

Friends of Living Oregon Waters (FLOW)

P.O. Box 2478
Grants Pass, OR 97528
541-251-3569
www.oregonwaters.org

November 2, 2007

Linda Duffy
District Ranger
Rogue River/Siskiyou National Forest

Big Grayback EA comments submitted on November 2nd, 2007 at 7:05 AM by electronic mail to lduffy@fs.fed.us and comments-pacificnorthwest-rogueriver-siskiyoumountains@fs.fed.us.

Re: EA Comments for the Big Grayback AMP Update EA

Friends of Living Oregon Waters (FLOW), P.O. Box 2478, Grants Pass, Oregon, 97528, is an IRS-determined 501(c)3 organization comprised of hundreds of members dedicated to advocating for the protection and restoration of Oregon's waters. FLOW uses legal oversight and public education to help protect *Oregon Waters* from the impacts of pollution and development. FLOW's Public Lands and Waters campaign focuses on the protection of water resources on public lands and the terrestrial environments that make up their watersheds.

Our goal in providing comments is to help National Forest comply with its obligation to protect the sensitive resources at risk in the Big Grayback Allotment Area. Given the history of degraded conditions on Grayback and the past inability of the USFS to administer the allotment in a manner that protected the resources, we are concerned that grazing may be inappropriate in many or all areas of the Grayback Allotment.

Below are our specific comments on the Environmental Assessment:

Allotment Boundary

1. The RRSNF has inappropriately redrawn the boundary of the Big Grayback Allotment. The "Buck Peak Agreement," which apparently caused the inclusion of the Grayback Mountain and Bigelow Lakes Botanical Areas, was not publicly reviewed, nor should it be used as a reasonable starting point for consideration of this allotment. Given the well-documented, repeated history of cattle damaging lakes, streams, and meadows in areas outside of the true current boundary (set in 1962), it is unreasonable for the RRSNF to propose expanding the Allotment at this time.
2. The RRSNF's claims regarding the Grayback Allotment boundary are particularly outlandish considering the RRSNF, in many discussions and communications in the past ten years, has regarded the Bigelow Lakes as outside the allotment boundary.

Furthermore, the RRSNF sent a letter to the permit holder which instructed him to "take corrective action and demonstrate your ability to keep your livestock within your allotment boundaries throughout the grazing season, and remove them by the off-date specified in your grazing permit. Failure to do so will result in permit action in the form of partial or full suspension or cancellation of your permit." The letter was sent in response to repeated instances where the grazier's cattle were found to be damaging the Bigelow Lakes area and other parts of the Siskiyou National Forest—an area which the RRSNF clearly considered to be outside the allotment boundary.

3. The EA misrepresents the history of disputes regarding the Grayback Allotment and its boundaries. The public has been misled in the current document and led to believe that the many instances where the permittee's cattle have been sighted well outside the 1962 boundaries were actually permissible under the "Buck Peak Agreement." Essentially, the public is led to believe that the USFS has administered the Allotment in the past in such a way that grazing outside the Allotment boundary has not been a problem. This is not the case, and the EA should be withdrawn or amended to allow the public to know that the cows have historically been difficult to control. Ultimately, USFS management (often relying on the permittee) has, in the past, resulted in livestock grazing extending well beyond the terms of the permit's limitations on extent and duration of grazing.
4. Past difficulties in limiting the spatial extent and duration of grazing are not out of scope, as suggested in the EA. It is crucial for the USFS to explore how and why past efforts to control cattle movement have failed. If the USFS were to do so, its proposed action might not involve salting, herding and fencing techniques that have demonstrably failed in the past. Particularly in low-forage years, or in years when the ground is very wet during the period of cattle use, the proposed methods of mitigating cattle impacts on riparian areas and areas outside the Allotment may prove unsuccessful. It is essential, then, that the USFS accurately describe the legal boundaries of the Allotment, the past history of how this boundary may have been in question, and the nature of any agreement between the USFS and the permittee.
5. This EA is fundamentally and irreparably flawed because of the misrepresentation of the Big Grayback boundary issue. The USFS has presented the public with a document that is almost worthless, as many of the impacts cannot be adequately assessed without a clear, complete understanding of the Allotment boundaries. We almost cannot overstate our level of disappointment in this EA, given how long we have waited for an opportunity to address the severe impacts occurring OUTSIDE as well as inside the Allotment boundary. The errors regarding the disputed boundary are so fundamental—they permeate the entire EA and render much of the analysis inaccurate.
6. If the AOIs have suggested in the past that the boundary is other than the 1962 boundary, the public should have been notified. Changing the boundary is its own action, worthy of public review, and should be considered somewhere other than in the No Action Alternative. The AOIs do not represent proof that the "Buck Peak Agreement" is the

legal or understood boundary of the Allotment. Indeed, FLOW has documentation that, since this supposed agreement, the RRSNF has informed the Permittee that the Bigelow Lakes area is outside his Allotment. We have had several discussions with Forest Service managers and staff regarding the trespass issue over the past several years and reported various incidents of trespass that our field monitors have discovered. You have supported us in this effort, asking us to monitor, asking us to verify field conditions. In good faith we have worked with the Forest Service to monitor this allotment. To be informed, in an EA nonetheless, that the boundary allegedly includes Bigelow Lakes raises serious issues concerning the integrity of those within RRSNF that have told various members of the public a completely different story to this point.

7. The Proposed Action should not expand the Allotment. This is entirely inappropriate, given the history of degradation in areas that are proposed for inclusion in the expanded Allotment. The Allotment should be analyzed in light of the original 1962 AMP boundary. The RRSNF's argument that adding acreage will dilute impacts is undefended and speculative. The cattle may simply congregate in riparian areas throughout a larger area; the offset in the concentration of impacts may be minimal in comparison to the expanding the extent of cattle impacts to soils, riparian areas, and other resources. There is no justification for adjusting the Allotment to reflect "traditional use patterns", particularly without assessing the expanded area for its suitability.
8. Most importantly, the Permittee has repeatedly violated his permit in terms of his permit by allowing cattle to graze outside the Allotment, and by failing to respond when the RRSNF and the public have asked him to properly manage his cattle. Additionally, he has allowed his cattle to remain well beyond the off date for his Allotment. The RRSNF's solution to the problem in this document (expanding the spatial and temporal limits of the permit to represent what it calls "traditional" use patterns) unduly lends credibility to the agency and the permittee's inability to control livestock movement in the past.

Water Quality

1. As the EA indicates, the Grayback Allotment currently impacts the water intake for the Oregon Caves National Monument. The USFS should explicitly detail the nature of *cryptosporidium* and *e.coli* contamination in Lake Creek. There are associated possible economic impacts associated with contamination of the water source for the Oregon Caves, as well. The risk of contamination receives extremely inadequate consideration in the EA.
2. Lake Creek is outside the Allotment Boundary. Hence, the threat to the Oregon Caves water source reflects a failing in the USFS ability to administer the grazing permit in a responsible manner. The USFS fails to demonstrate that its strategies for amending the AMP—fencing, expanding the Allotment boundary, salting and herding the cattle differently—will be successful in reducing or eliminating the threat of biological pollution in Lake Creek. Indeed, given the history of USFS inability to keep cattle away

from this area (outside the Allotment, no less), the problem of biological contamination may only be rectified by partial or full cancellation of the grazing permit.

3. The EA makes an unsatisfactory and cursory attempt at assessing the risk of contamination from *Cryptosporidium* and *E. coli*. While it states that “alternatives that eliminate cattle from the area eliminate some of the risk. Wildlife and recreational livestock uses would continue around Bigelow Lakes” (EA p. 51). The USFS has made no attempt to quantify the risk associated with cattle, or to note that the intake the OCNM water supply is outside the historic Allotment boundary. Indeed, while it is “difficult, if not impossible to predict (and manage)” all possible sources of contamination, there is no question that, in the past, heavy livestock use in the Bigelow Lakes area has drastically enhanced the risk of biological contamination. The high concentration of impacts caused by livestock loitering near Lake Creek differs markedly in severity from occasional possible wildlife, human and recreational livestock contamination. With more intense contamination, normal treatment techniques and natural filtration become less effective. Filtration and treatment reduces but does not eliminate all risk of biological contamination, and the level of risk remaining after filtration and treatment is directly related to the degree of initial contamination (which would be sharply enhanced by cattle presence at the intake of the OCNM water supply).
4. The EA states that there will be no adverse impact on water quality. This statement, again, fails to account for the fact that residual contamination is at least somewhat dependent on initial contamination levels. Hence, asserting that there would be “no adverse effects” misleads the public by implying that the water quality and the contamination risk will be the same, regardless of possible livestock-induced impacts near the intake of the OCNM water source. Water quality standards are designed to mediate risk of illness, not to eliminate all risk. The USFS has misrepresented the nature of contamination risk, and the possibility that livestock might worsen the risk of dangerous contamination to OCNM water.
5. The USFS is not complying with the Clean Water Act in authorizing actions that routinely increase contamination risk and other water quality impacts in areas outside of the legal boundaries of the Allotment, as well as impacts to CWA 303(d) listed streams. The actions will not demonstrably, reliably improve or maintain the conditions in these areas—particularly as the proposed action relies on mitigation measures that have been shown to fail in the past.
6. Although the RRSNF asserts that cattle are not impacting stream channels in and near the Allotment, the presence of livestock in these streams contributes to biological contamination, sedimentation, and loss of streamside vegetation. We dispute that these areas have only been “lightly used”. Any level of cattle impact outside the Allotment is unacceptable. Disturbance of streamside vegetation and soils can limit shade and increase erosion, and this has certainly occurred in local areas. The disruption of riparian environments ultimately has a direct effect on the quality of water in the Allotment and the surrounding watersheds.

7. The cumulative impacts analysis for watershed-level effects on water quality is inadequate (see also Cumulative Effects below). The model presented for cumulative watershed effects analysis does not accurately represent the actual impacts of livestock grazing. Not only does the RRSNF use an inaccurate model as a proxy for actually analyzing the specifics of past activities and how they are impairing watershed function, it unreasonably dismisses the fact that both watersheds approach or exceed the Threshold of Concern.

Riparian Habitat/Aquatic Conservation Strategy

1. We completely disagree with the assertion that the USFS is complying with the ACS, either at local or at fifth-field scales. Indeed, the USFS has, at times, been forced to threaten the permittee with limits or revocation of his permit due to trespass and riparian impacts in the Bigelow Lakes area. The USFS offers inadequate baseline and site-specific data to support its claim that impacts are “short-term.”
2. Additionally, insisting that past efforts to control cattle have been successful is completely absurd, given the documented history of cattle trespass, overuse of riparian areas, and inability of the USFS to limit these impacts through the efforts of its employees or the permittee. The USFS should detail exactly how herding and salting has been successful, because our monitoring and experience indicate that livestock have repeatedly clustered in sensitive riparian areas, often outside the understood boundaries of the Allotment.
3. The RRSNF admits that livestock have overused some riparian areas in the Allotment (not to mention some areas outside of the Allotment). The USFS needs to justify the continuance of grazing in this case, as its own records should show (as ours do) that areas within and outside the Allotment boundary have been degraded in the past. It is unclear how the USFS can classify all of these impacts as “short-term” or exactly what time framework this refers to (please clarify), but we believe the impacts have often diminished the integrity of many of the high-altitude meadows, streams, and springs over the years.
4. The RRSNF has offered no clear baseline for comparison of the soil conditions in and near the Grayback Allotment. The EA states that past grazing activities have affected soils and riparian areas—yet, the EA fails to reconcile existing degradation in some areas with its standard for “reduction” in parameters for soils. Hence, the analysis of riparian conditions seems cursory, with little site-specific reasoning offered to support the RRSNF’s conclusion that grazing is in compliance with the ACS and maintaining or improving good riparian corridor health.
5. The utilization standards proposed appear to be unsubstantiated and arbitrary in some riparian areas. The standards themselves do not ensure that areas inside and outside the Allotment are protected from undue impacts.

Botanical Resources

1. The boundary should not be redrawn to include the Grayback Mountain and Bigelow Lakes Botanical Areas. These areas should be considered outside the Allotment boundary and completely protected from the impacts of livestock grazing.
2. The various fencing and herding schemes proposed under different alternatives may not have the efficacy suggested by the RRSNF. The RRSNF should state how and why fencing has failed in the past, and what specific indicators the RRSNF will use to trigger additional measures. The utilization standards are inadequate for this purpose, as severe local impacts can diminish the health of important botanical areas. Ultimately, the RRSNF has to demonstrate that its utilization standards are a reliable basis for judging when areas are being overused. The RRSNF states that these standards have generally been met in the past (we would disagree), and yet there are significant areas impacted by the Allotment that are overused and may require rehabilitation through relief from grazing.
3. The public should be able to enjoy the Botanical Areas outside the 1962 boundary in untrammelled condition. By proposing to expand the Allotment to include these and other areas, the RRSNF is diminishing what should be a more remarkable recreational experience for users. Cattle diminish the vigor and distribution of rare and sensitive species, and the RRSNF does a disservice to the recreational use that should be occurring by failing to enforce the current permit properly, and by proposing to resolve this poor administration by expanding the Allotment boundary.
4. Non-native species present a threat to native plants in the Grayback Allotment area. The RRSNF has failed to present a thorough analysis of how invasive species will displace native plant resources, and how the proposed mitigation efforts might unfold. The RRSNF should go beyond saying that more cows imply more invasive species. It should analyze how the spread of these species may depress the ability of other species to flourish.
5. The RRSNF has not demonstrated that its utilization standards will afford the necessary protections required for sensitive and rare plant species. The EA lacks recent, specific and reliable scientific data to corroborate its assertions that the proposed utilization standards are adequate for maintaining and improving rare and sensitive plant populations. Primarily, the RRSNF is relying on old data to paint its rosy picture about the health of plant populations that depend on the Big Grayback project area.

Research Natural Areas

1. There should be absolutely no grazing in Research Natural Areas.

2. No level of livestock impacts is appropriate for RNAs. The RRSNF must present specific, credible, and enforceable measures by which these areas will be protected from cattle impacts. Many of the Alternatives rely heavily on Permittee vigilance, which has in the past proven extremely unsuccessful in controlling cattle movement in and around the Big Grayback Allotment. If fencing, herding, or other practices are going to be used near RNAs, the RRSNF needs to clearly detail how these measures will be successful in keeping the RNAs completely free of livestock.

Soil Disturbance and Productivity

1. Livestock have extensively impacted soils in areas throughout the Allotment, in addition to many areas outside of the Allotment. In the Bigelow Lakes area, soil disturbance has limited the vigor of native vegetation and the quality of streams, seeps, and the lakes. Cattle hooves have churned the soil in many areas, and we disagree with RRSNF assertions that grazing practices are meeting standards for soil structure and productivity. The RRSNF's standards for soil productivity are arbitrary.
2. The EA inadequately describes the extent and severity of riparian soil impacts; our own field monitoring indicates frequent instances where cattle have churned wet soils, displaced the soil, and impeded the growth of vegetation in these wet areas through grazing and trampling.
3. The level of impacts to soils occurring on the Allotment is inconsistent with the National Forest Management Act, which disallows actions to be taken that deplete soil productivity. The RRSNF has presented arbitrary thresholds for damaging levels of soil disturbance; in actuality, productivity should be related to the amount of vegetation a soil can support. In an area that has received past, widespread impacts, the RRSNF may be perpetuating a situation of diminished soil productivity that is inconsistent with NFMA, particularly in areas outside the 1962 Allotment boundary. The percentage of detrimental disturbance allowed is arbitrary in this case, and the RRSNF needs to present data that corroborates its soils standard, in general, as well as the specific information that indicates that its detrimental disturbance threshold is appropriate for Grayback Mountain.

Wildlife

1. The RRSNF should explore how fencing may affect wildlife dispersal in the project area. Several of the alternatives propose fencing that, while limiting the movement of cattle, may also limit the movement of other species.
2. The RRSNF needs to offer the public more specific population-level data about MIS such as elk, resident cutthroat trout, various woodpeckers, and others. The RRSNF should not use vague estimations about habitat health as a proxy for specific information about these species. It makes little sense to use habitat as a proxy for MIS which act as a proxy for habitat; this circularity confounds the usefulness of MIS considerations and assessment of wildlife habitat health. The RRSNF needs to present the public with population trend

data to corroborate its claims about impacts on wildlife. The RRSNF's claim is counter-intuitive and lacks population data to elevate it above the level of arbitrary speculation.

Economics

1. According to our information, the permittee pays \$379 per year in fees to graze cattle. (\$1.35 per AUM). The RRSNF needs to fully disclose the economic impact of this grazing allotment on the public and the permittee. The economic impact, in this EA, lacks this information which demonstrates the absurdly low rate paid by the permittee for use of the Big Grayback Allotment and does not give the public a reasonable and non-biased assessment of economic data.
2. The economic analysis fails to make any attempt to quantify the economic impact of many of the negative impacts of continued and expanded livestock grazing. Were the RRSNF to permanently allow grazing in the Bigelow Lakes and other botanical areas, it would greatly reduce the attractiveness of these areas for recreation. Recreational users, in turn, generate economic activity. While the RRSNF may find it difficult to quantify these impacts, it should at least qualitatively indicate that the economic impacts of its public lands grazing program is more complex than indicated by the extremely perfunctory cost analysis included in the EA.
3. The RRSNF should include more information about grazing fees, also for the purpose of helping the public to weigh the overall outlay of public funds to administer the Big Grayback Allotment. While expense to the permittee and the public is not the only factor that should be taken into account when considering the future of grazing operations, the public would benefit from a clearer accounting from the RRSNF about the overall costs to the permittee and the agency. In the case of the Big Grayback Allotment, the public is heavily subsidizing grazing activity that is chronically diminishing the water, soil, vegetation and wildlife of Grayback Mountain.

Cumulative Effects

1. As discussed above under the water quality section, the RRSNF needs to give more specific and rigorous information justifying their model for cumulative watershed effects. There are many assumptions inherent in this model. The information presented is not specific and does not detail the nature of the impairment in the watershed, nor does it specifically account for differences in different types of impacts throughout the affected areas in the watershed.
2. Cattle grazing impacts are less visible over an entire landscape than other types of impacts, yet they can be concentrated near streams and impair function of the watershed nonetheless. With erosion, sedimentation, high stream temperatures and biological contamination being serious concerns in these watersheds, the RRSNF is failing to accurately represent the relative importance of grazing impacts in light of other activities in the watershed.

3. The RRSNF does not specify how future actions are incorporated into their planning model. They need to give consideration to reasonably foreseeable future and past actions.
4. The relative level of disturbance of past, future, and current actions should be described in greater detail. The RRSNF should not mask the specific impacts of each of these activities by using broad vegetative class maps, and the cumulative effects analysis needs to address more specifically how different types of impacts are weighted relative to one another in terms of how severely they impair watershed function. In the case of the Big Grayback Allotment, livestock are affecting springs, seeps, lakes and streams that are high up in the watershed, and some of the effects may extend well beyond the boundary of the Allotment (particularly biological contamination, which may be only somewhat mediated by treatment and natural filtration as the water makes its way down through the two key watersheds).
5. The cumulative effects analysis for Botanical Areas is inadequate and perfunctory, as past unpermitted grazing (trespassing cattle) augment the possible impacts of the current proposed action.
6. The cumulative effects analysis for wildlife is also lacking in thorough population-level analysis that accounts for all activities that may have fragmented wildlife habitat. Particularly for MIS and PETS species, the RRSNF is required to offer site-specific population data, not just assessments of habitat viability.
7. The cumulative impacts analysis for soils is inadequate. The RRSNF failed to defend its standards for detrimental compaction, nor has it demonstrated that soil conditions in sensitive areas have not been impacted. The standards are based in changes in certain soil parameters (bulk density, etc), but the RRSNF has stated that past logging activity has impacted the area. Hence, the data presented in the EA lacks an adequately described baseline against which we can compare current conditions. Furthermore, there are many, many wet areas near the Bigelow Lakes where we have documented churned, compacted soil in the past from cattle venturing outside Allotment boundaries. The RRSNF Soils Report offers the public many tables of information about the status of soils, yet it fails to thoroughly analyze these data in light of past impacts, current grazing practices, and impacts that could be anticipated for the different alternatives.
8. The cumulative effects analysis for resident and anadromous fish (Lake Creek watershed) and other aquatic species is inadequate. The RRSNF failed to fully analyze all impacts in the watersheds affected by the Big Grayback allotment, and this failure to develop a thorough inspection of cumulative watershed effects permeates the EA, compromising the level of analysis for TES fish species affected by the project. Particularly for resident cutthroat trout, cattle may increase sedimentation and biological pollution in a manner that endangers fish, particularly as water temperatures increase in late summer.

Unfortunately, the cumulative effects analysis for these aquatic species is neither qualitatively or quantitatively rigorous.

Conclusion:

We are disappointed that the RRSNF has produced this EA as the fruit of its long effort to manage the Big Grayback Allotment's range of sensitive wildlife, soil, plant, and aquatic resources. The EA is fundamentally flawed because the RRSNF has used an inaccurate information and presented this to the public. Therefore, public cannot engage in a realistic discussion about the impacts of the Big Grayback Allotment if the RRSNF discounts the well-documented history of permit violations and environmental damage. While it is convenient for the RRSNF to declare all such discussion "out of scope", it undermines the NEPA process in this case and is illegal. The RRSNF should discontinue grazing on Grayback Mountain.

Respectfully,

/s/ Joe Serres

Joe Serres, J.D., M.B.A.
President, Board of Directors
Friends of Living Oregon Waters