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To: Linda Batten
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Re: Middle Fork John Day Range Planning Project DEIS

The Malheur National Forest (MNF) has undertaken an ambitious project in reviewing and updating its range management strategy in the Middle Fork John Day (MFJD) area. This large, scenic, and naturally diverse area warrants protection from overuse for many cultural, economic and environmental reasons. Our primary concern with current and proposed grazing practices is that overgrazing may diminish soil, water, and vegetation resources and particularly hamper the functioning of riparian corridors as aquatic habitat and wildlife corridors.

Past grazing activities have already diminished the ecological integrity of the MFJD planning area, and the DEIS notes that some areas have been acutely affected by past livestock overuse. Because there are sensitive fish and wildlife species present in the planning area, the MNF bears a high burden of proof in demonstrating that a continuation of grazing activities will not continue to diminish the resources on which these species depend. We are concerned with and unconvinced by the assertion that continued grazing of riparian areas will aid in the achieving the goals of sustaining good water quality, fisheries resources, and quality habitat for wildlife. We encourage the MNF to amend Alternative 3 or add a new action alternative that will demonstrably achieve the goals laid out for the Proposed Action—namely, recovery of the soil, water, and vegetation resources on the MFJD allotments. Our own monitoring efforts indicate that several areas of the MFJD Allotments, both in riparian and upland areas, have been negatively impacted by grazing activities, and we insist that the MNF develop an action alternative that effectively limits grazing where it has diminished soil, vegetation, and water quality in the past.

As currently written, the DEIS offers the public an “all or nothing” analysis, wherein grazing will continue in a potentially detrimental fashion, or be cancelled altogether. The MNF should amend this DEIS, offering the public more alternatives grounded in rigorous scientific reasoning. The DEIS cites several peer-reviewed articles, but the “adaptive management” strategy offered in the Proposed Action does not rely on proven methods of monitoring and management in order to achieve measurable goals of maintaining and improving riparian vegetation and water quality conditions. Currently,

neither of the Action Alternatives serves the public interest by offering a reliable strategy for improving riparian and water quality conditions in the project area. Our more specific comments and concerns are included below:

Narrow Alternatives

1. In the current DEIS, all action alternatives maintain or increase the overall AUMs for the MFJD allotments. While we welcome an “adaptive management” approach to herding and responding to on-the-ground problems, the MNF should have addressed the possibility of reducing stocking levels more directly. The MNF does not identify or scientifically support with adequate specificity the manner in which somewhat vague “adaptive management” strategies will achieve results in improving riparian conditions, and so it should have developed an Alternative that achieved the goals through a reliable manner of management—reducing cattle use.
2. Alternatives involving reducing cattle use, or specifically fencing or reducing cattle use in sensitive riparian areas and along the MFJD itself were identified during scoping, and the MNF rejected these and other intermediate strategies for improving range conditions as “unnecessary.” In order for the MNF to achieve riparian recovery goals reliably, it should develop an alternative that is sure to reduce cattle impacts. By developing an alternative for both reducing cattle numbers and excluding them from sensitive riparian areas, the MNF would have generated a more well-rounded analysis that would have been made more meaningful by incorporating a broader range of possible management strategies available. By having fewer cattle in streams, many of the impacts, such as the trampling of redds and the loss of vigor in riparian vegetation, would be lessened. In failing to acknowledge this obvious option (one that was clearly identified by the public in scoping), the USFS failed to meet the NEPA standard of developing a reasonable range of alternatives.

Suitability and Capability

1. The MNF failed to produce an adequate suitability and capability analysis. While the Forest Plan is supposed to establish suitability, the project-level planning is where we establish the specific, ground-level applicability of a suitability determination. Riparian areas should not be considered “suitable”, particularly near the headwaters of a possible Wild and Scenic River (the Middle Fork John Day). The water quality of many streams on the allotment is impacted from the moment it springs out of the ground in the midst of the MFJD allotments. The Malheur National Forest needs to demonstrate how and why the areas being grazed, particularly near rivers and streams, are suitable for grazing. Clearly, the suitability analysis is inadequate and the utilization standards too lax, given the high degree of cattle presence, manure, and trampling in the streams in the project area. There is no evidence in the Forest Plan or in the specific grazing plan that the Malheur National Forest undertook the detailed scientific analysis

necessary, considering both past and future impacts, to deem areas “suitable” for grazing.

The EIS fails to demonstrate that, in concert with the Forest Plan for the Malheur National Forest, the area is being grazed in a manner consistent with its actual suitability or capability. The areas that are suitable for grazing obviously are not suitable for an unlimited number of cattle. The MNF fails to address adequately in this EIS how future grazing practices will remain consistent and within the bounds of range capability. Indeed, while the MNF uses utilization standards as its indicators for whether or not the area is being overgrazed, these models themselves should be defended and buttressed with site-specific data that links a specific utilization level to an associated desired range condition. Insofar as the MNF fails to link its utilization models through a verified, validated scientific model that incorporates site-specific data, the recommendations of the EIS are arbitrary and capricious, and may very well continue to diminish the quality of vegetation, soils, and water quality in the Project Area.

2. Forest Service regulations specify, “In forest planning, the suitability and potential capability of National Forest System lands for producing forage for grazing animals and for providing habitat for management indicator species shall be determined...” (36 C.F.R. § 219.20)

Has MNF actually determined if these lands within the Upper Sycan allotments are suitable for cattle grazing? The EIS should clearly describe the basis for why these areas are suitable, how they are suitable, and how proposed management is consistent with the specific suitability and capability recommendations made in the Forest Plan. Suitability, incidentally, is defined under 36 C.F.R. § 219.3 as “the appropriateness of applying certain resource management practices to a particular area of land, as determined by an analysis of the economic and alternative uses foregone. A unit of land may be suitable for a variety of individual or combined management practices.”

The description of areas excluded from suitability on page E-3 demonstrates that the MNF’s consideration of suitability fails to consider the actual economic and environmental consequences of heavy grazing. Rather than analyzing the lands in this Proposed Action for suitability, the MNF simply excluded some lands that it knew were unsuitable. Hence, the MNF has never undertaken a comprehensive suitability analysis, and simply excluded “developed campgrounds, administrative sites (other than designated horse pastures), exclusive use special use areas, fenced roads rights of way, RNAs were records show grazing is not essential to maintain a specific vegetative type for which the RNA will be established, long-term exclusions, and lands which have been shown to be uneconomical to manage under any reasonable management system” (DEIS p. E-3). There are many sensitive riparian areas, some of them headwaters of streams that feed the MFJD and other tributaries, that warrant analysis for their suitability under 36 CFR 219.3, as grazing may not be appropriate for water quality and habitat reasons.

Adaptive Management, Monitoring and Mitigation

1. Monitoring and mitigation measures are not described with adequate specificity to ensure that the goals of the Proposed Action (“near natural recovery rate”), much less actual recovery of soil, water, and vegetation resources, will occur. For the Proposed Action, Chapter 2 does not offer adequate specificity in describing the “adaptive management” strategy for addressing anticipated problems with cattle distribution and impacts. In particular, pages 51-58 of the DEIS do not link the particular mitigations to their desired results through detailed analysis of how the mitigation will be effective. For instance, simply placing salt blocks away from sensitive stream areas will not necessarily ensure that cattle do not damage these areas, particularly in years of low forage (DEIS p. 56). Hence, the anticipated benefit to fisheries resources may not occur.
2. More importantly, the section describing “Elements Common to all Grazing Alternatives within the Planning Area” does not give adequate detail to ensure that the stated goals of maintaining and improving soil, water, and vegetation conditions (particularly in riparian areas) is achieved. The DEIS offers no project-level analysis that links end-point indicators to improvement of existing on-the-ground conditions. It applies the PACFISH endpoint indicators, assuming that these will result in no year-to-year impacts. This model does not appear to be specifically related to past and current practices in the Project Area. The MNF offers inadequate data linking their management approach to past achievement of recovery. The utilization standards and end-point indicators acts as a proxy for “near natural rate of recovery”, a standard that is both vague and confused in this DEIS. Ultimately, the achievement of “near natural recovery” rates will be assumed to produce improving conditions for fish, wildlife, and other resources. Yet, this “proxy for a proxy” has no basis in the DEIS analysis offered by the MNF. Indeed, the MNF must develop a more thorough analysis linking its monitoring and mitigation efforts to specific desired conditions in resources and population levels in aquatic and terrestrial MIS and other species.
3. The list of adaptive management strategies on DEIS p. 46 does not constitute a reliable strategy for responding to the problems that will undoubtedly arise on the MJFD Allotments by continuing the same stocking levels of cattle that have produced diminished soil, water, and vegetation conditions on the allotments. Indeed, the DEIS relies on this suite of strategies but does not specifically describe how, for instance, the sensitive stream reaches within the various allotments will be protected using these strategies. The strategies themselves are unproven, in some cases. In particular, “riding/herding/salting” can fail to keep cattle from returning to the same areas where they are causing problems such as trampling of vegetation, erosion, and in-stream impacts (DEIS p. 46). Because past grazing has negatively impacted the MFJD area, we cannot trust vague “adaptive management” measures to achieve improvements without the MNF offering more detailed information and analysis. The MNF has failed to meet its obligation under NEPA to offer a detailed, transparent, and thorough description

of how it plans to implement the action and how it reached the conclusion that this action would improve a variety of conditions in the MFJD area.

4. The strategies listed on page 46 are not linked to specific triggers in the monitoring plan. The MNF should establish firm standards, whereby damaging water, soil, or vegetation resources produces the reduction or removal of livestock. Because no end-point or “trigger” specifically produces any of the actions listed on p. 46 of the DEIS, the public cannot verify that the Proposed Action will not result in diminished water, soil, and vegetation resources. These impacts, in turn, will affect sensitive species such as threatened bull trout and steelhead.
5. Monitoring is dependent on funding, according to the DEIS. We are concerned that monitoring of implementation and effectiveness in the Project Area has been too spotty to be proven effective in the past, and future vagaries of funding may undermine the ability of the MNF to ensure that the resources are being adequately protected. Because the future success of the grazing program depends on the ability of the Forest Service to verify the implementation and effectiveness of the project, the MNF should present a more detailed plan that includes specific triggers that would indicate overuse and failure to meet standards. Funding concerns, if they have caused the MNF to fail to protect resources in the past, should not be considered “out of scope” as they call into question the willingness and ability of the USFS to implement management strategies where intensive monitoring is required.
6. The frequency of “effectiveness monitoring” is inadequate for protecting sensitive resources, particularly in riparian areas. Yearly monitoring efforts will not test the assumption that the standards and indicators used are actually achieving the stated goals of improving riparian water quality and vegetation standards. Rather, they will rely directly on these end-point indicators, “triggers”, and utilization standards, assuming that in achieving these standards the grazer is protecting the resources. Because the USFS has offered this monitoring and “adaptive management” program without verifying its applicability and effectiveness, it should undertake “effectiveness monitoring” more frequently than once in 10 years. Particularly when the USFS is basically permitting the cattle to exceed standards, with the hope that later “adaptive management” can address the problem, it is crucial for the MNF to demonstrate that its monitoring strategy, goals, and timing are adequate to detect the negative impacts we anticipate will occur as a result of continued heavy grazing in the MFJD area.

Riparian Conditions

1. While conditions in many areas may be improving, we are concerned that the goals and measures described in the DEIS may not necessarily ensure that conditions are maintained and improved in all areas. Sensitive stream reaches, in particular, may be in danger of being further degraded by impacts that are

excessive grazing that is essentially permitted in the Proposed Action. The DEIS states that “influences of livestock grazing must result in riparian restoration at a minimum of ‘near natural’ rates. ‘Near natural’ rates of recovery can occur by limiting environmental effects to those that do not carry through to the next year, thereby avoiding cumulative, negative impacts” (DEIS p. 16). This sounds more like a strategy for the maintaining conditions, rather than improving them, and the definition of ‘near natural’ recovery meanders throughout the DEIS from preventing year-to-year impacts to recovery at 70 percent of the natural rate to a rate that is scientifically indistinguishable from the natural rate. While these definitions may not necessarily be mutually exclusive, the USFS cannot claim that it can achieve recovery of riparian areas by having a vague, unmeasurable target.

The MNF intends to detect negative impacts that depart from a near natural rate of recovery with monitoring, yet asserts that near natural recovery will always occur. If the MNF’s real intention is to detect negative impacts that may cause conditions away from near-natural recovery, it must define its measurements of riparian parameters and specifically link them to the type of recovery desired in riparian conditions. The DEIS describes both qualitative and quantitative means of working towards this goal, but fails to establish a link between anticipated observations and the desired rate of recovery.

If by “recovery” the MNF means, more specifically, the recovery of vegetation in specific areas in terms of reaching later seral stages, the DEIS should clarify this point. Otherwise, we are left to interpret the term “recovery” in a more general sense, on that implies an improvement in the overall architecture of vegetation, water quality in affected riparian areas, and enhancement of late seral stages. As currently written, the DEIS does not articulate a credible strategy for how it will actually improve conditions from their current state, as grazing will be allowed to continue in largely the same manner that has caused many of the existing problem areas.

By simply avoiding effects that carry over from year to year, the MNF is establishing an unsatisfactorily low target, one that may not achieve the desired results of properly functioning riparian areas. The MNF has failed to demonstrate with a clear strategy how preventing carryover effects in most years will result in “recovery.” In fact, using this definition of near natural recovery would undermine the similarity between natural and near-natural recovery. Even in the best case, by simply preventing further cumulative impacts and most year-to-year impacts (goals we do not actually expect the Proposed Action to achieve), the MNF may perpetuate conditions in some areas where riparian vegetation and water resources have already been impacted. In implementing a lax definition of near natural recovery from PACFISH (as opposed to a rate that is measurably 70 percent of the natural rate), the MNF fails to ensure that it will actually improve riparian conditions and water quality.

Furthermore, the Proposed Action is not intended to stop all impacts: “The Forest acknowledges that standards would not be met in some years in some locations; however, the Forest would use the adaptive management strategy to respond to those concerns” (DEIS p. 11). The Proposed Action does not clearly articulate a rational, scientific link between the specific monitoring plans and

“adaptive management” proposed; indeed, without strategies for responding to repeated failures in meeting desired conditions in problem areas, the DEIS is deficient in its task of describing and analyzing how it will attain its stated goals. For instance, if “end-point indicators” are not met, will the MNF remove cattle from the allotment? The specific response measures are important because occasional herding does not prevent livestock from repeatedly returning to problem area. Ultimately, local areas of negative impact may accrue to diminish the integrity of the aquatic and terrestrial habitat without a specific, verifiable method of addressing these anticipated problems.

While the DEIS asserts on page 11 that the “proposed action would have an improving cumulative trend on riparian conditions over the life of the EIS,” it does not provide sufficient detail and analysis to support this claim. Certainly the DEIS is a lengthy and detailed document, but on this specific point, it is not clear how preventing carryover effects in most areas during most years (not all) will result in improvement of vegetation conditions in riparian areas. Under the grazing regime described, many areas may not improve at all. Adaptive management, while welcome, must give detailed strategies and specific triggers for attaining goals and avoiding negative impacts.

2. The DEIS states that “Since the condition of the riparian vegetative community directly affects these RMOs and changes in riparian vegetation are generally detectable within shorter time periods, the recovery of the vegetation component of the riparian system will be used to predict whether grazing will ultimately degrade, retard, or prevent the attainment of RMOs” (DEIS p. 17). If, as described above, the MNF has failed to clearly elucidate a strategy for attaining improvements in riparian conditions, and it does not prevent impacts in some years, the reliance on predictions based on the vegetation component of riparian areas for indications about riparian health may not be adequate to inform the adaptive management strategy. Regardless of the indicators chosen to represent overall riparian health (and vegetation condition may be a good one), the MNF should provide data that specifically links the indicators to attainment of corresponding RMOs. The “crosswalk” between qualitative and quantitative riparian condition assessments (functioning properly, etc.) does not specifically address the RMOs, nor does it establish consistency and measurability in the monitoring and “adaptive management” process. The DEIS appears to lack this level of specificity in its analysis, causing us to question whether improvement in RMOs will be attained.

Additionally, the MNF needs to demonstrate that its management strategy will contribute to achieving improvement in vegetation conditions (which act as a proxy for detecting improvement in RMOs). As argued above (see point 1), adaptive management will only work if monitoring occurs routinely and management changes are effective. Given the history of grazing producing problem areas, particularly in and near sensitive streams, the MNF should either describe specific, verifiable strategies for improving vegetation conditions (presumably moving towards RMOs) or retire grazing in sensitive riparian areas.

3. The question of defining a “near-natural rate of recovery” remains unresolved in the DEIS. The USFS is required under NEPA to clearly describe its methods and reasoning for reaching its conclusions in this DEIS. The DEIS tells us that “at the present time the science is not available to distinguish between the natural rate of recovery and the near-natural rate of recovery” (DEIS p. 65), and yet later in the same chapter the MNF defines the near-natural rate of recovery as “considered to be a rate that can be documented at seventy per cent or greater of the ‘natural’ rate” (DEIS p. 188). The terms begin to seem meaningless in this document. If the MNF cannot distinguish a natural rate of recovery from a near-natural rate of recovery, it should not use these terms to mask the real differences between grazing riparian areas and excluding cattle from these areas. Particularly when the MNF concedes that “some impacts will occur in some areas” due to the complexities and challenges of managing livestock as they move through allotments, the MNF should offer the public a more direct and quantifiable rationale for distinguishing the effects between alternatives.
4. The MNF also states on DEIS p. 188:

“Recovery of riparian conditions and stream channels is expected to occur at a ‘near natural rate’ which would occur when ‘triggers’ and endpoint are met annually and when Forest Plan Standards for riparian vegetation are met. A ‘near natural rate’ of recovery would also occur when adaptive management was implemented, as described in PACFISH Guideline GM-1, when grazing did not meet standards or when annual monitoring indicated that adjustments were needed ‘triggers’ or endpoints. PACFISH allows some affects from grazing under the near natural rate. A slower rate of recovery, which is not expected to be measurable, may occur under the Action Alternatives. A ‘near natural rate’ of recovery is used interchangeably with wording in the following sections that states ‘effects would be similar to those of the No Action Alternative.’”

This passage illustrates one of the central weaknesses of the DEIS, the failure of the MNF to develop specific, reliable methods of detecting cattle damage and ensuring that the system recovers. To achieve the goal of near natural recovery rates, the MNF must clearly define this term and then define measurable strategies for achieving this goal. Unless the MNF can accurately and quantitatively define its terms, and rationally apply the same definition of near natural recovery (is it or is it not measurably 70 percent of the natural rate, as it states on the same page?) throughout the DEIS, the public cannot rely on the Forest to distinguish between effects that are slowing or halting recovery, and those that are not.

As it is, the above paragraph implies that there will be no measurable difference between the Action Alternatives and the No Action Alternative, although it relies on measurable differences between the two to inform its “adaptive management.” The MNF’s reasoning is broken, and the public cannot be expected to trust vague mitigation strategies when the DEIS proposes to continue the same level of cattle use that has diminished the quality of water,

riparian areas, soils, and upland range. The DEIS states that past grazing has produced these effects, and that excessive livestock presence in some areas continues to produce these effects.

Water Quality

1. Note the State of Oregon's official definition of water pollution:
Such alteration of the physical and chemical or biological properties of any water of the state, including change in temperature, taste, color, turbidity, silt or odor of the waters, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into the waters of the state, which will or tends to, either by itself or in connection with any other substance, create a public nuisance or which will or tends to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational, or legitimate beneficial uses or to livestock, wildlife, fish or other aquatic life or the habitat thereof.
2. Clean Water Act Best Management Practices, specifically W-8, state that Management by Closure to Use is acceptable. The objective is "to exclude activities that could result in damage to either resources or improvements resulting in impaired water quality." Further, it states "Closures are made when the responsible line officer determines that a particular resource or improvement needs protection from use." The DEIS failed to provide any alternative that analyzed reductions or removal of cattle in detail for the purpose of improving soil, water, and vegetation conditions.
3. Under the CWA, specifically for livestock grazing, cattle must be managed properly to: a) prevent trailing and trampling of streamside vegetation; b) prevent utilization from exceeding the standards; c) prevent repeated use during the growth stages of plant development; and protect, maintain and improve existing riparian vegetation. The management strategy offered does not reliably achieve these goals. Indeed, the DEIS concedes that some impacts will occur in some years, and we are concerned that the adaptive management and mitigation measures described in the DEIS will not relieve deteriorating range and riparian conditions. Ultimately, many of these strategies have been proven to fail in some cases (such as very dry years or years of poor forage production), and if livestock continue to congregate in riparian areas, we cannot realistically expect water quality to improve. Either the DEIS should provide more detailed descriptions of how the strategies described on p. 46 of the EIS will achieve water quality goals, or the MNF should consider removing cattle in sensitive stream reaches.
4. Alternative 1 (no grazing) is absolutely the best alternative to for water quality. The EIS states, however, states that "the effects of grazing under either Action Alternative are expected to be similar in pattern to those described for water quality under the No Grazing Alternative" (DEIS, p. 189). Because neither of the Action Alternatives provides a credible method of protecting riparian areas from

activities that have helped contribute to diminished soil, vegetation, and water quality, the MNF's assertion about the equivalency of the Alternatives is false. Alternative 1 is the best option for Water Quality and Riparian Habitat. Referring to water quality, the EIS indicates that Alternatives 2 and 3 will rely heavily on monitoring and mitigation measures to meet state and federal water quality standards. The EIS failed to describe adequately *how* this monitoring plan would work on the ground and be implemented, and what specific measures will be triggered by a given set of conditions to require amendment or cancellation of grazing in sensitive areas. While the USFS has specific monitoring criteria for detecting harm, the MNF does not attempt to correlate these monitoring data with specific actions that will be reliable in addressing the problems that will continue to occur with heavy livestock use. The duty of the MNF under NEPA is to provide the public with an opportunity to make informed comments, and the current DEIS fails to provide adequate detail about how the MNF will respond if its monitoring indicates unacceptable negative impacts, and what threshold of "negative impacts" transcends acceptability, given that the DEIS states that some impacts will occur.

5. Nonpoint sources of pollution may be regulated under the Clean Water Act. Specifically for livestock grazing, cattle must be managed properly to: a) prevent trampling and trampling of streamside vegetation; b) prevent utilization from exceeding the standards; c) prevent repeated use during the growth stages of plant development; and protect, maintain and improve existing riparian vegetation. Grazing increases stream temperatures by removing streambank shading and promoting channel widening.

Streams associated with this project have been deemed "Water Quality Limited," such as the MFJD itself, Ragged Creek, Vinegar Creek, and many other streams listed on DEIS p. 185; hence, the MNF should carry a high burden of proof for its activities not exacerbating the limited water quality in the streams in the project area. The DEIS states that "elimination of grazing is not expected to result in measurable changes in most water quality parameters because streams in the Planning area are considered to meet most water quality standards based on the Range Eval project (Quigley et al., 1989)" (DEIS p. 187). The MNF is misleading the public on this point for at least two reasons. First, the indicators for water quality can increase regardless of their current compliance with water quality standards. Additionally, the presence of seventeen streams that are listed as Water Quality Impaired by the Oregon DEQ would indicate that local areas of concern do exist, and the DEIS specifically links some of these existing problems to past grazing activities. While retiring grazing might allow the system to recover at a natural rate that is slow, continuing a similar pattern of grazing may prevent the system from recovering at all. The DEIS claims to have addressed this by ensuring a "near natural rate of recovery" but simultaneously defines this term in multiple contradictory ways, the most lax of which is most commonly referred to in the DEIS. Preventing impacts from one year to the next does not necessarily constitute "recovery" of any kind; rather, it may maintain poor

conditions and even reduce the quality of the water if, as the USFS predicts, some negative impacts do occur.

It is disingenuous for the MNF to imply that the water quality for the Middle Fork of the John Day River and other streams in the allotments are not worthy of serious concern when the streams may still exceed maximum rearing temperatures, and when cattle grazing that depletes streamside vegetation may exacerbate this problem. Future grazing may continue to contribute to the listing of these streams as Water Quality Impaired if riparian areas are not adequately protected, and the Action Alternatives in this EIS do not present a specific and credible plan for keeping livestock from polluting streams and overusing streamside areas. Hence, the DEIS should include a more thoroughly analyzed and scientifically defensible method of protecting the water quality in these streams than allowing extensive riparian grazing with only occasional monitoring and herding.

6. The DEIS repeatedly asserts that “differences in rate of improvement could not be detected between reaches with appropriate grazing management and those under exclusion in Eastern Oregon”, based on the study by Borman, Massingill & Elmore in 1999 (DEIS p. 187). The DEIS rests its argument on the assumption that the Proposed Action constitutes “appropriate grazing management,” though it does not specifically link with analysis its adaptive management strategy to the methods, analysis or conclusions of the Borman et al. study. Moreover, the DEIS concedes that some local impacts will occur, and relies on a vague adaptive mitigation approach to redress these issues. According to the MNF, “these concerns are addressed by PACFISH with the Key Assumption that grazing under some conditions with carefully identified ‘triggers’ and endpoints would result in a ‘near natural rate’ of recovery” (DEIS p. 187). Yet, as previously noted, the DEIS defines near natural rate of recovery as no recovery whatsoever. To be more precise, near natural recovery involves the maintenance of conditions wherein impacts do not last from year to year.
7. The DEIS is unclear in describing its methodology in improving or maintaining water quality by stating that its goal is near natural recovery, wherein grazing does not result in impacts that extend between years. This standard is inadequate for maintaining and improving water quality in any given year. Although water quality may return to normal—a level which itself may be “impaired” according to DEQ—when cattle are removed at the end of the season, some temporary impacts, repeated every year, could harm fish. For instance, streamside browsing could contribute to the impairment of waters by reducing shade and increasing stream temperatures (particularly for very small streams). *Even if the streamside vegetation returns to full vigor by the start of the next grazing season, the yearly enhancement of stream temperatures by cattle will diminish the quality of the water for fish in the stream, two of which are listed as threatened species (bull trout and steelhead).*

Fisheries and Other Aquatic Species

1. The Likely to Adversely Effect determination for two federally threatened fisheries species, bull trout and steelhead, exacerbates our existing concerns about the compatibility of continued riparian grazing with efforts to establish the water quality necessary to maintain and improve populations of these species. While the LAA determination seems to apply to the direct disturbance of fish habitat by cattle movement, the DEIS should also acknowledge the fact that continued grazing may produce negative effects that also impair the ability of fish to succeed in some areas. Particularly in stream reaches that have been problem areas in the past, continued grazing will slow recovery or halt it altogether. For reasons described in the Water Quality and Riparian Conditions sections, the MNF's assertion that it can prevent impacts between each year fails to assuage our concern that, at least in some years, fisheries may be impacted by livestock damage.
2. The MNF asserts that "implementing deferred rotations, utilizing early season grazing and limiting hot season grazing duration in pastures would benefit riparian areas and streams thereby improving TES habitat and populations" (DEIS p. F-59). The description of the Proposed Action is inadequate to verify the extent and frequency of the measures used to improve range, riparian, and water quality conditions. As we have previously argued, Chapter 2 of the DEIS fails to provide adequate detail to the public in its strategy for achieving TES habitat improvements.

Additionally, the MNF asserts, "improving habitat is a greater benefit to populations of TES species than the potential of impacting individual fish or spotted frogs" (DEIS p. F-59). The DEIS provides absolutely no data, reasoning, or analysis of any kind to support this claim. Indeed, the MNF has failed to meet its NEPA obligation to describe clearly the environmental consequences of its actions, and to offer a transparent description of its reasoning and methodology in reaching these conclusions.

3. "The MIS are used to assess the maintenance of populations (the ability of a population to sustain itself naturally) and biological diversity (which includes genetic diversity, species diversity, and habitat diversity), and to assess effects on species in public demand. MNF Forest Plan Standard 61 lists species and gives direction to provide for habitat requirements of MIS species" (DEIS p. 196). The MNF has failed to provide a rationale describing how it has used MIS to assess the maintenance of populations and diversity in this DEIS. Problematically, the DEIS fails to link population-level data with specific management strategies; thus, there is no basis for the public to judge how the MNF has assessed effects of "species in demand", such as steelhead. Furthermore, "No surveys have been conducted that specifically identify the upper limits of anadromous steelhead in any streams within the Middle Fork John Day basin" (DEIS p. 197). Without comprehensive knowledge of MIS populations and distributions, it is difficult to

believe the MNF is capable of drawing broader conclusions about the overall populations and diversity of aquatic species.

4. As the DEIS states, the Proposed Action is not intended to avert all impacts in all years. For this reason alone, the LAA determination should include the secondary effects on fish that result from the diminution of water quality and riparian area functioning by livestock activity. The DEIS describes its management goal as near natural rate of recovery, which it defines for practical purposes as the prevention of impacts that last beyond a given year. This goal is inconsistent with preventing negative impacts to fisheries and other aquatic species. Repeated temporary impacts, particularly during periods of breeding and spawning for sensitive or threatened aquatic species, might diminish the vitality of these species even if the indicators used for these impacts return to normal by the start of the next grazing season.
5. It is particularly troubling that the DEIS states “reduced fish population viability for redband trout could be an irretrievable commitment of resources, but the possibility is not expected” (DEIS p. 253). On what basis is the “possibility not expected”, according to detailed DEIS analysis? The MNF offers inadequate population-level data and scientific analysis to clarify this point for the public, and the DEIS must absolutely clarify the impact of grazing on fisheries species as a whole.
6. TES fish and the Columbia spotted frog are likely to be negatively impacted by this decision, based on the LAA determinations for these species and the unreliability of “improved habitat conditions,” given the lack of data showing the past success of the strategies being employed to improve fish habitat. Without specifically establishing a rational, scientific link between the fish populations, the quality of their habitat, and the indicators being used on a yearly basis to manage the livestock, the public cannot be sure that the USFS will have the necessary knowledge to inform its “adaptive management.” Furthermore, the management strategies themselves should be demonstrably linked to reliable improvement of riparian conditions. For instance, establishing salting sites remote from sensitive riparian areas will not necessarily result in long-term, reliable relief from livestock impacts.
7. It is not evident from the DEIS that the MNF has considered the impact of possible “take” on the overall viability of the threatened species in question. The DEIS should expand and clarify the nature of its consultation with other agencies on the question of fisheries to help the public understand the basis of its assertion that, even though the Proposed Action has an LAA determination and may result in “take” of the spotted frog, bull trout, and steelhead, the impacts on these species is negligible. We assert that the effect is not negligible, and the DEIS fails to address the problem of fisheries impacts in adequate detail to describe the environmental impacts of its Proposed Action in compliance with NEPA.

Wildlife

1. There is a notable lack in this EIS of analysis or reference to population-level data for MIS species. The MNF does not offer a specific, scientifically defended model that would act as a proxy for MIS data; hence, population-level data is required to ensure that MIS act as a reliable indicator for the health of the whole system. For big game, for instance, without population-level data it is difficult for the public to infer whether the MNF's assertions about wildlife habitat health are accurate. Vegetation health influences both available forage and hiding cover, and livestock will be in a position to influence the functioning of riparian areas for both. The DEIS postulates that this impact will be insignificant for big game, but it does not support this claim with population-level data or detailed analysis.
2. There are many wildlife species that might use the planning area that could be impacted by grazing activities. Particularly as an incremental impact that diminished the quality of habitat in combination with other activities (timber harvest, etc.) on the forest. For lynx, wolverine, and many other species that may occur but are not necessarily present, the quality of the habitat itself must be considered for these species, as both habitat and individuals for these wildlife species are increasingly rare.
3. The EIS should offer a specific and credible rationale for how the grazing regime will help to maintain or enhance viable populations of vertebrate wildlife species in the area. The dearth of site-level data for all species, particularly for MIS, clouds the public's ability to judge whether the USFS is meeting its burden in ensuring the maintenance of wildlife and game species in the area.
4. The EIS does not go far enough in establishing a relationship between available forage, utilization, vegetative cover, and populations of wildlife species. The monitoring and mitigation proposed in this plan, particularly considering the substantial variability in range conditions from year to year, does not ensure that livestock grazing will not diminish the health and vigor of wildlife habitat. Without more population-level data and reasonable analysis linking this data to conditions in the allotment, the MNF appears to be managing the MFJD allotments arbitrarily with respect to wildlife species.
5. The DEIS does not demonstrate that the proposed action will maintain viable population levels for vertebrate wildlife species. MIS are designed to serve as an indicator for this NFMA requirement, but the lack of population-level data and specific analysis undermines the MNF's assertion that population levels will be maintained. Indeed, it is difficult to assert that population levels are being maintained and will continue to be maintained, if those population levels are unknown. Furthermore, the use of MIS as an indicator for the overall quality of wildlife habitat falters without site-specific, detailed analysis. The DEIS, unfortunately, lacks this analysis.

Soils

1. The DEIS does not articulate a scientific rationale linking the data provided in Appendix H to the conclusions offered in the DEIS. Overall, the conclusions drawn about the productivity of soils appear to be extremely arbitrary, given the limited data offered in this DEIS. Furthermore, the DEIS' soils analysis effectively discounts what little data is included in the DEIS, data indicating that soil conditions are being degraded in some project area riparian areas. The USFS should describe why the results described by Kauffman and coworkers (2004) would not apply more broadly (DEIS p. 261, 262). Clearly, some areas continue to face diminished soil resources, and we would expect that these conditions would continue, even if only locally, with intensive cattle grazing.
2. It is not enough for the MNF to insist, "effects on riparian water tables and soil moisture would be similar to Alternative 1, because livestock grazing would be conducted so as to permit a near natural rate of recovery" (DEIS p. 261). The near natural rate of recovery is defined differently throughout the DEIS, and the indicators to assess the near natural recovery rate are mostly vegetative. Without specifically linking with scientific analysis desired soil conditions and the indicators being used to manage cattle numbers and distribution, the MNF is managing blindly with respect to soil resources. Similarly, the DEIS asserts that compaction, infiltration rates and erosion would continue at current rates, without specifically linking the metrics used to achieve a "near natural rate of recovery" with these soil parameters. Consequently, the public has received inadequate rational basis to assess the real environmental impacts of the Proposed Action, in violation of NEPA.
3. The DEIS asserts but does not demonstrate that "the cumulative effect of decreased productivity probably is not large enough to significantly effect" the soils in the MFJD planning area (DEIS p. 261). The MNF provides no scientific or rational basis for this statement, and its cumulative effects analysis is extremely arbitrary throughout the DEIS. For soils, in particular, the MNF has provided only perfunctory analysis for assessing the possible impacts to soil productivity and the possible additional effects

Cumulative Impacts

1. The cumulative impacts analysis in this DEIS is deficient in almost every case—for fisheries, wildlife, soils, water quality, and riparian areas. A cumulative impact may be individually insignificant, but when combined with past and future actions, may result in an impact on a specific resource or species of concern. The MNF should apply this "incremental impact" concept in its analysis, and has failed to do so in this document.

2. Appendix A provides a long list of past, present, and future actions that the MNF considered in developing its cumulative impacts analysis. Unfortunately, the MNF fails to specifically link this list of actions in a meaningful way to the ongoing problems that are diminishing soil, water, and vegetation resources on the MFJD area. The DEIS lacks analysis of how these specific actions have impacted key resources. Particularly for issues such as impacts on threatened or sensitive aquatic species, the MNF should have provided more detail in justifying its conclusion that the incremental impact of further grazing, when combined with many other actions impacted these species, will not diminish their health and population levels.
3. The Cumulative Impacts analysis is similarly inadequate for soils, water, quality and wildlife. As cattle are allowed to continue to graze in large numbers, these resources are likely to continue to diminish due to the combination of effects of fire, post-fire logging, private lands management, and continued grazing. For instance, the DEIS asserts that “at prescribed forage utilization levels, livestock grazing would contribute little to adverse effects that could degrade old growth habitat and associated species. Populations of old growth MIS would be maintained.” Yet, the cumulative effects analysis is clearly deficient, as it provides no quantitative or even detailed qualitative analysis to support its that “livestock grazing would contribute little to adverse effects.” The USFS fails to support this with reasoning that accounts for the impact of cattle grazing in influencing the development and composition of forests, particularly in a post-fire setting.

Moreover, the claim about MIS is demonstrably false, as the DEIS states on p. 286 that “the distribution of pine marten within the Interior Columbia Basin has been fairly stable, but population changes are not known (Wisdom et al. 2000).” How can the USFS claim to have analyzed cumulative impacts adequately when it has failed to address direct and indirect impacts correctly? In this case, the claim about MIS populations has no basis in population-level data, a requirement for analyzing MIS for a given project. The MNF should rework its cumulative impacts analysis, as it currently offers arbitrary conclusions without supporting them in the cumulative effects sections or linking them with analysis to the many other actions that are listed in Appendix A.

Economics, Scenery and Recreation

1. The economic analysis offered in this DEIS and described as a Key Issue is poorly characterized and analyzed by the MNF. While we absolutely agree that ranching is a crucial element of the economy in and near the MFJD, we also assert that the resources diminished by riparian grazing and excessive livestock use are economically valuable to the community. Obviously, many people visit the area to fish, camp, hunt and enjoy the scenery. If continued grazing results in the diminution of recreational, wildlife, and fisheries values in the MFJD range area, these economic effects should be accounted for. Essentially, the MNF has elected to consider only the positive secondary economic effects of grazing, while

ignoring the many negative secondary economic effects that result from excessive resource use.

2. The loss of vitality in wildlife and fisheries in the MFJD result in secondary economic effects. If recreational fishing and hunting activities are diminished by overgrazing (as has occurred in the past on these allotments), then reductions in the quality of these activities will negatively impact the surrounding communities. The Middle Fork John Day is worth protecting for these resources. The negative scenery impacts to scenery and recreation that will result from the Proposed Action are poorly described in the DEIS, and the MNF asserts but does not demonstrate that these impacts will not cumulatively diminish the scenery, recreation and economic vitality of the MFJD area.
3. The DEIS does not clearly describe the full economic impact of its Proposed Action. The USFS loses money on its management of the range, and collects miniscule fees compared to the costs of environmental damage and administration of these allotments. Losses in the grazing program are important, because this is effectively a federal subsidy to some ranchers, who now have an advantage over others in a competitive market where not everyone can access federal allotments.

Considering all expenses for the public in administering the grazing program, the MNF should clearly indicate that the program is not fiscally solvent. While this is not necessarily an argument for canceling the grazing program, it is worth noting that the public does subsidize the use of its public lands for grazing.

Subsidized grazing on National Forest lands place small-scale producers who operate on their own lands at a competitive disadvantage, creating costs in terms of lost revenues and jobs. While the Forest Service takes credit for creating jobs in the grazing industry, in many cases, the agency is simply displacing jobs that would otherwise be available for grazing cows on private land. The public land grazing permit artificially benefits the federal land grazer and puts the private land grazer at a competitive disadvantage.

On National Forest lands, ecosystem service values dwarf the value of our National Forests for grazing permits. Present day economic valuation does not include the value of maintaining wild fish species, recreation, or the cost savings to municipalities who have reduced filtration costs because water from National Forests is so clean.

By law, the Forest Service must maximize the net social and economic benefits of its management programs for all Americans and fully account for the benefits of ungrazed forests and the costs of grazing in its grazing permit program decisions. If the Forest Service took ecosystem service values and externalities into account, it is likely that few, if any, grazing allotments could be justified on National Forest lands.

According to 16 U.S.C. § 1606: “It is the policy of the United States (a) forests and rangeland, in all ownerships, should be managed to maximize their net social and economic contributions to the Nation’s well being, in an environmentally sound manner.” It is also the policy of Congress that all national

forest lands shall be managed “to secure maximum benefits of multiple use sustained yield management.” (16 U.S.C. § 1606 (d)(1))

Congress passed the Multiple Use and Sustained Yield Act (MUSYA) (16 U.S.C. § 528-531) to establish the principle of multiple use on national forest lands, authorizing the Forest Service to administer national forests for a variety of uses including outdoor recreation, range, timber, watershed, wildlife, and fish purposes. The MUSYA requires that decisions regarding appropriate land uses be based upon an analysis of the “relative values” of particular forest areas for these various uses (16 U.S.C. § 529) and that the combination of uses chosen “best meet the needs of the American people.” (16 U.S.C. § 531) Under MUSYA the Forest Service must complete a relative values analysis which demonstrates that grazing is the highest and best use of a particular forest area before issuing a grazing permit. Further, such an analysis gives “equal consideration” to the various uses and values: “One of the basic concepts of multiple use is that all of these resources in general are entitled to equal consideration.” (H.R. Rep. No. 1551, 86th Congress, 2nd Session, (1960), reprinted in 1960 U.S.C.C.A.N. 2377, 2379)

NEPA also directs the Forest Service, and other federal agencies, to develop environmental analysis procedures which “insure that presently unquantified environmental amenities and values may be given appropriate consideration in decision making along with economic and technical considerations.” (42 U.S.C. § 4332 (B)).

Considering these statutory requirements, the MNF did not develop an adequate analysis of the economic impacts of grazing. The economic analysis is wildly biased in favor of continued intensive grazing, and it myopically fails to consider obvious economic factors that detract from the positive effects described in the DEIS.

Conclusion

For the above listed reasons, we urge the MNF to drastically amend the analysis it has offered in the current DEIS. The USFS should develop one or more new alternatives that use reliable, measurable methods of ensuring that livestock do not exacerbate existing problems in riparian areas. In field visits to the MNF and Middle Fork John Day, we are impressed by the scenic value and natural integrity of the MFJD area, and we urge the MNF to address the negative impacts it has itself identified in the DEIS. Thank you for the opportunity to comment and participate in improving the Middle Fork John Day river watershed.

Respectfully,

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