatory changes were proposed with the objective of improving grazing management and continuing to promote stability for ranching on public lands. As you know, this has been a lengthy but productive process that has involved extensive public review and comment. We anticipate publication of a final rule in 2006.

The proposed changes are, we believe, an important step forward to improve BLM grazing administration, and will draw upon the lessons learned since the previous revisions of more than 10 years ago. The BLM undertook this regulatory initiative in recognition of the economic and social benefits of public lands grazing, as well as the role of ranching in preserving open space and wildlife habitat in the rapidly growing West.

The major objectives as set forth in the proposed rule are to improve the agency's working relationships with public land ranchers; conserve rangeland resources; and address legal issues while enhancing administrative efficiency. It should be noted that the new regulations would not affect the Resource Advisory Council (RAC) System, and would leave intact the substance of the rangeland health standards and guidelines developed by State directors in consultation with the RACs. They also would make no change to the way the Federal grazing fee is calculated. The following is a summary of the major elements of the current draft of the proposed regulations.

##### *Improved Working Relationships*

The proposed regulations would provide that the BLM and a grazing permittee or lessee (or other cooperating party) will share title to cooperatively constructed permanent range improvements—structures such as fences, wells, or pipelines. This shared-title provision reflects the Administration's view that ranchers, when contributing financially to the construction of range improvements, should share in their ownership in proportion to their investment. In addition, shared title may help some ranchers obtain loans more easily for their operations, and may serve as an incentive for livestock operators to undertake needed range improvements.

Another proposed regulatory change is that BLM would phase in grazing-use decreases (and increases) of more than 10 percent over a five-year period. The phase-in would provide sufficient time for ranchers to make gradual adjustments in their operations, particularly so they can reduce adverse economic impacts resulting from any grazing reductions. The BLM would still retain authority to change or halt grazing immediately when needed to respond to drought, fire and other resource threats that require immediate action, or when legally required, such as where necessary to comply with the requirements of the Endangered Species Act.

The proposed regulations also would make clear that BLM managers will use National Environmental Policy Act (NEPA) processes to consider the social, cultural, and economic effects of decisions that determine levels of authorized grazing use. This change will ensure that BLM managers across the West consistently consider and document the factors they took into account in assessing the potential impacts of such decisions on the human environment.

##### *Conserve Rangeland Resources*

The proposed regulations would remove a restriction that had limited temporary non-use of a grazing permit to three consecutive years. The existing regulation allows the BLM to approve non-use each year for up to three consecutive years, but does not allow for a fourth year of non-use, whether it is needed or not. This change would allow BLM to approve non-use for one year at a time for conservation or business purposes with no limit on the number of consecutive years. The removal of this three-consecutive-year limit will promote rangeland health by giving the BLM more flexibility to cooperate with grazing permittees to rest the land as needed or to respond to changing business needs.

The proposed regulations also would require BLM to use monitoring data in cases where our agency has found, based on our initial assessment, that a grazing allotment is failing to meet rangeland health standards or conform to the guidelines. By using monitoring data, the Bureau will be better able to determine the reasons for an allotment's failure to meet such standards, and to what extent, if any, grazing practices are at issue.

Another change to the regulations would allow the BLM up to 24 months to develop corrective management action in cases where existing grazing management or levels of use are significant factors in failing to meet the standards and conform with the guidelines. Under current regulation the BLM is required to implement corrective action before the start of the next grazing year, which, due to the period needed for completing planning and consultation, was often an unrealistic timeframe. The proposed revisions provide a reasonable timeframe for the BLM, permittee, and interested public to develop an appropriate action plan to improve conditions.

*Address Legal Issues While Enhancing Administrative Efficiency*

The proposed regulations include numerous changes that address legal issues while enhancing administrative efficiency, several of which are summarized below.

The proposed regulations would remove the existing provision that allows BLM to issue "conservation use" permits, which would authorize the holder to not graze. The 10th Circuit Court of Appeals ruled in 1999 that the Secretary is not authorized to issue such permits.

The proposed regulations would expand the definition of "grazing preference" to encompass the rancher's public land forage allocation. This expanded definition would be similar to one that existed from 1978 to 1995, and reflects that the meaning of the term "grazing preference" has two parts: first, a priority over others to receive a livestock forage allocation on public lands; and second, the amount of forage actually allocated.

The BLM attaches grazing preference to a rancher's private "base" property, which can be land or water, and upon approval by BLM would allow the preference number to be transferred to a purchaser of the base property, or to another qualifying base property.

The proposed regulations would modify the definition of "interested public" to cover only those individuals and organizations that actually participated in the process leading to specific grazing decisions. This regulation change seeks to provide for a more orderly and timely decision-making process by ensuring that those who would identify themselves as interested public participate in the decision-making process before exercising their right to appeal and litigate such decisions. The BLM will continue to involve the public in grazing planning activities, such as allotment management planning, providing comment on and input to reports the BLM prepares, and range improvement project planning. The public would continue to receive BLM grazing decisions.

In contrast to the current regulations, the proposed grazing regulations would provide that BLM has flexibility to seek a variety of water right arrangements under state law and would not have to only seek ownership of the water right in the name of the United States. This proposed provision, which would revise the 1995 grazing regulations, would give the BLM greater flexibility in negotiating arrangements for the construction of watering facilities in states where the Federal government is allowed to hold a livestock water right. The BLM would still have the option of seeking to acquire the water right, consistent with state water law.

GRAZING PERMIT RENEWALS

Another emphasis of BLM's range program is dealing with the backlog of grazing permit renewals. By regulation, grazing leases and permits are normally issued for 10-year periods. In a typical year, the BLM has 1,800 permits up for renewal. The BLM experienced a "spike" in grazing permit renewals in 1999 and 2000, when over 7,200 permits were due for renewal. The BLM is in its sixth full year of reducing the grazing permit renewal backlog created by the "spike" of 1999 and 2000. At the end of Fiscal Year 2004, BLM had fully processed nearly 85% of the grazing permits that have expired since Fiscal Year 1999. In addition, BLM is actively working to prevent a recurrence of the 1999 and 2000 "spike" by processing and issuing permits scheduled to expire in the future. As a result, about 5,700 (reduced from the previous "spike" of 7,200) of the 18,000 permits are scheduled to expire in 2009 and 2010.

Processing a permit consists primarily of analyzing environmental impacts using appropriate National Environmental Policy Act (NEPA) documentation and, where applicable, Endangered Species Act Section 7 consultation. The BLM has been incorporating information from monitoring and land health evaluations to develop reasonable alternatives to be considered in the NEPA documents. This information is also used to coordinate and consult with permittees and other interested parties and to make informed decisions when issuing the permits.

The BLM's goal is to eliminate the backlog of grazing permits and to issue permits in the year they expire by the end of FY 2009. The BLM continues to prioritize

the collection of monitoring data to make sound grazing management decisions and to meet land health standards, as well as to ensure that the decisions are legally-defensible. Other workload demands on range personnel—such as oil and gas permit processing, wildfires, emergency rehabilitation projects, and land use planning—can reduce the number of grazing permits that can be fully processed in a given year. Nevertheless, we are committed to eliminating the backlog of permit renewals, and will keep the Committee informed of our progress in this regard.

#### CONCLUSION

The BLM is dedicated to the future well-being of the public rangelands, and is committed to managing them for the many uses that serve the broad public interest. We look forward to continuing to work with the Committee to ensure their long-term viability and health. Thank you again for the opportunity to testify on this important issue. I would be happy to answer questions from the Committee.

Senator CRAIG. Jim, thank you very much.  
Fred.

#### **STATEMENT OF FRED NORBURY, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPART- MENT OF AGRICULTURE**

Mr. NORBURY. Mr. Chairman, thank you for the opportunity to share some information with you on the progress that the Forest Service is making in the Range Program.

In the interest of time I will submit my testimony for the record and summarize.

Senator CRAIG. Both of your full statements will be a part of the record. Thank you.

Mr. NORBURY. In summary, I would really like to make just three points. First, on the backlog of work we have to do on permits and allotment management plans, in 1995 we set a target of 6,886 allotment management plans that needed to have a NEPA completed and as of today, we have slightly more than 3,000 done. So with two-thirds of the time elapsed, we have slightly less than half of the work done. And some of the work that remains is some of the more difficult NEPA work that has to be done. Between now and the end of the fiscal year we had anticipated completing another 200. Of those 200, 74 were going to be completed under the categorical exclusion that Congress provided to us last year. As I can tell, only one of the 74 would be exempt from the recent court decision. So 73 of those 200 that we had expected to do will run past the end of this fiscal year, and carry over into the next fiscal year.

We remain committed to the target of finishing up by 2010 and we're still looking for efficiencies that will let us get that work done more quickly.

On monitoring, we have recent reports that reemphasize what you've pointed out about the critical importance of monitoring, about the stubble height review team, and our Idaho and the Scientific Review Team in North Dakota have reemphasized the importance of monitoring. The essential position of the Forest Service is we can't do this alone. In terms of selecting what to monitor and determining how to monitor it, and in actually doing the monitoring work, we need the participation of other Federal agencies, and most importantly, the State agencies and the permittees themselves. In that respect, we think a bright spot is the amount of permittee monitoring that we're seeing now.

Five years ago we had five permittees who were helping us with the monitoring, this last year we had 63 permittees who were helping us with the monitoring. Small numbers, but a substantial growth rate. And we're running training programs to train the permittees on how to do monitoring so they can help us do this important work.

As you know, the drought conditions in the West have eased considerably from last year, and we're starting to return cattle to the range. In the Southwest, stocking levels were down around 50 percent of the permitted numbers, now they're running closer to 70 to 90 percent of permitted numbers and we believe we're able to accommodate all the requests for restocking, with the exception of the Tonto where that situation is particularly severe.

Senator CRAIG. With the exception of the——

Mr. NORBURY. The Tonto National Forest. The Tonto is still down around 30 percent of their permitted numbers. We have an agreement with the local grazing associations on the restocking process, that's working very well.

In Idaho, we've been able to accommodate all the requests for restocking that we face. As you know, the progress in restocking is limited by ecological conditions. One year of good rain is not enough in many ranges, it takes 2 years of good rain before we can be confident that the plants have regained their vigor. It's also limited in some cases by fire. This was true in the Tonto, fires burning up some of the fences and stock tags that help us control the grazing, and it's difficult to restock without those improvements.

In other cases, ranches themselves face difficulty in restocking because they've been in a tough financial situation, so they can't go out and buy all the cows they would need to achieve full stocking. But the situation is improving. The only place we see severe drought conditions this year is in the interior Northwest.

So those are the key points that I would highlight in my testimony. I'd be happy to entertain questions on these points or any other aspects of our grazing program.

[The prepared statement of Mr. Norbury follows:]

PREPARED STATEMENT OF FRED NORBURY, ASSOCIATE DEPUTY CHIEF, NATIONAL FOREST SYSTEM, DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Subcommittee: Thank you for the opportunity to present the subcommittee with an overview of livestock grazing management in the Forest Service. The Forest Service has been managing rangelands for 100 years, and has a long history of partnerships with livestock producers who rely upon National Forest System (NFS) lands. Livestock grazing on National Forests reserved from the public domain is administered under a number of statutes, including the Granger-Thye Act of 1950, the Multiple-Use Sustained-Yield Act of 1960, the Forest and Rangeland Renewable Resources Planning Act of 1974, and the Federal Land Policy and Management Act of 1976, among others. These laws augment the authority in the Organic Act of 1897, which established the National Forests and directed the agency to regulate the use and occupancy of the forests to protect them from destruction. Livestock grazing on National Grasslands is also administered under the Bankhead-Jones Farm Tenant Act of 1937. This law authorized a program of land conservation and utilization to improve past land uses practices.

Today, there are grazing allotments on approximately 90 million acres of National Forest System lands in 34 states. The Forest Service administers approximately 8800 allotments, with over 8500 active livestock grazing permits, and about 9.6 million animal unit months of grazing by cattle, horses, sheep, and goats. Nearly all this permitted grazing is located in the Western states (99 percent), with only about one percent occurring in the Eastern forests.

## GRAZING ALLOTMENT PLANNING AND PERMIT ADMINISTRATION

One of the most significant issues associated with our management of livestock grazing for the past several years has been in allotment planning. Specifically, the ability of the Agency to insure the necessary environmental analysis has been completed prior to the issuance of a grazing permit.

On June 23, 2004, before this Subcommittee, the Administration testified concerning the Forest Service's progress in implementing Section 504 of Public Law 104-19 (the "Rescissions Act"). Section 504 directed the Chief of the Forest Service to identify grazing allotments that required NEPA (National Environmental Policy Act) analysis and to "establish and adhere to" a schedule for the completion of that analysis. The end date established in the schedule was 2010. The Rescissions Act was needed given the Forest Service's challenge in 1995 of trying to complete the NEPA analysis on most allotments, with approximately 50 percent of Forest Service grazing permits due to expire.

The 2003 Consolidated Appropriations Resolution, Public Law 108-7 (as amended by the 2003 Emergency Wartime Supplemental Appropriations Act) directed the Secretary of Agriculture to renew grazing permits for those permittees whose permits expired prior to or during fiscal year 2003, as the Forest Service was behind the schedule established for the Rescissions Act and was dealing with pending lawsuits. The NEPA analyses will still have to be completed on these allotments and the terms and conditions of the renewed grazing permit will remain in effect until such time as the analysis is completed.

The 2004 Interior Appropriations Act (P.L. 108-108) further directed the Secretary to renew grazing permits that expired or were transferred or waived between 2004 and 2008, and directed the Secretary to report to Congress beginning in November 2004, and every two years thereafter, the extent to which analysis required under applicable laws is being completed prior to the expiration of grazing permits.

The 2005 Consolidated Appropriations Act (Public Law 108-447) further directed that for fiscal years 2005 through 2007, certain decisions made by the Secretary to authorize grazing on an allotment shall be categorically excluded from documentation in an environmental assessment or an environmental impact statement under NEPA. To be categorically excluded the following conditions would apply:

- The decision continues current grazing management of the allotment;
- Monitoring indicates that current grazing management is meeting, or satisfactorily moving toward objectives in the land management plan, and
- The decision is consistent with agency policy concerning extraordinary circumstances.

The total number of allotments that may be categorically excluded under this authority may not exceed 900.

The Forest Service has continued to complete NEPA analyses on those grazing allotments that are listed on the Rescissions schedule. As of September 9, 2005, approximately 3050 allotments have NEPA analysis completed. An additional 201 allotments are scheduled for completion of NEPA requirements in fiscal year 2005. Of this 201, there are 74 allotments that have pending decisions that will utilize the legislated categorical exclusion for NEPA outlined above. The Forest Service remains committed to completing the NEPA analysis on the remaining allotments by 2010 without disrupting permitted livestock grazing activities. We will track our progress and report periodically to Congress.

## GRAZING PERMIT EFFICIENCIES

The Department testified previously before this Subcommittee that current decision-making procedures to authorize livestock grazing or other activities on rangelands administered by the Forest Service are inflexible, unwieldy, time-consuming, and expensive. For several years, the Forest Service has evaluated alternative procedures that would satisfy our legal obligations, provide the agency with management flexibility, shorten the decision-making time, and reduce the cost to the taxpayer associated with rangeland management decisions. The agency is continuing dialogue with our colleagues at the Bureau of Land Management and the Council on Environmental Quality (CEQ) to address the challenges of complying with NEPA in a timely and effective manner. In addition, the agency is working on methods of prioritization through the development and use of quantitative tools that assess rangeland health and sustainability by using indicators that are linked to existing monitoring data.

## NEPA ANALYSIS AND RANGELAND DECISIONS

This year the Forest Service set up guidance for the national forests and grasslands in order to comply with P.L. 108-447 when preparing NEPA analysis for allotments. This new authority will help the agency move forward in completing environmental analysis in an expedited manner on those allotments still remaining on the 1996 Rescissions Act schedule.

Currently, the Forest Service is in the process of updating and revising the Forest Service policy and direction in our grazing manual and handbook. The last major update occurred in 1985. New legislation, litigation, changing needs on the ground, and the need for consistency between field units have all shaped the need to update and clarify existing policy.

In the future, we will propose, and offer for public comment, changes in the Manual and Handbook that we believe are needed to improve our management of grazing, discharge our stewardship responsibilities, and to ensure sustainable grazing opportunities for farmers and ranchers on national forests and grasslands. We intend to work closely with all affected parties to address policy issues that are identified, before a new Manual and Handbook are adopted.

## EXPERTISE IN RANGELANDS MANAGEMENT

Rangelands management expertise is necessary to fulfill our mission to manage National Forest System lands. The Forest Service has developed a strategy to address the loss of rangeland management skills and strengthen on-the-ground expertise. The Forest Service, working with other State and federal partners, has instituted a national Range School, that provides training sessions focusing on improving essential collaborative skills for managers, permittees, and other interested people; focusing on ecology, economy, and social issues regarding rangelands. The Forest Service has been working closely with the Bureau of Land Management, Natural Resources Conservation Service, Cooperative State Research, Education and Extension Service, the Society for Rangeland Management, and regional Forest Service leadership to present training sessions in 2006.

A collaborative working group of Forest Service professionals, university professors and researchers are developing a specialized training for line officers and managers to be presented April 2006. This "Rangeland Management for Line Officers" course will ensure critical decision making accurately reflects an understanding of federal land ranching, rangeland science, and an appreciation for the vital role ranching plays in reducing the loss of open space and the environmental benefits that come from grazing.

## MONITORING

The ecological conditions of rangelands often affect the social and economic stability of many rural communities. To assure these lands are capable of providing sustainable products for future generations, the Forest Service monitors the ecological conditions of these lands against specific standards. Implementation and effectiveness monitoring are two types of monitoring that the Agency uses. Implementation monitoring is an annual measurement of rangeland resources, such as vegetation use, to assess environmental effects. Effectiveness monitoring is long-term (5 to 6 years) where rangeland resources are monitored to assess whether prescriptions and objectives set forth in Forest Plans, allotment management plans or other relevant documents are being met.

The Forest Service has worked with industry representatives over the years to develop our implementation and effectiveness monitoring. In 2003 we signed a national Memorandum of Understanding (MOU) with the Public Lands Council (PLC) and the National Cattlemen's Beef Association (NCBA) for the implementation of a cooperative rangeland monitoring program. We continue to collaborate with our permittees in order to improve the quality and quantity of short and long-term allotment level monitoring on National Forest System rangelands.

To further this collaboration the Forest Service, PLC and NCBA in April 2004 signed a joint letter which was delivered to Forest Service personnel and permittees requesting volunteers to establish pilots for monitoring under this MOU to facilitate the process and lead the way for others to follow. This is a great opportunity for both entities to collaborate on long-term goals and objectives for sustainable rangeland resources.

Several National Forests and National Grasslands have established programs that encourage grazing permittees to conduct implementation monitoring in cooperation with the Forest Service. Permittees, in conjunction with the Forest Service, other

Federal agencies, universities and rangeland consultants, have worked to develop monitoring programs.

In the Southwestern Region, the Forest Service has developed a cooperative agreement with the University of Arizona focused on collaborative monitoring. The goal of the agreement is to utilize the Universities' expertise to assist in the development of agency monitoring strategies for rangelands. For example, the agreement with the University of Arizona will focus on improving monitoring data collection and analysis related to natural resource management; developing collaborative opportunities between the Forest Service and non-governmental entities and organizations to monitor the ecological trends of national forest rangelands in Arizona; establishing uniform monitoring protocols that everyone understands; enhancing data collection processes, training, and reporting methods; and increasing the number of national forest allotments being monitored.

#### DROUGHT

We continue to work with our partners in the livestock industry to improve coordination and communication, as we mitigate effects that drought has had on rangelands in the West. The agency recognizes that ranching is an important component of the economies of many western rural communities.

We have actively coordinated drought management with Federal, State, and local government agencies and officials. The agency is actively participating on national, state, and local drought task forces coordinating drought relief to our permittees. We are working closely with industry representatives to provide up-front information to facilitate local communications and work together to resolve resource issues.

On Forests and Grasslands, we have managed drought impacts on a case-by-case basis. Local managers are communicating as early as possible with permittees so they are informed and have enough time to implement temporary changes or a long-term strategy. We continue to coordinate with universities, other federal agencies, and user groups to best address the concerns at the local level.

#### INVASIVE SPECIES

A threat to sustainable use, proper management of our rangelands and to our permit renewals and monitoring efforts, is the ever-growing presence of invasive species. The Chief of the Forest Service has targeted invasive species as one of four most significant threats to our Nation's forest and rangeland ecosystems. It has been said invasive species are a "catastrophic wildfire in slow motion." They are threatening the national grazing interest. Thousands of invasive plants, insects, and other species have infested many hundreds of thousands of acres of land and water across the Nation, causing massive disruption to ecosystem function, reducing biodiversity, and degrading ecosystem health, including rangelands. Add great economic loss to massive ecosystem impacts and that is the threat we have.

The Forest Service has taken steps to improve its ability to prevent, detect, control, and manage invasive species and to rehabilitate and restore affected rangelands. We are working strategically with our scientists, managers, and partners. We now have a National Strategy and Implementation Plan for Invasive Species. It outlines both short and long term goals. We are working with our partners to streamline procedures so actions can be taken quickly before invasions become widespread. We call this early detection and rapid response. This is a national initiative that supports local partnerships fighting invasive species. We have a national website (<http://www.fs.fed.us/invasivespecies>) available to the public which provides information and links to many other sites focused on invasive species. In 2006 we will host a national conference for managers and partners to improve our efforts and build capacity to combat invasive species.

In FY 2004 we treated over 100,000 acres for invasive weeds, greatly surpassing our goal of 67,438 acres. In FY 2005 our goal is to treat about 75,000 acres and indications are we will surpass this estimate.

#### SUMMARY

Thank you for the opportunity to appear before you today. We are committed to making maximum use of our legislative authorities and policy direction in order to sustain the health, diversity and productivity of the Nation's forests and grasslands to meet the needs of present and future generation.

This concludes my statement. I would be pleased to answer any questions you may have.

Senator CRAIG. Fred, thank you very much.



We've been joined by two of our colleagues, Senator Salazar and Senator Byron Dorgan.

Ken, do you have any opening comments you would want to make before we turn to these gentlemen for questions?

**STATEMENT OF HON. KEN SALAZAR, U.S. SENATOR  
FROM COLORADO**

Senator SALAZAR. Chairman Craig, the only thing I wanted to say is that I fully understand and respect the great importance of grazing on our public lands both with the Forest Service and BLM, and obviously for those of us from the West, it's not only part of our tradition, but it's also something that we want to continue. So I look forward to testimony from the witnesses. Thank you, Mr. Chairman.

Senator CRAIG. Senator Dorgan, any opening comments?

**STATEMENT OF HON. BYRON L. DORGAN, U.S. SENATOR  
FROM NORTH DAKOTA**

Senator DORGAN. Mr. Chairman, thank you very much. I regret I didn't hear your testimony, I've been down in the Appropriations Committee mark-up on the Defense Department Appropriations bill. Mr. Norbury, are you familiar with the controversy that erupted in North Dakota over the interim directives with respect to leasing and other issues on the grasslands in North Dakota?

Mr. NORBURY. I have read newspaper accounts on that, and I've talked to people who have been personally involved in that controversy.

Senator DORGAN. On July 19, you signed, I believe—or signed off rather on the original interim directives that really caused a firestorm of protest out there. I held a hearing in Bismark and it was a packed house, and we had both the Regional Forester from Montana, and the Grasslands Supervisor in North Dakota. And both of them told me at the hearing that they had not read the interim directives that had been put out, which surprised me because the interim directives, among other things, would have prevented a practice that has gone on at great lengths in North Dakota in the grasslands and that is the leasing practice of base units. And this interim directive would have shut that down without consultation with the ranchers, without even the knowledge of the Regional Forester, or the local Grasslands Supervisor. You actually signed that, or rather you approved it, I guess. And here's the document which says, approved by Fred Norbury. So how does that happen that in the Service this interim directive goes out and, by the way, when it goes out we're told that the rules have now changed. The rules have changed, this is not notifying people. The rules have now changed and the Regional Forester doesn't know how it happened, hasn't read it, and the local grasslands person hasn't read it. The ranchers haven't been consulted. How does all that happen?

Mr. NORBURY. Well, the directives that are being replaced are 20 years old, and the process to write new directives has been going on for a number of years. I was told that it had been 7 years of staff work trying to redraft the entire package. If you've seen the entire package, you've seen that it's many, many, many pages. It stacks 6 or 8 inches high. Because it's a comprehensive attempt to

update our directive system to incorporate all the things that have happened both in terms of science and in court rulings over the past 20 years.

So the directives rest upon the work of a very large number of people within the Forest Service. Clearly the process that produced those directives could have been better. We have not done as good as we could have done to identify exactly what the changes were and make sure that everyone understood what those changes were and felt like they had ample opportunity to comment on those changes. And once that became apparent to us, that's why we rescinded those directives. We rescinded the entire package, and we will do better. We will make an extra effort to make sure that everyone who has a stake in this has a chance to know exactly what's proposed, and has a chance to be heard on their views on those proposed changes.

Senator DORGAN. Well, Mr. Norbury, you did rescind them on August 16. And when you say "can do better", what concerns me is that the Forest Service is a big bureaucracy, a really big bureaucracy. You probably know a lot about trees, but in my judgment the Forest Service knows almost nothing about grasslands.

I pushed, and pushed, and pushed and pushed for a long while to get a supervisor in North Dakota that knows about grasslands. Because what the Forest Service tries to do is put a template over grassland management that reflects their knowledge of trees. But grasslands aren't trees. And so we finally got a grassland supervisor in North Dakota for the purpose of trying to make sure that you don't think that these are forests. These are not forests, they are grasslands.

And yet when you review all of these—and you're quite correct, some of these are 20 years old, these rules. When you review them, there's no consultation with the ranchers to any degree, you put out directives and the Regional Forester doesn't know it, the local person doesn't know it, and when you say, "we can do better", I hope that's a euphemism for "we screwed up". Because clearly somebody screwed up here—using the vernacular.

This is not the way to do business. Now, can you tell me how you're going to go forward? Because you issued the rules, that caused a stink, I held a hearing, and you then rescinded the rules. And it was embarrassing for the folks who came to that hearing. They worked for you all and they had to admit they didn't know anything about this. And despite the fact that apparently it was supposed to have gone through their hands. So what are you going to do going forward at this point with respect to these issues, because it will affect whether some people who are engaged in grazing in western North Dakota, which, by the way, is fast becoming a wilderness area?

I've got all these folks asking me to support wilderness designations. I say, I don't need to have any designation out in western North Dakota, it's becoming a wilderness area. I want exactly the opposite to happen, I want ranchers to be able to work out there and be able to graze cattle and to keep ranching, and these rules, as you know, would have forced some of these folks off the land, because the only way you can get young people started in those cir-

cumstances is to lease base property. So what are you going to do now, now that that's been rescinded?

Mr. NORBURY. Well, the first step is going to be what I would regard as an essential point of completed staff work, which is to do a very, very careful, side by side comparison of the package we have now, and the proposed package, to make sure that we have identified all the changes that people might get interested in. We're going to get some fresh eyes involved in reviewing these pages. And we want to make—there are some changes that people who've been working on the package might not regard as significant that someone with fresh eyes might spot as significant. We want to make sure that we get all that out on the table.

The second thing we want to do is actually go talk to people about how they would like to be involved. Now this is a more complex issue than it might appear. We have grazing on 90 million acres of the National Forest System. And we have grazing interests throughout the West and actually some in the East as well. So there's a very, very large community of people that have a stake in this outcome. And we want to talk to them about what they think would be the best way for them to work with us. In the classic model, we put something out, we published it for comment, people send in written comments, then we analyze them and add them and categorize them and all that, and think about them, and then we make a final decision. And that's the minimum requirements of the Administration Procedures Act. We think, in this case, we need to go beyond that.

Senator DORGAN. But that wasn't done, was it, in this case?

Mr. NORBURY. There had been conversations over the long number of years that this package had been in preparation.

Senator DORGAN. No, no, that wasn't done in this case, you know that.

Mr. NORBURY. We are looking for a broader involvement, more of a collaborative involvement next time around. And the structure and the collaborative involvement will depend a lot upon what the people affected by this package want to do. And so we'll have those conversations with them. Once we've done that, then we will be in a position to describe exactly how that process is going to unfold.

Senator DORGAN. My colleague from Idaho has been very patient. It normally would be my colleague from Idaho that's beating up on an agency here. I've seen him do that from time to time. Now I'm the one that is furious with the bureaucracy because you still haven't suggested that what you did was wrong. You didn't go out and consult. You issued an interim directive that said it's effective immediately and now you've had to rescind it. I don't like the way bureaucracies work when they do that.

And as you consult with everybody—I have a sense of history, and you probably understand, if you don't go look at it. The Bankhead-Jones Act, by which most of that land in western North Dakota was gotten by the Federal Government, and the conditions under which the Federal Government took over land from bankrupt folks out there that had to get rid of it, it was going to be used for agriculture, and that land is supposed to continue to be grazed, and we don't want people putting handcuffs around ranchers out there who are trying to make a living. So that's why I'm a little irritated.

I just came to the hearing, Mr. Norbury, because your name was on this and I hope you do better. I mean you used that term. I would use other terms. But we can't have the agency doing this, and surprising even your own employees in a way that would disadvantage a lot of ranchers that are working real hard to try and make a living. So that was therapeutic for me to say.

And, Mr. Chairman, I feel better now, but I'll feel a lot better once you get through this process and have new rules, after the old ones are rescinded, and we have new rules that make sense, rules that I can support and ranchers feel are fair.

Senator CRAIG. Doctor Craig will send you a bill. But I do appreciate your passion, and I think everybody's frustration on the ground when the process gets ahead of where it ought to be.

Fred, let me stay with you, because you just mentioned something in your testimony that is a frustration to all of us. Last week, Judge James Singleton ruled that you will not be able to utilize categorical exclusions to implement forest plans related to projects. Is it true that the categorical exclusions that this Congress authorized to expedite the grazing permit renewal will be impacted by that?

Mr. NORBURY. Absolutely. The categorical exclusions that are authorized for the NEPA for allotment measurement plans are impacted and it's far broader than that. It affects the legislative categorical exclusions for oil and gas that was in the energy bill this year. It effects the silviculture treatment categorical exclusion that was in the Healthy Forest Restoration Act, as well as all the categorical exclusions that are in our existing agency NEPA procedures. The effects of this are going to be far reaching on people who make use of the National Forest. One example I can give you is the Willamette Pass Ski Area in the State of Oregon. It's a small ski area, it has two lifts. One of their lifts was damaged by an avalanche last year. They were trying to repair that lift so they could get back into operation this winter, operating under a categorical exclusion, and we had to tell them to stop. They're in a real quandary right now, because they basically think they have 2 weeks before the snow flies and they're not able to repair their lift.

We face similar dilemmas with firewood gathering and with mushroom gathering. We have a film company that's making a movie that we've told are operating under a categorical exclusion, and we've told them they're going to have to stop.

Senator CRAIG. You mean a lift that was preexisting, under a special use permit, was damaged by an avalanche and you used a categorical exclusion to allow them to go in and repair it? This is not a new lift, this is not a new run development?

Mr. NORBURY. That's right.

Senator CRAIG. Why would you even do that? Why couldn't they be allowed to repair based on an existing facility and an existing permit?

Mr. NORBURY. Well—

Senator CRAIG. Under maintenance.

Mr. NORBURY. All of our facility repairs are done under categorical exclusions. That's a routine use of categorical exclusions. The way the law is written we're basically—anytime we're making a decision that involves manipulating the physical environment we

have to either do an EIS, an EA, or conclude that it can be excluded from documentation under a preexisting category established in procedures.

So approving the repair under a categorical exclusion is routine and a long standing agency practice. It wasn't a problem until we had to face the consequences of a recent court decision.

Senator CRAIG. What is the current backlog of grazing permit renewals and how will Judge Singleton's decision impact the Forest Service's ability to renew these permits then?

Mr. NORBURY. Well, it's going to stretch out the process. We have slightly more than 3,400 to go, according to my arithmetic. Basically, when you allow an appeal and if—you've got to allow a comment period, which is a minimum of 30 days, then the appeal emerges, then there's another 105 days to resolve the appeal. So potentially it could add 135 days to each and every one of the permit renewals that we're going to do under the legislated category. As I mentioned, the legislative cap was 900, so potentially as many as 135 days to each and every one of those.

Senator CRAIG. While this is not a grazing question, how will Judge Singleton's decision affect the Forest Service's ability to undertake needed hurricane cleanup work in the Gulf States for us?

Mr. NORBURY. At the moment, we don't think that the decision will affect the cleanup. We've been able to work with the Council on Environmental Quality, and we think that everything we need to do in the way of hurricane response can be done under our existing authorities and in cooperation with the Council on Environmental Quality and will not get stopped by the need to offer [inaudible] opportunities.

Senator CRAIG. Well, we'll see if we can work with you on our dear Judge's decision.

Jim, it appears the BLM is continuing to make real progress in meeting its objective of eliminating the backlog of permits by 2009. Once BLM has addressed its backlog are you confident we won't get in this bind again?

Mr. HUGHES. Yes, we are. Mr. Chairman, I think a couple of things. We now have a system in place where we've identified those permits that need a closer look, and we've prioritized which areas we have problems with. This helps us sort of divvy up the workload a lot better than when this thing first hit us. I think we've learned how to better approach this and in many cases we can use somewhat of a template, if there's really no change in use out there, to renew these permits. Then we also have the ability to put folks in there where we do have the problems. As we get more information, through our monitoring program, it will make that renewal process go much smoother, because we know what's out there.

Senator CRAIG. Well, I hope somehow we can effectively streamline and legitimately deal with our environmental concerns, and at the same time—as I mentioned in my opening comments—be timely in these processes. Obviously we've created a very complicated process for the land manager, so spoken to by Fred, your obvious concerns. Fred, you mentioned in your opening comments about some of the range conditions changing because of moisture, I suspect my State of Idaho this spring produced one of the greatest grass years on record, or nearly that. And if you had walked across

that range a year ago versus this year, you could have been absolutely convinced that it doesn't take 2 or 3 years to recover. It can be done almost in 1 year. That was certainly the case, yet we have seen very little flexibility on the part of the Forest Service, in some permit considerations, a little flexibility of time. There's still been a substantial rigidity even though grass was hitting the stirrups of the horses and cattle couldn't be found because they were laying down. I mean it was a phenomenal grass year by every measurement. And I must tell you that I'm tremendously frustrated when there can't be a little flexibility on the margin that deals with some of our livestock needs under those kinds of circumstances.

High costs of fuel today are obviously creating an environment where cost of production is substantially higher, when we talk of moving cattle off a range on a lockstep basis because that's what the regulation says. And I guess my frustration is, where are the range managers? They're in the office buildings doing EIS's, they're not out on the ground checking things. And so we've got to walk down this road, when in fact, as I said, if any of you had spent time out on the range a year or two ago, and then this year, you would have not felt you were in the same place, under the conditions that we fortunately experienced in certain areas of the West.

I don't know what to say to you other than I think all of us under certain circumstances were increasingly frustrated by an agency that seemed to not have viewed the condition but only have read the print. And I felt that in certain circumstances some of our range managers had some discretion; is that not true?

Mr. NORBURY. First let me say that most of the people who work for the Forest Service didn't start working for the Forest Service because they wanted to write NEPA documents. Most of them started working for the Forest Service because they liked the outdoors and they wanted to work outdoors. And a lot of them feel very frustrated at the amount of time they're having to spend in the office preparing thicker and thicker documentation as the years pass, and their inability to get away from the computer screen and go out and experience firsthand those things they love and that really are their fundamental passion.

We've worked hard to try to increase the flexibility that our range managers have. And one of the most important things that we've done is the way we've restructured the NEPA process that they're going through. I'll give you an example.

It used to be when we did the NEPA on allotment it would specify the on/off dates. And so—because the dates were specified in the NEPA document—if you were going to vary from those dates, then you had to make a new NEPA decision, which took you back into all those onerous NEPA processes again. What we're trying to do now is use an adaptive measurement approach where we wouldn't specify the on/off dates, we would specify the ecological conditions that we're striving for and give the managers a lot more flexibility to choose the practices that would move the ranchland toward the desired ecological conditions.

As we get more and more NEPA completed and more and more of our allotment measurement plans modernized, they're going to have more and more flexibility to adjust year to year to those fluctuations.

The third point I would make is that my experience has been that range issues are really variable from place to place around the country. Some places you're dealing with perennial vegetation, and some places annual vegetation. Soils are different. The grazing practices are different. So we encourage our range managers to take a problem-solving approach and to do their best to work with the permittees in ways that address the problems that they bring to our attention.

A more recent example, of course, is the rising fuel prices which have made it more difficult, or more costly at least, to move stock around in trucks. And so you always have to think about, is there some way that we could work with the permittee to reduce the cost, because many of these people have operations that are at the financial margin. But the solution to those things really are site specific, because trucking from pasture to pasture may occur in some places but it doesn't occur everywhere. So the solution needs to be different from place to place, and that's why we are encouraging flexibility and are encouraging flexibility and are encouraging a problem-solving approach.

Senator CRAIG. Well, all that you've said I think is true, but it takes people on the ground monitoring. If you're going from date specific to site specific and condition specific, somebody's got to be out there monitoring and I'm not sure that's getting done as well in some instances as it should. I mean if you were monitoring this year, there would have been flexibility. And in some instances, from some of our permittees, we've sensed a tremendous rigidity. And like I said, when they said, we couldn't remove the cattle because we couldn't find them, they were hidden in the grass, that's a phenomenal statement, but it was a reality in some circumstances.

And you're right to assume cost and trucking and all of that, but you know it's that kind of reasonable flexibility and monitoring I think that is site specific and does recognize all of the conditions you've talked about that are variables on our Western rangelands, and so you know, all I can say is I hope the Forest Service continues down this road. You've got a backlog to get beyond, and 2010 is approaching, and we'll watch very closely and stay with you and attempt once again in some form to gain you some flexibility.

Obviously, the Judge has spoken. Congress once spoke and we'll try to speak again, in a slightly different language that maybe he doesn't understand as clearly. And maybe that way we can dodge his rulings. And it is in no way to dodge environmental concerns. It's to allow management to go on. Environmental concerns are at risk when that doesn't happen. And so we had hoped in certain circumstances that categorical exclusions would offer you the tools that you needed. They seemed to be moving us in the right direction until the Judge spoke.

Gentlemen, thank you very much for your time before the committee. We'll stay tuned to you, and please you stay tuned to us, and we'll see if we can't resolve some of these problems as we move down the road.

Gentlemen, thank you very much for being with us. Mike Byrne, chairman, Federal Lands Committee, the National Cattlemen's Beef Association. Will, it's good to see you. Will Whelan, the Idaho

director for government relations for the Nature Conservancy. And Dr. Rick Knight, wildlife ecologist, Colorado State University, College of Natural Resources. Gentlemen, again, thank you very much for being here today.

Mike, we will start with you. If you'll please turn your mike on, let's visit.

**STATEMENT OF MICHAEL BYRNE, PRESIDENT, PUBLIC LANDS COUNCIL, ON BEHALF OF THE NATIONAL CATTLEMEN'S BEEF ASSOCIATION**

Mr. BYRNE. Okay. Mr. Chairman, thank you for the opportunity to discuss the issues facing the Western ranchers throughout the United States. My name is Mike Byrne, and I am a cattle rancher from northern California and southern Oregon, the Klamath Basin, and I'm also president of the Public Lands Council, a national organization representing the interests of public lands ranchers. My brother Dan and I are fourth generation ranchers in the same area.

The Public Lands Council represents sheep and cattle ranchers in 15 Western States, over approximately 300 million acres.

Today's ranchers represent some of America's last living embodiments of true environmentalism. The American public and the ranching industry benefit tremendously from the continued economic vitality of the public land ranching industry. As we look to the future of public lands ranching throughout the West, the PLC and NCBA is concerned about a number of important issues.

National Environmental Policy Act. The Public Lands Council owes a debt of gratitude to this Congress for its attention to grazing issues on Public Lands. In recent years, Congress has made more funding available for monitoring of allotments, has ensured that permit renewals would not be set aside because of the agencies' inability to complete their responsibilities under the National Environmental Policy Act, and has worked to restore a balance between wild horses and burros and other multiple uses. For these things, we applaud you.

But there is much work yet to be done. Grazing permit administration remains a challenge that trips up the agencies. As you are no doubt aware in your own State, in the Western Watershed Project versus the BLM, the court enjoined grazing on several hundred thousand acres of land in southeast Idaho, involving almost 100,000 animal units, and 28 allotments because the agency failed to meet the basic requirements under NEPA. In the view of our members, a significant portion of the grazing industry in southeast Idaho, and the families and communities that depend on grazing, it should be overturned. We would like the same protection as we have in permit renewal. Because of the agency's inability to perform, the permittee should not bear the brunt of this problem. It should fall back to the agencies.

This cannot be the standard of business in the Government.

Part of the agencies' challenge in completing environmental documentation can be addressed by more closely tailoring the paperwork requirements to the actual environmental profile presented by grazing or an activity ancillary to grazing.

We have an idea that we can try to tailor more of these environmental documents to ones that are already done, instead of doing



them over and over, being redundant. As you have heard from both agencies, there's thousands and thousands of allotments, and thousand of grazing permittees, and we feel that the same analysis is going on over and over again. We should be able to tier onto previous ones, put in the different documentation, let the public speak as they may and then let's get on with the job and not do it over again.

We also believe more CE's should be available. As you've already alluded to, there are some court problems, but when you fix it, make it broad enough that we can use very many more CE's. I testified in 1998 in the House in front of Don Young, but the same thing holds true. Why should we analyze an activity that's gone on for decades, relatively unchanged, over and over again and spend the capital, both human and resources, when we're going to come up with the same conclusion?

National Historic Preservation Act. This is also another law which causes great concern, because it precludes positive projects from taking place on the public lands. It is administered very, very differently between agencies in the same geographical area where different agencies say you can do some things and you can't do other things. Some archaeologists feel it's real significant, where other ones feel that it's been studied and we can move it forward. We'd like your help on that.

Wild and Scenic Rivers. Americans are rightfully proud of the many beautiful rivers that course through our Nation. Unfortunately, as things so often happen, management of these rivers, and particularly those with segments that have been designated under the Wild and Scenic River Act, has brought harm to other segments in society. As you know in Oregon, there have been suits brought on the Wild and Scenic River Act on the Donner und Blitzen, the John Day, the Malheur, and the Owyhee Rivers. More than 50 operations are affected by this.

I know you're also aware that the Oregon Omnibus Wild and Scenic Rivers Act was authored by people from Oregon. Senators Mark Hatfield and Bob Packwood, as well as Bob Smith and Peter DeFazio, all wrote that after this law was passed it would not have adverse effect on grazing, and much to their disdain, it has had an effect 100 percent of the times it's been challenged in the court. Because the standard is to enhance the quality of the river, even though the grazing occurred before they were Wild and Scenic, and therefore it's only logical that the grazing helped create the value that the people wanted before they designated it. And now they're trying to preclude that use and that was not the desire and intent of Congress.

Wilderness Study Areas. When Wilderness Study Areas were put in, they were mandated by Congress to be looked at for 10 years and they were supposed to be decided on whether to be included in wilderness or to be let go. These areas are not being let go as required by law. And they are what we call de facto wilderness, because they're managed as wilderness, even though they haven't been designated as wilderness. We ask your help in that area.

Bureau of Land Management Grazing Regs. We just ask that you monitor the process and help get them out as fast as you can.

Endangered Species Act. As you know, tomorrow's a big day in the House. It's a No. 1 priority for Public Lands and National Cattlemen. Federal lands is causing great expense to our people. Right now the wolf issue is very hot and we want to sort of have the same protection, that when the United States feels it needs to reintroduced wolves it should not be at the expense of the people who are working the land, and have worked it for centuries. The North Dakota situation was extremely troubling to our membership. It's already been discussed, but we're watching it carefully.

Also applicant status, it seems to be evolving, but we would like your help in making sure that when there are significant decisions, that us as land managers and the grazing permittees are allowed to be at the table.

I would like to conclude at that point, and take any questions that you may have. Thank you.

[The prepared statement of Mr. Byrne follows:]

PREPARED STATEMENT OF MICHAEL BYRNE, PRESIDENT, PUBLIC LANDS COUNCIL, ON  
BEHALF OF THE NATIONAL CATTLEMEN'S BEEF ASSOCIATION

Mr. Chairman and members of the Subcommittee, thank you for this opportunity to discuss the issues facing ranchers throughout the western United States. My name is Mike Byrne, and I am a cattle rancher from northern California and President of the Public Lands Council, a national organization representing the interests of public lands ranchers. My brother Dan and I are fourth generation ranchers in the same area.

The Public Lands Council (PLC) represents sheep and cattle ranchers in 15 western states whose livelihood and families have depended on federal grazing permits dating back to the beginning of last century. I am also here today on behalf of the National Cattlemen's Beef Association (NCBA), the trade association for America's cattle farmers and ranchers, and the marketing organization for the largest segment of the nation's food and fiber industry. Both PLC and the NCBA strive to create a stable regulatory environment in which our members can thrive and continue to produce the safest and most nutritious meat in the world.

The federal government manages over 450 million acres of land, and nearly 300 million acres are classified as rangelands. Since the mid-19th Century, ranchers have depended on the vitality of America's rangelands for their survival, and as a result, ranchers have developed an innate love for the land and personal stake in its preservation. Nearly 40% of all cattle raised in the west spend some of their lives on public land allotments. The public lands are critical to the functioning of the livestock industry in the west. Environmental services provided by ranching operations include open spaces, wildlife habitat, clean air, clean water, and fire and weed control.

Today's ranchers represent some of America's last living embodiments of true environmentalism. The American public and the ranching industry benefit tremendously from the continued economic vitality of the public land ranching industry. As we look to the future of public lands ranching throughout the west, the Public Lands Council is concerned about a number of important issues.

NATIONAL ENVIRONMENTAL POLICY ACT

The Public Lands Council owes a debt of gratitude to this Congress for its attention to grazing issues on Public Lands. In recent years, Congress has made more funding available for monitoring of allotments, has ensured that permit renewals would not be set aside because of the agencies' inability to complete their responsibilities under the National Environmental Policy Act (NEPA), and has worked to restore a balance between wild horse and burros and other multiple uses. For these things, we applaud you.

Much work remains to be done. Grazing permit administration remains a challenge that trips up the agencies. Our understanding is the agencies are not processing enough permits to meet the schedule Congress anticipated when it enacted legislation to postpone the deadline for completing NEPA for permit renewals. When it tries to do the NEPA it also fails with sometimes disastrous consequences for our industry.

In the recent case of Western Watersheds Project versus the Bureau of Land Management, the court enjoined grazing on several hundred thousand acres of land in southeast Idaho, involving almost 100,000 animal unit months, and 28 allotments because the agency failed to meet basic requirements under NEPA. In the view of our members, a significant portion of the grazing industry in southeast Idaho, and the families and communities that depend on it, was overturned through the court injunction because the government failed to complete its paperwork.

This cannot be allowed to be the standard of business for the government. Businesses, families, communities cannot fail because the government cannot complete paperwork that does little to affect conservation on the ground, and certainly adds little to a ranching operation. The Public Lands Council strongly supports the multiple use sustained yield of public lands and the related consideration of environmental factors in processing grazing permits. We also strongly believe that a more sensible balance must be struck between environmental paperwork and actual conservation as this dynamic relates to grazing.

Part of the agencies' challenge in completing environmental documentation can be addressed by more closely tailoring the paperwork requirements to the actual environmental profile presented by grazing or an activity ancillary to grazing. For example, it seems irrational to produce full-scale NEPA documentation for longstanding continuing activities that have long-ago made their imprint on the landscape. Once the environmental baseline has been established in environmental analysis, and no new information emerges, what sense does it make to spend scarce federal resources on additional NEPA documentation? We strongly urge this Committee to consider enacting legislation that provides for categorical exclusions to be available for such classes of grazing activities.

We also believe that categorical exclusions should be made available for range improvements such as installation of fencing or water facilities. These activities have a minimal impact on the land but can play a critical role in putting in place a well-managed grazing program resulting in important benefits for the resources.

#### NATIONAL HISTORIC PRESERVATION ACT

Similar issues arise with the intersection of grazing with the National Historic Preservation Act (NHPA) as with NEPA. Federal land managers have used the NHPA to block or significantly delay grazing in areas where grazing has taken place for years and where no cultural artifact of any significance has ever been identified.

A significant part of the land on which my cattle run have been overtaken by invasive juniper trees. These trees turn grasslands into fields of dirt eliminating habitat for wildlife, and forage for cattle. Removal of junipers is considered to be a key practice for helping to restore habitat for the sage grouse. Juniper encroachment on western landscapes is of epidemic proportions. Again, NHPA has been invoked to block my effort to clear the junipers from my federal allotments. All Americans appreciate the importance of preserving our cultural heritage. Still, ranchers and undoubtedly most Americans would have a hard time understanding how this Act can be used to block activities that would clearly benefit the resource, particularly in the absence of any information indicating that cultural significant resources are present in the area proposed for juniper clearing.

#### WILD AND SCENIC RIVERS

Americans are rightfully proud of the many beautiful rivers that course through our nation. Unfortunately, as things so often happen, management of these rivers, and particularly those with segments that have been designated under the Wild River and Scenic Act, has brought harm to other segments in society, in this case the state's rural ranching communities. A better balance between ranching and river protection needs to be struck under the Act.

The Wild and Scenic River Act protects existing uses along designated river corridors, such as grazing. However, the Act also requires these existing uses to protect and "enhance" the values for which the river corridors were designated under the Act. PLC and NCBA believes that properly managed grazing can be compatible with maintaining healthy river corridors. Many of the rivers currently designated achieved their status with years of grazing on their sides.

Unfortunately, as interpreted by the courts, the "enhance" standard in the Act poses a virtually impossible hurdle for grazing to meet. This is a national issue in scope as there are more than 1.2 million acres included in the Wild and Scenic River system in the Forest Service and Bureau of Land Management land throughout the west. Very roughly, it has been estimated that permitted grazing may occur on one-third of these acres. In each instance in which environmentalists have brought suit

challenging grazing management plan for corridors along rivers designated under the Act, grazing has been eliminated.

In Oregon alone, environmentalists have brought suit challenging grazing under the Wild and Scenic River Act on the Donner and Blitzen, the John Day, the Malheur, and the Owyhee Rivers. More than 50 operations ran cattle along the subject area of the Donner and Blitzen, Owyhee, and Malheur Rivers, involving hundreds of people if you consider that each operation often consisted of several different families. Elimination of these ranch operations means the elimination of a way of life that has been in place for generations in many cases. Without the ranches and their economic activity, the local communities obviously suffer as well, and ultimately the fabric of life in rural Oregon and throughout the west.

The original congressional sponsors of the Oregon Omnibus Wild and Scenic Rivers Act certainly believed grazing would continue in the wild and scenic river corridors and communicated this belief to the local ranching community. Congressman Bob Smith explained that he was seeking to ensure the maintenance of the grazing status quo along the river, in a letter to Senator Mark Hatfield dated August 29, 1988. Congressman Peter DeFazio wrote that "grazing and Ag practices are fully protected under the Act," in a letter dated September 28, 1988. Senator Hatfield wrote on October 3, 1988, that grazing under the Oregon legislation would be allowed "to the extent currently practiced." Senator Bob Packwood wrote on January 13, 1989, to assure a constituent that grazing "will not be affected by this [new] law."

PLC and NCBA ask this Committee to bring a better balance between grazing and river protection to the Wild and Scenic River Act in line with the expectations of congressional authors of wild and scenic river legislation for Oregon. The people whose lives are rooted in rural Oregon deserve the respect and attention of this body. The law should prevent degradation of river values. It should also prevent degradation and harm to rural families and communities in Oregon and throughout the west. We would be pleased to work with the members of this committee to bring a better balance to the Act.

#### WILDERNESS STUDY AREAS

PLC and NCBA understands, even if we do not support, the interest in part of the public in creating new wilderness areas in the west. As much as we oppose the creation of additional areas removed from multiple use management, we even more oppose the way wilderness study areas are administered. It is a fundamental abuse of the law and should be stopped.

Federal agencies law provides for the designation of wilderness study areas for periods of ten years after which the administration is to make a recommendation to congress whether to establish a wilderness in that area. In practice, once an area has been designated for study, it is managed as a de facto wilderness past the time limit on the study period.

If Congress intends to restrict access to still another class of lands, it should debate the issue and pass a law to this effect. Until that time, the authority to create study areas suggests that the appropriateness of creating a new wilderness area will be studied, and then at some point a decision will be made whether to do so or not. The law needs to be clarified as to Congress' intent for the treatment and disposition of these areas. We also ask Congress to release those areas for which the study periods have expired.

#### BUREAU OF LAND MANAGEMENT GRAZING REGULATIONS

We are grateful to the BLM and this administration for considering grazing in a systematic manner and nearly completing grazing regulations that help restore the balance of multiple uses on public lands. As are many, we are concerned with the delay in their issuance. We urge this Committee to monitor the situation and do all it can to ensure the regulations are issued as expeditiously as possible.

#### ENDANGERED SPECIES ACT

The number one resource priority for PLC and NCBA federal lands members is to reform the Endangered Species Act. Livestock producers are concerned with minimizing the red tape associated with species protection and maximizing conservation efforts on the ground. We would like to see a greater focus on the recovery of species. If a species must be put on the list, there should be at least a concerted effort made to identify the criteria needed to recover the species and then take them off the list. We want these efforts to be based on reliable information, not the biases of individual federal officials.

A significant effort has been made to pass ESA legislation in the House. We will learn tomorrow whether this effort succeeds. The effort in the Senate has moved at a slower pace. Anything the members of this Committee can do to speed the process in the Senate will be greatly appreciated by our members.

Senator CRAIG. Mike, thank you very much. That's a full list.

Mr. BYRNE. Yes.

Senator CRAIG. Now let me turn to Will Whelan, Idaho director of government relations, The Nature Conservancy.

Will, it's great to have you before the committee.

**STATEMENT OF WILLIAM S. WHELAN, DIRECTOR OF GOVERNMENT RELATIONS, THE NATURE CONSERVANCY IN IDAHO**

Mr. WHELAN. Thank you, Mr. Chairman, I appreciate the invitation to come and talk with you today.

Much of the focus today, as it seems on most days, is about the conflict between environmentalists and ranching, and about the intricacies of the rules and regulations that administer our public lands. I would like to shift that focus, at least for a few minutes, to a basic idea, and that is that ranchers and conservationists have interests in common and that it is imperative that they work together.

First, a word about The Nature Conservancy. As you know, Senator, our work is grounded in pragmatism, in partnerships with landowners, and achieving tangible results in local places. An important part of our experience as conservationists is the fact that we are a landowner. Many of our preserves in the West are actually working ranches and we manage, with our partners, grazing in an ecologically sustainable manner.

So the first point of common interest is the most fundamental. And that is that ranching and wildlife both benefit from healthy rangelands. It's the prime obligation of these agencies, and I would also say the public and the ranching industry, to preserve and protect the health of those rangelands. I think there are many ways in which conservationists and ranchers ought to be working together. I'm going to highlight briefly three of those: weeds, the conversion of ranch lands into subdivisions, and the issue of monitoring.

There's nothing that unites people like having a common enemy, and noxious or invasive weeds are about the scariest villain imaginable and they are spreading with breathtaking speed across the public lands in the West. Several years ago, the Idaho Department of Agriculture estimated that 8 million acres of rangelands in Idaho were infested with weeds. That's about 15 percent of the entire State. It's a soft number, but nevertheless one that ought to set off in our minds a real alarm bell.

In Idaho, The Nature Conservancy is working with local cooperative weed management areas that are composed of the management agencies and landowners, and groups like ours, to put together projects on the ground to fight these weeds.

In Hells Canyon, where we work with the Tri-State CWMA to fight yellowstar thistle and actually have put onto the ground SWAT teams, Conservancy SWAT teams go out and do early detection and rapid response to new patches of yellowstar thistle.

We want to thank you, Mr. Chairman, for your work with your colleagues last Congress to pass the Noxious Weeds Control and Eradication Act. This effort would provide Federal funding for CWMA's. Finding an appropriation for this act should be a high priority for this Congress.

A second area of common interest focuses on the loss of private, working ranchlands to subdivisions and residential development. As you know, the Western States lead the Nation in population growth. And while this growth brings many economic benefits to our region, it also is changing our landscapes very quickly. So when ranchland gets developed we irretrievably lose the wildlife habitat that is there, and importantly, we also lose opportunities for good stewardship. Whether it's controlling noxious weeds or improving water quality or restoring fire adapted ecosystems, it's far better to practice conservation when you're dealing with a few relatively large and packed working ranches than when you're dealing with a landscape that's been split up into ranchettes or subdivisions with many owners—and many of them absentee landowners.

We have some success stories. As you know, we celebrated earlier this summer at Henry's Lake, a landowner agreement that would protect habitat from development right on the doorstep of Yellowstone—one of the many projects around the country that has been funded through the Land and Water Conservation Fund. On a broader scale, programs like the grassland reserve, which was part of the last farm bill, protects working ranches from subdivision and conversion to other more intensive uses that would sacrifice both the prime ranchlands and the other values that those ranchlands offer.

My third suggestion for an area to work together deals with rangeland health monitoring. Monitoring is a mundane label for something that is absolutely fundamental to good management, and that is understanding the condition and trend of the rangelands. Our partners in the ranching industry have, like us, made strong calls for improved monitoring.

We think that a key to success in rebuilding trust and providing managers the flexibility that Mr. Norbury talked about in responding to the condition of the land is to have better information about what is happening with our rangelands, their ecological condition, and their trend. That is a key predicate for giving the land managers the authority to respond. And we hope as the agency shapes these monitoring programs that they will reach beyond the government agencies and involve organizations like ours and the universities and really put the best minds in the country together in thinking about how best to approach this.

So, in conclusion, Mr. Chairman, The Nature Conservancy believes that it is possible, and even essential, that environmentalists and ranchers work together. Whether one calls it "cooperative conservation" or just being good neighbors on the range, our most productive work is done when we find common ground.

Thank you.

[The prepared statement of Mr. Whelan follows:]

PREPARED STATEMENT OF WILLIAM S. WHELAN, DIRECTOR OF GOVERNMENT  
RELATIONS, THE NATURE CONSERVANCY

Mr. Chairman, members of the Subcommittee, thank you for the opportunity to address livestock grazing on the public lands of the West. I am Will Whelan, Director of Government Relations of the Idaho Chapter of The Nature Conservancy.

Much of the discussion on the topic of grazing today—and most days—is focused on the high level of conflict between environmental groups and public lands ranchers. I would like to shift that focus to the proposition that conservationists and ranchers have important interests in common and that it is imperative that they work together to promote healthy rangelands. Although I believe this proposition to be true throughout the West, my comments will draw primarily from our experience in the sagebrush country of the Intermountain West.

First, I would like to say a few words about The Nature Conservancy. The Nature Conservancy is dedicated to preserving the plants, animals and natural communities that represent the diversity of life on Earth by protecting the lands and waters they need to survive. The Conservancy has more than 1.1 million individual members, including 4,500 in Idaho. We currently have programs in all 50 states and in 30 other nations.

Our conservation work is grounded in pragmatism, sound science, partnerships with landowners, and tangible results in local places. An important part of our experience as conservationists comes from the fact that we are a landowner. Many of our preserves in the West are working ranches where we and our partners manage livestock in an ecologically sustainable manner. Some of these preserves include grazing allotments on federal lands. In other words, we are a federal lands grazing permittee at places like Red Canyon Ranch in Wyoming and Pahsimeroi River Ranch in Idaho.

The starting point for my comments is also the most fundamental: ranchers and wildlife both benefit from healthy rangelands.

Healthy rangelands produce more forage for livestock, resist invasive weeds, and are more resilient after fire. Each of these qualities is critical to successful long-term ranching operations. One study of bluebunch wheatgrass-mountain big sagebrush sites demonstrated that healthy range produces more than double the forage than degraded range. Healthy rangelands also provide essential habitat for a wide range of plants and animals.

The prime responsibility of public land agencies and grazers alike is to manage human activities to ensure rangeland health.

There is cause for all of us to be concerned by what we are seeing across the rangelands of the West. The rapid pace of degradation, fragmentation, or total loss of sagebrush ecosystems presents a grave threat to both the livestock industry and everyone else who cares about the land. Sagebrush once covered roughly 150 million acres. Perhaps 50-60% of the native sagebrush steppe now has either exotic annual grasses, such as cheatgrass and medusahead rye, in the understory or has been totally converted to non-native annual grasslands. These annual grasses produce poor quality livestock forage compared to the season-long forage provided by the native perennials. Large areas of sagebrush have been entirely lost to subdivision, roads, alternative crops, and other human development. Sagebrush habitats are now among the most imperiled ecosystems in North America.

The speed of change in western landscapes is illustrated by the Clover Fire, which in just a few days last summer covered nearly 200,000 acres in southwest Idaho. Such fires are increasingly common. Incredibly, sixty percent of the land affected by the Clover Fire had already burned in the previous 5-10 years. Highly flammable weeds such as cheatgrass gain a foothold in the wake of these large burns and, in turn, accelerate the frequency of fire in sagebrush country. Post-fire assessment and appropriate restoration are essential in breaking the cycle of fire followed by invasive weeds followed by yet more fire.

Public policy makers need to comprehend the scope of this threat to rangeland health and recognize that our current land management is not equal to the challenges that face us. If public lands ranching and wildlife are to thrive in the Intermountain West, we must find new ways to be effective together.

There are many ways in which ranchers and conservationists should work together. I will address three: weeds, conversion of ranchlands to subdivisions, and the need for better rangeland monitoring.

Nothing unites people like having a common enemy, and noxious or invasive weeds are about the scariest villain imaginable. Alien plants such as yellowstar thistle, leafy spurge, and rush skeleton weed degrade the value of rangelands for both livestock and wildlife.

And, they are spreading with breathtaking speed. Several years ago, the Idaho Department of Agriculture estimated that 8 million acres of rangelands were infested in Idaho alone. That's about 15% of the entire state.

In Idaho, The Nature Conservancy has made a major investment in working with local cooperative weed management areas or CWMAs. These local organizations bring landowners, all levels of government, and groups like ours together to develop projects for fighting weeds. Here is what we like about the CWMAs: they are responsive to local needs, they are a vehicle for earning the support of landowners, and they permit us to extend our reach by pooling resources with partners.

Our flagship project is taking place in Hells Canyon, where we work with the Tri-State CWMA to implement a weed control strategy based on prevention, early detection, and rapid response. Using innovative field survey and remote sensing techniques, we are tracking the spread of yellowstar thistle and other invasive plants. When we find a new patch in an area of ecological importance, we send in a Conservancy SWAT team to eradicate the weeds before they have a chance to spread. This is challenging and sometimes frustrating work. We still have much to learn about how to control a highly invasive plant in this rugged landscape. But, our effort is beginning to produce results and is growing. This year we added a second SWAT team and expanded our area of work to include Adams and Owyhee counties in western Idaho.

We want to thank you, Mr. Chairman, for working with your colleagues last Congress to pass S. 144, the Noxious Weeds Control and Eradication Act. This law authorizes federal support for local weed control efforts such as CWMAs. Funding this effort should be a high priority for this Congress.

The second area of common interest focuses on the loss of private working ranchlands to subdivisions and residential development. The western states lead the nation in population growth. This growth brings many economic benefits to our region. But, it is also changing the landscapes we cherish.

In 2002, the American Farmland Trust conducted a study of ranchlands in seven western states. They found that over the next twenty years, these states stand to lose 11 percent of all prime ranchlands to urban development. As cities and subdivisions grow, many ranchers are looking for ways to stay on the land and keep their local communities, custom, and culture alive.

There are good reasons why conservationists should support working rural landscapes that are in danger of being chopped up into ranchettes and subdivisions. Most importantly, these private lands contain essential wildlife habitat. For instance, in Wyoming, more than fifty percent of the winter habitat for big game species is on private land. In Idaho, the Conservancy is concerned about wildlife habitat losses in places such as Henry's Lake, the valley bottoms of the Upper Salmon River country, and the Boise Foothills.

Numerous studies show negative ecological effects from conversion of ranchlands. A study in a Colorado watershed compared bird, predator, and plant biodiversity in sprawling areas with that in nature reserves and ranchlands. Researchers found that rural residential developments supported the highest number of human adapted bird species and domestic predators (dogs and cats) at the expense of native plants and bird species.

Moreover, the fragmentation of working ranches into small parcels closes off options for good stewardship. Whether it is controlling noxious weeds, improving water quality, or restoring fire adapted ecosystems, it is far more feasible to practice good conservation in a landscape that has intact ranches than in an area with dozens of small parcels—often with absentee owners.

There are success stories across the West. For instance, this summer, we celebrated a voluntary landowner agreement that will keep a large ranch at Henry's Lake, virtually at the doorstep of Yellowstone National Park, from being turned into subdivisions. For years, the Moedl Family had turned down lucrative offers from developers. With your help, Mr. Chairman, the Bureau of Land Management received a Land and Water Conservation Fund appropriation to secure a conservation easement on important wildlife habitat. The Nature Conservancy negotiated the agreement with the Moedls. This was a win for wildlife and a multi-generational ranching family.

The Grassland Reserve Program is another success story. This program within the Farm Bill gave financial incentives to ranchers who agreed not to convert their ranchlands to other uses. The program was strongly supported by both the National Cattlemen's Beef Association and The Nature Conservancy. We hope that the 2007 Farm Bill will continue this important effort.

It is clear that we can work together for voluntary incentives, such as GRP, that protect family ranches while providing clean water, natural areas, and wildlife habitat



My third suggestion for working together involves rangeland health monitoring. Monitoring is a mundane label for a thing that is absolutely fundamental to good management: understanding the condition and trend of the land. If we do not know what is happening on the land, we cannot make sound decisions. Our partners in the ranching industry have, like us, made strong calls for improved monitoring.

One way to think about the importance of monitoring is imagine what highly successful public rangeland management might look like. Imagine that we make all the right decisions today and in ten years we return to this committee to celebrate our success. Here are some of the elements that would make us proud. First, we would talk about how we have achieved a broadly shared understanding of the condition of our rangelands as well as their ecological trend. Public land managers have both the capacity and the policy support to manage grazing in response to range condition. Our improved understanding of the land and its needs has allowed us to direct the public's money wisely to places and projects that make the most difference for rangeland health. Ranchers are regarded as part of the solution—not merely the source of the problem.

Where problems are identified, the agencies and ranchers have the flexibility to shape management measures that work for the rancher and are accountable to the condition of the land. “One size fits all” thinking is a thing of the past. There is trust among the public land managers, the industry, and the public.

Needless to say, that scenario does not describe what we have today. What needs to change? The Conservancy believes key success is having a scientifically sound, cost-effective, and fully implemented system for monitoring rangeland health. Unless and until we have a strong grasp on what is happening on our public rangelands, the trust, the flexibility, and the support for action will remain elusive.

For the last four years, The Nature Conservancy has been working in a collaborative effort with ranchers, recreationists and environmentalists in Owyhee County, Idaho. Interestingly, when the various groups first came forward with their proposals, the Owyhee Cattle Association and the Conservancy both arrived at the meeting with very similar calls for improved landscape monitoring. Monitoring is not an uncomplicated issue but it is one that can unite different interests.

Here are some suggestions:

- Reach beyond the land management agencies. Universities, industry groups, and non-governmental organizations have much to contribute. The level of their understanding of and support for the monitoring system will do much to determine the level of conflict in rangeland management.
- Conduct monitoring at multiple scales. In addition to allotment or pasture monitoring, we need to look at the landscape and even regional scale to comprehend the truly huge changes we are seeing in rangeland health. These broader views will help us allocate resources to the places where they are most needed and fashion landscape-specific strategies. Exciting, new, and cost-effective methods for large-scale monitoring using a combination of remote sensing and on-the-ground data offer real promise.
- Increase the agency's capacity to put people in the field for monitoring at all levels and strengthen agency-wide systems for continuing education for field staff.

The need to improve monitoring is not unique to the federal land agencies. The Conservancy has examined its own programs throughout the world and determined that we need to greatly improve our own capacity for monitoring and measuring success. We have created an organization-wide team to address this challenge and made a commitment that we will change the way we work in response to what we learn.

#### CONCLUSION

In the public policy arena, Americans today tend to focus on what divides us. Battles over rangelands will undoubtedly continue. But, the Nature Conservancy believes it is possible—even essential—that environmentalists and ranchers work together. We face many of the same threats. We share important interests in promoting rangeland health. Whether one calls it “cooperative conservation” or just being good neighbors on the range, our most productive work is done when we find common ground.

Senator CRAIG. Well, thank you very much for that testimony. Now let me turn to Rick Knight. Dr. Knight is a wildlife ecologist from Colorado State University.

**STATEMENT OF DR. RICHARD L. KNIGHT, PROFESSOR OF  
WILDLIFE CONSERVATION, DEPARTMENT OF FOREST,  
RANGELAND, AND WATERSHED STEWARDSHIP, COLLEGE OF  
NATURAL RESOURCES, COLORADO STATE UNIVERSITY**

Dr. KNIGHT. Thank you very much, Mr. Chairman. Please listen to this: "Livestock grazing has profound ecological costs, causing a loss of biodiversity, disruption of ecosystem function, and irreversible changes in ecosystem structure."

Now please listen to this: "The trend of U.S. public rangelands has been upwards over a number of decades and the land is in the best ecological condition of this century."

Could both be right, or wrong? In fact both of those statements were lifted from peer reviewed science papers published during the last 2 years.

Because the American West is half public and half private, and because so many Western ranchers are dependent on public grazing lands for an economically viable operation, one cannot discuss public-lands grazing without acknowledging the half of the American West that is privately owned. Their fates, and the fate of the New West, are entwined.

Approximately 21,000 ranch families who operate approximately 30,000 Federal grazing leases own approximately 107 million acres of private land. Private lands in the American West are the most biologically productive. They have the best soils, they occur at the lower elevations and they're the best watered. These lands are critical for the maintenance of the West's natural heritage.

What gives urgency to the future of ranching is the rapid conversion of ranchlands to rural housing developments in much of the West. As ranches fold and reappear in ranchettes 20 miles from town and covering hillsides, people are increasingly wondering what this New West will resemble. For, with the end of ranching and the beginning of rural sprawl comes the question most central to conservationists like me: can we support our region's natural heritage on a landscape that is half public and half private, but where the private lands are fractured, settled and developed?

Now, some people might think it's a far stretch to connect livestock raising with former city people, now living country, but I see it differently. Ranching and exurban development are part of a single spectrum of land use, representing the principal alternative uses of rangelands in much of the New West. This is so because the protection of open space, wildlife habitat and the integrity of rural communities runs right through agriculture. At one end stands the rancher, at the other end a developer. As we transform the West seemingly overnight, we see the region's private lands reincarnated as ranchettes, those ubiquitous estates, ranging from mobile homes to "McMansions", that are covering hillsides faster than herefords can exit.

We have arrived at a point in our history where conversations about western lands and land health, grazing and ranchettes cannot be separated. They must be dealt with simultaneously when discussing the future of our next West. The science needs to be accurate, not value driven, and the conversations about culture and natural histories need to be honest, not mythologized.

Below are five observations that are explained in my testimony and supported by good science that pertain to ranching in the West. One, ecologically sustainable ranching is possible. Two, rural cultures matter. Three, ranchers protect open space. Four, ranchers practice husbandry and stewardship. And five, the movement to end public land grazing is detrimental to a healthy American West.

Ranch families, working viable ranches that sustain biodiversity and contribute to the social fabric and local economies, are critical to a West that works.

Aldo Leopold, a pioneer in the American conservation movement and the father of wildlife management, wrote 72 years ago in his seminal work *Game Management* this: "The central thesis of conservation is this: game can be restored by the creative use of the same tools which have heretofore destroyed it—axe, plow, cow, fire, and gun." Leopold's words anticipated today's time when land stewards, such as ranchers and loggers, would be needed to restore health to degraded range and forest lands. We run a great risk if we lose ranching as an economy in the New West. I suspect, in the not too distant future, public land agencies, such as the Forest Service and BLM, will be taking Leopold's words to heart and using livestock to help restore degraded rangelands. This may seem a far stretch in the eyes of some, but only for those who have not walked the land, and listened to what it says.

Thank you.

[The prepared statement of Dr. Knight follows:]

PREPARED STATEMENT OF DR. RICHARD L. KNIGHT, PROFESSOR OF WILDLIFE CONSERVATION, DEPARTMENT OF FOREST, RANGELAND, AND WATERSHED STEWARDSHIP, COLLEGE OF NATURAL RESOURCES, COLORADO STATE UNIVERSITY

Listen to this: "Livestock grazing has profound ecological costs, causing a loss of biodiversity, disruption of ecosystem function, and irreversible changes in ecosystem structure." Now this: "The trend of U.S. public rangelands has been upwards over a number of decades and the land is in the best ecological condition of this century [the 20th]."

Could both be right, or wrong? In 1994, the research arm of America's most august group of scientists reported that inadequate monitoring standards prevented them from concluding whether livestock grazing had degraded rangelands in the West. Critically, they concluded that, "Many reports depend on the opinion and judgment of both field personnel and authors rather than on current data. The reports cited above [this report] attempted to combine these data into a national-level assessment of rangelands, but the results have been inconclusive."

Because the American West is half public and half private, and because so many Western ranchers are dependent on public grazing lands for an economically viable operation, one cannot discuss public-lands grazing without acknowledging the half of the American West that is privately owned. Their fates, and the fate of the New West, are entwined, indivisible.

The future of Western ranching and the role of science in shaping public policy regarding ranching is a topic still under discussion. What gives urgency to this issue is the rapid conversion of ranchland to rural housing developments in much of the West. As ranches fold and reappear in ranchettes, 20 miles from town and covering hillsides, people of the West and beyond increasingly wonder what this New West will resemble. For with the end of ranching and the beginning of rural sprawl comes the question most central to conservationists, "Can we support our region's natural heritage on a landscape, half public and half private, but where the private land is fractured, settled, and developed?"

Some people might think it is a far stretch to connect livestock grazing with former-city-people-now-living-country but I see it differently. Ranching and exurban development are part of a single spectrum of land use in the West, representing the principal alternative uses of rangelands in much of the New West. This is so because the protection of open space, wildlife habitat, and the aesthetics of rural areas runs right through agriculture; at one end stands a rancher, at the other a devel-

oper. As we transform the West, seemingly overnight, we see the region's private lands reincarnated as ranchettes, those ubiquitous estates, ranging from mobile homes to mansions, that are covering hillsides faster than Herefords can exit. We have arrived at a point in Western history where conversations about Western lands and land health, grazing and ranchettes, are entwined, cannot be separated. They must be dealt with simultaneously when discussing the future of our Next West. The science needs to be accurate, not value driven, and the conversations about cultural and natural histories need to be honest, not mythologized. Science is important in these discussions, but to be useful, the science must be done carefully so that the answers are the best we can get. Ranchers and scientists and environmentalists need to look better and listen more carefully. Below are five observations, supported by social and ecological science.

a. *Ecologically Sustainable Ranching is Possible.* Ranchers understand that to be economically viable on a sustainable basis requires one to ranch in a way that is ecologically sound. Rangelands co-evolved with grazing and browsing (natural ecological processes). In the absence of grazing and browsing rangelands shift into something else. Science is just now catching up to what many ranchers already know—that by letting animals behave within “nature’s model” they can have their grass and eat it too.

b. *Cultures Matter.* Ranching in the American West is over 400 years old. Indeed, it is the oldest sustainable use of Western lands. More than any other justification, the timeless traditions of ranching legitimizes its existence and continuation. An irony hard to ignore is evident when Americans argue for the maintenance of biodiversity without realizing the equal legitimacy of different cultures.

c. *Ranchers Protect Open Space.* It is estimated that the approximately 21,000 ranch families who operate approximately 30,000 federal grazing leases own at least 107 million acres of private land. Private lands in the American West are the most biologically productive (deepest soils, best watered, lower elevations). These lands are critical for the maintenance of the West’s natural heritage. The alternative uses of these lands (residential and commercial development) are ecologically and economically flawed. In the only scientific study to date that has compared biodiversity (carnivores, songbirds, and plant communities) on lands that are grazed with equivalent ungrazed lands, the ranchlands supported more species of conservation concern and fewer invasive species; while the ungrazed lands were dominated by non-native species. In addition, the alternative land use to private ranchlands is residential and commercial development. Studies to date show that these rural lands, once they have been sub-divided, support the same human-adapted species that one finds in city suburbs. This occurs at the expense of species of conservation interest, hastening the day that these species become candidates for Federal protection. There is a perverse economic twist to this land-use conversion as well. Property taxes from exurban development (former ranchlands now in “ranchettes”) fail to cover the economic costs of county governments and local school districts. For example, in Wyoming, for every dollar of property taxes paid by ranchette owners, the cost of county services and schools is \$2.40; whereas, for every dollar of property taxes paid by ranchers and farmers, county and school costs are only \$0.69. As the saying goes, “cows don’t drive and wheat doesn’t go to school!”

d. *Ranchers Practice Husbandry and Stewardship.* Husbanding domestic animals and stewarding open lands are traditions in America practiced by ranchers. These skills no longer exist in any other American enterprise. By their very scarcity, they are being increasingly valued by Americans who are paying attention.

e. *The Movement to End Public-land Grazing is Detrimental to a Healthy American West.* The reciprocal demonization of ranchers and environmentalists—the so-called “rangeland conflict”—has dominated public debate for too long. It has not contributed to on-the-ground solutions. Instead, it has enraged rural Westerners, paralyzed agencies and frustrated public leaders. It has divided people who might otherwise be united by common goals: the conservation of magnificent open spaces, scarce water resources, and imperiled wildlife. If it continues, both sides will lose what they purport to defend. The increasing popularity of rancher-led initiatives (community-based conservation, cattlemen land trusts, grass-banking, healthy beef initiatives, cooperative conservation initiatives) demonstrate that cattlemen are an essential pillar in an American West that works better.

Ranch families working viable ranches that sustain biodiversity and contribute to the social fabric and local economies are critical to a West that works. Indeed, in most of the arid West, ranching is now the only livelihood that is based on human adaptation to wild biotic communities. Its ultimate competitive advantage is equivalent to its ecological sustainability; grass and cattle can grow on their own, with minimal human inputs. No matter how grave its flaws or its historical misdeeds,

ranching now stands out for its dependence on native biota and unaltered landscapes.

Aldo Leopold, a pioneer in the American conservation movement, and the father of wildlife management, wrote 72 years ago in his seminal work *Game Management*:

“The central thesis of conservation is this: game can be restored by the creative use of the same tools which have heretofore destroyed it—axe, plow, cow, fire, and gun.”

Leopold’s words anticipated today’s time when land stewards, such as ranchers and loggers, would be needed to restore health to degraded range and forest lands. We run a great risk if we lose ranching as an economy in the New West. I suspect, in the not too distant future, public land agencies, such as the Bureau of Land Management, will be taking Leopold’s words to heart and using cows and sheep to help restore degraded rangelands. This may seem a far stretch in the eyes of some, but only for those who have not walked the land, and listened to what it says.

Senator CRAIG. Thank you. Thank you very much for that testimony. It was about 25 years ago when I came to Congress. And I was bemoaning the fact that if the rancher went away the land would be broken up, the contiguousness of it would be in trouble. And I am increasingly alarmed by the “McMansions”, I believe you called them Doctor, that are probably growing faster in Idaho right now than grazing itself. And it will change, and it is changing fundamentally the character of the land, from wildlife movement and migration patterns, obviously, to the land conditions itself.

We’ve already found that the Forest Service is spending more time putting out fires to protect large private homes than they are protecting forested lands and all of that type of thing. So those kinds of things are all happening, and I must say that your comments are interesting and reassuring today. I suspect, though you’re suspect, you’ve got boots on.

Dr. KNIGHT. Well, I came to the Nation’s Capitol, sir.

Senator CRAIG. Excuse me.

[Laughter.]

Dr. KNIGHT. I didn’t mean that, Senator. I didn’t mean it.

Senator CRAIG. Does that mean that anticipates wading through?

Dr. KNIGHT. No, sir. No.

Senator CRAIG. Let’s leave that on the record, it’s probably somewhat appropriate.

Dr. KNIGHT. I’m not Ward Churchill, from the University of Colorado.

Senator CRAIG. You wouldn’t be before my committee if you were. I would not give you that respect.

[Laughter.]

Dr. KNIGHT. Yes, sir.

Senator CRAIG. Okay. Fine enough. But thank you very much for that testimony. Why do so many think that grazing on public lands is harmful?

Dr. KNIGHT. Thank you for asking that, sir. As an ecologist and a scientist I’ve been trying to figure that out too. Because I probably came to ranching, as so many contemporary Americans growing up in a suburb, almost believing from your mother’s milk that grazing was detrimental to land health, logging was detrimental to land health, and water development and diversion is detrimental to land health.

Well, I’ve got my Ph.D., and I’ve been in wildlife science for some 30 years, and the best I can understand it is we have a certain degree, regretfully, of value-driven science. And at the end of the day,

scientists are people before they are scientists, so you do see value-driven science.

Second—and this is probably the most flagrant violation—you see lots of published peer review science where it had inappropriate study design. For example, you might find them looking at one area on a certain soil type and elevation and plant community and comparing it to another area, one grazed and one not grazed, but on a different soil type, in a different plant community, a different elevation. Naturally the results are going to vary because of those fundamental differences.

And then third, because it is such a topical issue, we have lots of non-scientists mimicking scientists and writing about grazing as though they are scientists. For example, Debra Donahue's book about western lifestyle grazing. Mrs. Donahue is a lawyer, she's not a scientist.

When you exclude those three categories, Mr. Chairman, what you end up with, by and large, because we can certainly overgraze landscapes just like we can over-log them or over-recreate them, but when you eliminate those three categories and you look at studies that are well designed by people who understand ecological processes and people that are appropriately trained, you tend to find the science supports livestock grazing.

I'm a conservation biologist. I support livestock grazing, because I've looked at those studies and I've conducted studies like that myself, and they actually support this generalization, grazing done well actually is not even benign, it actually promotes land health, just as Aldo Leopold suggested it would 72 years ago.

Senator CRAIG. Well, thank you for your testimony and for that statement. I think it's tremendously valuable that folks like you are willing to stand up from your professional background and speak of these kinds of issues in ways that some will listen to.

Will, thank you for your positive testimony, and I think the Nature Conservancy and Idaho has some very interesting and valuable partnerships underway, and it is important. You spoke of the monitoring of weeds in Hells Canyon, and a variety of the weed projects we have underway at this moment that both of us think are critically important for the health of our rangelands. What are some of the lessons you've learned from this effort, especially the Hells Canyon effort?

Mr. WHELAN. Thank you, Senator. It's been an interesting and difficult and at times frustrating, but very valuable 3 years doing this project in Hells Canyon, and I think we can derive a couple of different lessons from it—lessons, I'll say, by the way, we intend to fully share with the land management agencies who are our partners in this project.

First of all, the importance of getting a handle on the dynamics of the spread of these weeds. We initially thought that we were going to do this by using satellites, but it didn't work. Now what we do, we put people on planes and helicopters, where we can fly 20,000 acres in a day, and find the leading edge of invasion and get the spots we need to treat.

The second lesson is the importance of having people who can get on the ground quickly, regardless of the ownership of the land in question. Getting people to the right spot quickly is key. For that

we have SWAT teams. And some of this country, as you know, because it's kind of your home country, is extremely rugged. Last year we had a fellow who was kicked in the arm by a mule and sent to the hospital. We have mule teams going into some of these places, but getting in there while you have an invasion, just beginning is the key. Mobility and eyes in the sky are key to what we're learning in Hells Canyon.

Senator CRAIG. Well, you're right. Some of that country is—I think there's an expression called steep as a cow's face—even steeper.

Mr. WHELAN. Yes, if you straightened it out, I think we'd have an extra state hidden in that country somewhere.

Senator CRAIG. I've tried to convince Texans of that. They'd be relatively small. Anyway, you did mention, and it does lend itself in part to the frustration that I think Dr. Knight has spoken to, when you were dealing with Dennis Moedl—that's right over in the Henry's Lake area—and the work that has gone on there to basically save a ranch, and save a resource, and save a habitat, and save an open space, and save a vista. Speak to that a little more if you would, please, because that's a partnership that seems to be applicable in a variety of areas, if we could get to it.

Mr. WHELAN. Thank you, Senator. The issue of growth and subdivision is not an issue everywhere in Idaho, but you have to imagine a landscape of really breathtaking beauty, on the doorstep of Yellowstone, about a 20 minute drive from West Yellowstone, in an area of private land that sits between Yellowstone National Park and the Centennial Range. It's a critical wildlife habitat corridor, for big game and a number of animals. It's also becoming very, very desirable real estate. The Moedl family has been in the ranching business for generations and they were getting offers from developers to subdivide that ranch, and that would have cut off those migration routes between those mountain ranges. He also runs a summer camp for kids, brings kids out there and teaches them how to ride a horse, how to take care of cows, teaches them, I think, some character along the way. And he wanted to keep that ranch and that summer camp in the family, and by working through the Land and Water Conservation Fund, and the Bureau of Land Management, the Nature Conservancy was able to negotiate a deal with the Moedl family, that compensated him for some of the development value of that land, in exchange for a commitment to keep the habitat in open space. It's just a wonderful project, we're very proud of it, and thank you for your help in making that happen.

Senator CRAIG. Well, like I say, it doesn't fit in every instance, certainly, but I think we need to explore that more, especially as these land values become so phenomenally enticing to generational ranchers who have really founded a lifestyle more than an investment of substantial return, as we know that cattle ranching can be. And it is very frustrating to see some of these very valuable land resources—that's what I view ranches to be—broken up in the way that they are in some instances happening, so thank you for that.

You lay out good reasons for why conservationists should support working landscapes, do you have sense for why so many within the conservation community don't recognize this combination of values at work?

Mr. WHELAN. I don't, Senator. I'm not sure I can put myself into the head of our colleagues and friends in the conservation movement all the time, you know. And I think Dr. Knight was correct in saying that it is possible to do grazing in an ecologically sound manner. If that were not true, we would not be having cows on preserves like the 45 Ranch, the Pahsimeroi Ranch, and the Crooked Creek Ranch. Grazing has an effect on the ground, and it's critical that that grazing be accountable to the condition of the land and that it is managed for rangeland health. That's in all of our interests. But it is increasingly clear throughout the West that we have a challenge maintaining the pattern of land ownership on private lands and what we do with rural landscapes will have a lot to do with how much wildlife habitat remains on private lands and the seasonal home for wildlife that uses the public lands.

Senator CRAIG. Well, thank you for those comments and for what The Nature Conservancy is doing at this moment in Idaho. I think that there are some very valuable partnerships there that are working well for the land and the resources and the people involved.

Mike, thank you for being here and speaking out as you have. I'm concerned about the situation you've described concerning the Wild and Scenic Rivers designation and grazing. It's been my belief that Congress provided protections to existing grazing uses in the original act. Is there something unique to the Oregon designations that have facilitated these court decisions?

Mr. BYRNE. I'm not aware if it's unique to Oregon, but I think the word "enhance" seems to be the one that the courts are getting hung up on. Instead of maintaining high quality habitat, they're saying that the existing uses are authorized, but they need to enhance the value of the Wild and Scenic.

Jeff is here, our national director. Do you have anything to add?

Mr. EISENBERG. Well, Dr. Knight in his very opening comment made a statement that was really extremely profound. And I'm always frustrated by—from where you measure, as to what enhanced is, or what improved is. I was reading the diary of a cavalry officer in Idaho in the mid-1800's. Now from what basis he could—he had knowledge, I'm not sure, but he had made the observation that by the mid-1800's, Idaho rangeland had been depleted by over 50 percent. And of course that was the years of massive horse grazing and southwestern cattle movements up across the rangelands of Idaho and Montana and Wyoming. And I've always, from that, said where do you measure? Yesterday? And do you view that as the state of depletion of 20 years ago and the progress that's been made? And my guess is probably the word "enhance" has frustrated and/or been effectively used as a tool by some who might otherwise find another tool.

Senator CRAIG. Well, thank you for your observations. I do hope that the House is successful in passage of some modifications in the Endangered Species Act. We will attempt here to deal with them in a way that can produce a changed law that allows some flexibility and some management instead of the lockstep that we've seen largely incorporated in court decisions over the last several decades that is well beyond what an Oregonian by the name of Mark Hatfield intended the Endangered Species Act to be, as did



many others. Those still living who were there at its inception are looking at it now and saying, no, that is not what we intended. I don't think it was ever intended that you list and have less than about a 1-percent recovery of all of those listed. It has really become a tool for exclusion of activity more than it's become a tool of effective management to save species, and hopefully we can change some of that. And it is difficult, obviously, because of how some interest groups hold the act, or see it as a valuable tool to accomplish what their perception of land use, or non-use ought to be.

Well, gentlemen, we thank you very much for your testimony, and as I said in my opening remarks we will monitor very closely what our agencies do over the next several years as we try to rid ourselves of the backlog and create the kind of due diligence that is necessary within the agency itself. But I do think that all three of you have expressed what—at least in some ways—is a growing understanding about the value of properly managed grazing in the whole of the ecosystems of our—especially in the West where you have environments that are by definition fragile and yet can be highly productive and beneficial to surrounding communities of interest for a lot of reasons. So, again, thank you very much for you time before the committee. It's appreciated, and I think the record you helped us build today is very valuable.

The committee will stand adjourned.

[Whereupon at 3:45 p.m. the hearing was adjourned]



APPENDIX  
RESPONSES TO ADDITIONAL QUESTIONS

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DEPARTMENT OF THE INTERIOR,  
OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS,  
*Washington, DC, November 10, 2005.*

Hon. GORDON SMITH,  
*Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.*

DEAR SENATOR SMITH: Enclosed are responses prepared by the Bureau of Land Management to questions submitted following the September 28, 2005, hearing regarding Grazing.

Thank you for the opportunity to provide this material to the Committee.

Sincerely,

JANE M. LYDER,  
*Legislative Counsel.*

[Enclosure.]

*Question 1.* As you know, the Owyhee court decision asserted that grazing in Wild and Scenic river corridors must "protect and enhance" biological resources in the area. However, the decision disregarded the fact that grazing existed long before the Wild and Scenic River designation. It also disregarded the fact that Congress intended grazing to continue in the area. Is there a better way for Congress to assert its intentions when it designates land for certain uses?

Answer. The Wild and Scenic Rivers Act (WSRA) states that a river that is subject to the WSRA shall be administered "in such manner as to protect and enhance the values which caused it to be included in said system without, insofar as is consistent therewith, limiting other uses that do not substantially interfere with public use and enjoyment of these values" (Public Law 90-542, §10(a)). A management plan for a WSRA river segment "may establish varying degrees of intensity for its protection and development, based on the special attributes of the area." (Id.) Thus, the WSRA does not ban activities such as domestic livestock grazing, but requires that the BLM manage them in a manner that is consistent with the protection and enhancement of the river values. The BLM is given the discretion to strike this balance, while satisfying the mandates of other statutes, such as the Taylor Grazing Act, the Federal Land Policy and Management Act, and the Public Rangelands Improvement Act.

Management decisions are made through BLM's planning process that provide for long-term direction for each of the wild and scenic rivers. In developing these plans, the BLM works with all interested parties to balance the wide range of uses that occur on wild and scenic rivers. In most plans, the BLM does in fact balance the management of the river resource with grazing. Grazing still occurs along the vast majority of BLM managed wild and scenic rivers.

In the Owyhee case, a solution for the area's complex management issues proved extremely difficult. The issue of grazing within the rugged Owyhee Wild and Scenic River corridor arose as a result of the difficulty in reaching consensus regarding how livestock grazing within the corridor could be economically managed while protecting and enhancing important resource values. In this situation, while the BLM attempted to maintain grazing within the canyon, approximately 25% of the area was identified by the BLM as "areas of concern" due to the impact of cattle grazing. The Court found that, for the "areas of concern," the BLM management plan was not adequate for the protection of the area's river values and ordered the area to be closed to grazing. In the end, the BLM had to permanently reduce 958 AUMs on 18 miles of the Owyhee. Grazing continues meanwhile, on the uplands surrounding the canyon and on the other portions of the Owyhee Wild and Scenic River.

The BLM will continue to work., through its land use planning process, to balance the requirements of all applicable laws and the needs of all users.

