

COUNTY OF SISKIYOU



GRAZING POLICY

Adopted by the Board of Supervisors:
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Purpose

The purpose of the Siskiyou County Grazing Policy is to detail the County's policy regarding federal grazing lands within the County, and to guide the Siskiyou County Range Advisory Board (RAB) in its cooperation and coordination with appropriate federal and state agencies in the development of grazing decisions. By providing scientific and economic information regarding the County's grazing-related policy positions, this Grazing Policy will enable the federal and state land and resource management agencies to better understand and respond in a positive fashion to the concerns and needs of Siskiyou County in a collaborative process.

Need Statement

Ranching is important to the economy, culture, and environment of Siskiyou County, as noted below. Rangeland comprises over half the county.¹ This Grazing Policy is a means to reverse the decline in federal grazing levels (measured in terms of animal unit months, or "AUMs")² and that decline's socio-economic and environmental damage to Siskiyou County.

Socio-economic Importance of Grazing

The Siskiyou County Comprehensive Land & Resource Management Plan (County Plan) states: "Farming, dairying and ranching have been established historic economic use of the land in Siskiyou County for almost 150 years. Agriculture is one of the highest 'value added' industries: creating new wealth from the naturally occurring elements of seed, animals, sunshine, minerals and water to produce high quality and quantity food and fiber."³ The County Plan goes on to describe the culture and traditions of Siskiyou County's agricultural-based economy. Historical context is given on page 32:

The Historic limitation of homestead parcels to 160 acres also resulted in the adaptation of early ranchers driving cattle up into the surrounding high mountains of the west, north and south. This allowed them to harvest home pastures and access lush patches of meadow with more moisture available at higher elevations with a later melting snow pack. In turn, this fostered the cultural and social tradition of the cattle drive and roundup, and competitions for skill performance, such as the rodeo.

Federal lands, which comprise almost two-thirds of the County, have historically been an important source of livestock forage. As of 1996, an estimated 30 percent of Siskiyou County's total herd was dependent upon seasonal grazing on lands managed by the U.S. Forest Service and Bureau of Land Management (BLM).⁴

The County Plan also notes that ranchers hold an important property interest in both their stockwater rights on public lands and their grazing rights.⁵ Protection of this property interest is pivotal to the stability of the livestock industry in Siskiyou County.

In recent decades, despite an overall amiable relationship between livestock producers and federal range personnel, individual ranching operations and the County as a whole

have experienced a steady decline of AUMs on federal lands. Further, initiatives of the state agencies have caused declines in grazing levels.

This reduction in AUMs has had deleterious effects on the economy and culture of Siskiyou County, including the loss of ranches and ranching-related businesses. This can be explained by the extensive research of ranch-level economics scholars. For example, in 2010, L.A. Torell et. al. found: “If the ranch is dependent seasonally on federal forage, a reduction in federal AUMs may create forage imbalances and produce a greater reduction in grazing capacity than just the loss of the federal AUMs.”⁶ Loss of federal AUMs will either put undue pressure on private ranch lands (which are also important wildlife habitat), or force a reduction in herd size—sometimes to the point of ranch insolvency.

This reduction in herd size has a ripple effect throughout the County’s economy and beyond. Studies show that one AUM has value far greater than what first meets the eye—known as the “multiplier” effect. For example, Torell et. al. found in 2002 that one AUM in Lake County, Oregon had a “multiplier” effect throughout the local economy of \$72.62.⁷ A 2005 study for Park County, Wyoming produced similar results.⁸ Federal AUMs are, thus, very important to county tax rolls and the general socio-economic vitality of the area.

Environmental Importance of Grazing

Siskiyou County’s rangelands feature a spectacular array of mountain meadows, forests, streams, and lakes. Individuals who lack knowledge of the cycles of nature sometimes fail to see that management practices such as grazing are an integral part of keeping the resources healthy—and keeping citizens safe from catastrophic wildfire. Some see livestock as blemishes on an otherwise “pristine” landscape. However, Siskiyou County’s ranchers, who have generations’ worth of experience making a sustained living on the resources, know that grazing is an important land management tool. This knowledge built on experience is also backed up by a host of scientific studies:

- The western ecosystem evolved with large-herbivore grazing, and losing livestock grazing would severely damage ecological balance.⁹
- Grazing improves wildlife habitat by increasing the quality and accessibility of grasses and forbs.^{10 11}
- According to Rick Knight, a biology professor at Colorado State University, ranching on both public and private land “has been found to support biodiversity that is of conservation concern” because it “encompasses large amounts of land with low human densities, and because it alters native vegetation in modest ways.”¹²
- Wild birds, animals and rodents seek out and thrive in the shelter provided by natural ranch features, like diverse plant cover and windbreaks, as opposed to row-to-row crops or bare landscapes. Large animals such as elk and deer are known to thrive in areas where cattle graze.¹³
- According to the Natural Resources Conservation Service, not only does well-managed grazing encourage healthy root systems and robust forage growth, it also reduces the risk of catastrophic wildfire.¹⁴

- A study in the *Journal of Rangeland Management* concluded that “from an ecological standpoint we can argue that if we remove the grazing infrastructure from public rangelands, we would see some adverse consequences. We’d see less variety and too much ground cover, for example, as well as more cheatgrass and the potential for more range fires.”¹⁵
- Ample research has found livestock grazing to be an effective tool for the control of invasive plant communities, which threaten plant biodiversity by displacing native species and increasing soil erosion.^{16 17 18}
- A study in the journal *Rangeland Ecology Management* explained that “Saving ranches has become a focus not only of rural traditionalists and livestock producers but also of conservationists, who prefer ranching as a land use over exurban subdivisions.”¹⁹
- Retention of grazing base properties reduces the water quality impacts of urbanization. Grass biomes with uneven surfaces provide the optimum medium for groundwater infiltration. Protection of the soil from raindrop effect; increased soil infiltration rates; increased groundwater recharge quantities; slowed hydrologic stream responses following storm events; and the filtering of sediments and other water born solvents are optimized on open, undeveloped acres found on the base properties associated with public land grazing operations when compared to similar developed properties having no such tie. Both water quality and cumulative effects within a watershed are moderated and remediated by large undeveloped properties when present in water basins. Reduced stream channel degradation, higher stream low flows in late season, and cooler instream conditions supplemented by stream bank base flows are directly associated with the conservation of large acreages found on these base properties.^{52 53}
- Grazing makes productive use of a renewable, otherwise unusable resource—grasses and shrubs out on the range—turning them into a high quality source of protein and fiber for a growing population. This is particularly significant given the fact that, according to the U.S. Forest Service, thousands of acres of open space are lost in the United States each day.²⁰
- Ranchers’ water improvements provide habitat where none existed before.²¹
- Ranchers are often first responders to wildfire, and grazing greatly reduces the risk of catastrophic wildfire.^{22 23}
- A 1999 study found “grazing can often be compatible with improving deteriorated riparian conditions and with maintaining those functioning properly.”²⁴
- A 2013 in-depth study showed that current grazing methods on California public rangelands had no traceable negative effect on water quality.²⁵

To have the best possible environmental effects, grazing should be implemented under a long-term plan. Such long-term plans can only be accommodated by business stability: a rancher’s assurance that he will have steady, continued access to a level of AUMs consistent with historical use and with adaptive management principles. This stability leads to grazing practices that better benefit the resources, allowing federal lands ranchers to think long-term about the kind of land and resources they want to pass down to the next generation.

COORDINATION AND COOPERATION

Various federal statutes and regulations mandate “coordination”²⁶ and, in some instances, “cooperating agency status”²⁷ between federal agencies and local governments in land and resource management planning. Furthermore, Siskiyou County policy requires “each and every federal...and state agency administering, managing or regulating lands or natural resources within the county to fully coordinate with the county at the initiation and throughout the planning process, whenever proposed plans, actions, regulations, restrictions or establishment of productivity levels are being considered”²⁸ (emphasis added).

In general, coordination is a requirement for federal agencies to work with local governments to seek consistency between federal land use planning and local land use plans and policies. The coordination process is ongoing, constant, and does not require granting of special status by an agency. It does, however, require that the local government entity have a codified land/resource management plan of its own.

“Cooperating agency status,” on the other hand, is a term that applies to projects undergoing National Environmental Policy Act (NEPA) review. Cooperating agency status must be granted to local governments by BLM or Forest Service for individual NEPA review projects. Once granted cooperating agency status, a local government has special status in the NEPA process, allowing it to work side-by-side with the lead agency to identify important issues; determine what scientific data are needed for the analysis; help to form alternatives; analyze the impacts of the alternatives; and give input on selecting the final alternative. Acting as a cooperating agency can be costly for local governments, but in some instances the benefits may outweigh the costs.

COUNTY POLICY:

- Siskiyou County insists on sufficient prior notification from the appropriate federal agency of all planning-related actions, including project planning and permit renewal, that could affect grazing in Siskiyou County in order that the County may fulfill its goal of achieving federal/county plan consistency. This includes notice from the agency or agencies early in the pre-decisional phase of NEPA projects, so that the County may have meaningful participation as a cooperating agency.
- In general, Siskiyou County will utilize the Grazing Advisory Board, appointed by the Board of Supervisors, as the Coordinating body and primary county interface for all public land grazing activities with the Federal and State Agencies. This authority may be revoked or changed at any time at the discretion of the Siskiyou County Board of Supervisors.

MAINTAINING HISTORIC AUMS

As mentioned in the Need Statement above, Siskiyou County’s ranchers have historically relied heavily on public land forage. Contrary to the multiple-use mandates of BLM and Forest Service,²⁹ the agencies have drastically curtailed grazing levels in Siskiyou County. When the federal land management agencies make demands on ranchers (such as instituting special avoidance areas; changing turnout dates and locations; or altering and

limiting new or existing range improvements), these demands can have the result of making use of AUMs prohibitively expensive. As noted in the Need Statement above, the resulting reduction of AUMs has a widespread effect on the county's culture, economy, environment, and safety.

COUNTY POLICY:

- Siskiyou County is a significant partner in the grazing-related decision-making process, and is a stakeholder with legal and financial associations to these decisions. Siskiyou County hereby invokes our legal request to be the local participating governmental entity during all NEPA processes including, but not limited to: Section 7 ESA Consultation; State Water Quality permit negotiation for Regional Water Board Waiver requirements/permits; Air Quality coordination/compliance; permit compliance actions/performance; and all negotiations regarding complaints filed by environmental or other entities who file complaints against the grazing operations of our citizens.
- When considering changes to grazing practices, the BLM and Forest Service shall, in coordination with the County, choose the alternative that is the least burdensome and most economically feasible to the rancher, as consistent with federal law. The agencies shall ensure that grazing-related decisions contribute to the longevity of ranching operations in Siskiyou County.
- The Forest Service and BLM shall actively pursue an increase in AUMs such that the maximum sustainable carrying capacity³⁰ is reached on federal allotments. These increases shall not require the completion of NEPA analysis so long as they are consistent with historic AUM allocations and the principles of adaptive management and sound range science.
- Forage historically allocated to livestock may not be reallocated to other uses, such as wildlife or feral horse use.
- Changes in season of use must not be made without full and meaningful consultation with permittee. Decisions to change season of use are also subject to coordination and/or consultation with Siskiyou County.
- In light of the well-documented environmental benefits of grazing (including fuel reduction; brush encroachment; and invasive species encroachment), the federal land management agencies shall consider livestock grazing as a tool to improve the range conditions, to the benefit of our citizens, livestock and wildlife.

REISSUANCE AND REACTIVATION OF PERMITS

Over time, some permits have fallen to non-use throughout the County. As discussed above, this has been to the detriment of our citizens' safety and socio-economic wellbeing. In order to reactivate a permit that has fallen into non-use, current regulations require that the allotment be reviewed under NEPA. Meanwhile, current regulations also require that NEPA review be conducted on active grazing permits that are up for renewal (usually every 10 years). The backlog of burdensome NEPA review and litigation can make it impossible for the agencies to ever complete NEPA to reactivate permits that have fallen to non-use. This has the effect of precluding grazing on some allotments indefinitely, even when there is interest amongst producers to use them.

On a related note, some agency initiatives have even suggested the permanent retirement of relinquished or inactive permits. This concept runs counter to federal statute and would create an incentive for anti-grazing groups to place undue pressure on permittees to relinquish their permits. The permanent permit retirement would permanently remove a sustainable source of production important to all Siskiyou County citizens.

COUNTY POLICY:

- Grazing permits shall be reissued to qualified permittees in accordance with Forest Service and BLM regulations.
- Inactive allotments shall be reactivated where qualified individuals express interest. Where there is interest to reactivate an inactive allotment, that allotment shall be given priority for NEPA review over active permits that are up for renewal. Consistent with federal law,³¹ active permits that have expired shall continue to be grazed until NEPA review is complete.
- The federal land management agencies shall notify the County when an allotment becomes vacant, and put vacant allotments up for advertisement and reissuance to qualified applicants.
- The County generally opposes the permanent retirement of grazing permits.

PROTECTION AGAINST LIVESTOCK SEIZURE OR IMPOUNDMENT

The federal land management agencies have, in several documented instances, seized and/or impounded livestock when permittees have been found not to be in compliance with agency regulations. Such occurrences have been documented in counties as close as Modoc. Siskiyou County objects to this practice as a violation of property rights. Nowhere does the law permit transfer of title of livestock to the federal government due to a permittee's lack of compliance with the terms and conditions of a grazing permit.

COUNTY POLICY

- In instances of noncompliance by permittee, the federal land management agencies shall first proceed by meeting with the permittee to resolve the issue. If this proves unsuccessful, the agency shall consult with the Siskiyou County Range Advisory Board, in conjunction with the permittee. In the event that all efforts to collaborate do not prove fruitful, all federal law enforcement activities shall be fully coordinated with the Siskiyou County Sheriff's Office.

PRESERVATION OF PREFERENCE RIGHTS

Each BLM and Forest Service permittee owns or controls a "preference" level of livestock AUMs that was legally adjudicated based on non-federal acres (base property). This preference level (or "preference right") is a property interest of the permittee. It is in the best interest of the County to protect that property interest as a means of perpetuating a viable livestock industry.

According to Budd-Falen and Falen (1994), grazing preference is a prior right protected by the Guadalupe Hidalgo Treaty, the Organic Administration Act, the Taylor Grazing Act and by doctrine of custom and usage as laid down by the Supreme Court. Grazing preference is not, nor can it be, "created" by the BLM or Forest Service. Rather, during the grazing adjudication process, which usually occurred when the federal lands were withdrawn from settlement, preferences were awarded to those livestock operators who met certain qualifications.

The only way to acquire a preference right (after the initial adjudication) is by purchase or inheritance. Because the preference is not created by the federal government, but rather is bought and sold by private individuals, the Internal Revenue Service determined that the preference is, in fact, a property right, and taxes preference accordingly. In California, grazing permits were recognized as equitable property rights in 1850 and are also taxed by the state.

Once a preference and grazing permit is acquired by the grazing permittee, the BLM and Forest Service have an affirmative duty to protect the use of that permit from competing third parties. Although there are numerous listed reasons that a valid grazing permit or preference can be reduced, cancelled or suspended by the federal agencies, those reasons can be placed in the category of either (1) the permittee's violation of the terms or conditions contained in his grazing permit, federal regulation or State or federal law or (2) damage or destruction to the forage resource. In either case, the permittee is entitled to due process through an administrative hearing before a reduction, suspension or cancellation of the preference or permit is completed.³²

In cases where the full preference level is not utilized by the permittee those, AUMs usually go into what is sometimes called "suspended use." However, we have been made aware that, in some instances, BLM personnel have been directed to remove original preference levels from the record. This would have the effect of permanently canceling or removing AUMs from a ranch's historic preference level. Such a loss of property interest would be unacceptable to the citizens of Siskiyou County.

COUNTY POLICY:

- In cases where the agencies determine that the active use level for livestock grazing should be less than the adjudicated preference level, the federal AUMs proposed for reduction shall not be cancelled and must be held in the administrative category of "suspended use" until such time as they can be reinstated as active-use AUMs. Original preference levels shall be preserved on the record.

EDUCATION

Agriculture is a significant component of Siskiyou County's culture and economy. Our agricultural sector is threatened by a lack of local civic awareness and understanding of agriculture and the factors critical to agriculture's sustainability. In the case of public lands grazing, in particular, the lack of widespread public understanding has undermined the grazing industry. This lack of understanding has allowed opponents of public lands

grazing to further their anti-grazing agenda by mischaracterizing the public's silence as "lack of support."

Public land management agencies and the County have mutual stakes in furthering widespread education on grazing as an indispensable management tool. Currently, the County produces a yearly statistical agricultural report that demonstrates the livestock sector's importance in Siskiyou County. But this report, while informative, remains largely unseen by the public. Furthermore, the presentation of data is not often the most compelling educational device. A proactive public education campaign for range issues would go far to protect the local grazing industry.

COUNTY POLICY:

- Public land management agencies shall work diligently with Siskiyou County and the Siskiyou County Superintendent of Schools' office to develop and maintain an effective range education program for the public at large and the schools in Siskiyou County.

FIRE CONTROL AND REHABILITATION

Siskiyou County continues to be in an extreme fire danger situation, causing loss of forage and other resources valuable to Siskiyou County's citizens. Decreases in timber management and livestock grazing on federal land have worsened the risk of catastrophic wildfire. Brush and woody species have been allowed to encroach meadows and overcrowd forests, further contributing to the loss of forage. As mentioned above, proper livestock grazing management practices will help to minimize the initial risk of fire.

On already-burned areas, the agencies often assert that grazing must be excluded for sometimes 2-3 years. This is not always necessary. Often, grazing opportunities are actually increased after fires. Also, grazing can be an effective means to manage forage regrowth in areas that have burned. Excluding grazing is not often the best rehabilitation approach. Grazing activities are often beneficial on severely burned soils, as hoof action increases rainfall infiltration and reduces sediment transport potential by breaking up crusted hydrophobic soil layers.

COUNTY POLICY:

- The federal land management agencies shall utilize livestock grazing as a tool to reduce forage and brush overgrowth and thereby reduce fire danger.
- The agencies shall utilize local knowledge, on-the-ground observation, and relevant scientific research in an effort to promote grazing as a rehabilitation tool on burned areas. Where adequate forage exists on post-fire sites, grazing shall resume.
- The agencies shall analyze previously retired/inactive allotments for restocking following fires and subsequent vegetation recovery. Fires are beneficial in resetting seral stages to grass forb stages lost in forested ecological succession associated with decades of fire seclusion and fire suppression. Once vegetation on these allotments is restored, reissuance of grazing permits should capture grazing land production and

serve to maintain the grass/forb seral stage at natural historic functioning levels. According to disturbance ecology research, 25 percent openness in forested conditions will contribute to optimum snow pack; favorable fire behavior modification; and maintenance of proper functioning hydrologic balance in our watersheds. (Dr. Roger Bales and Eric Knapp (Sierra Nevada Research). Grazing can and should be utilized to achieve 25 percent openness (grass/forbs seral stage) in forested areas.

PRESERVATION OF ANIMAL HUSBANDRY PRACTICES

In light of recent public ballot measures that have limited hunters' use of hounds and dictated farmers' animal husbandry practices, the County finds it important to protect the long-standing, traditional, and humane practices of our ranchers.

COUNTY POLICY:

- Traditional animal husbandry and stockmanship practices necessary to perpetuate the economic and cultural vitality of ranching shall be preserved. Such practices include, but are not limited to:
 - Traditional branding, ear-marking, and vaccination of livestock.
 - Humane use of horses and stock dogs as tools for livestock management.

FEDERAL AGENCY ADHERENCE TO DATA QUALITY STANDARDS

As discussed in the Need Statement, well-managed livestock grazing has been shown by the best scientific and commercial information available to be compatible with or helpful to achieving conservation objectives. Yet, livestock grazing is often falsely accused of detracting from conservation objectives, without sound science to back up the claims. When the federal land management agencies, U.S. Fish and Wildlife Service, and other agencies make decisions to remove grazing, they are often founded in assumptions and biased science. Data supporting the decisions are often not provided to the public.

COUNTY POLICY:

- The County requires federal agencies' adherence to the federal Data Quality Act³³ and the decisions of the U.S. Supreme Court (*Daubert* and its progeny³⁴) regarding the qualification of scientific experts and the validity of scientific evidence used.

DETERMINATION OF GRAZING LEVELS

BLM and Forest Service are increasingly basing "proper grazing level" determinations solely on percentage of utilization of riparian areas and key species utilization. But, as stated by Sharp et al. (1994), using utilization data to adjust management programs, particularly with a simple mathematical formula, is an oversimplification of resource management.³⁵ A one-time measurement of forage utilization does not give an accurate

picture of overall rangeland health or capacity, and therefore should not be the basis for season of use or stocking rate decisions. Differences in measurement methods or patchy utilization by livestock makes “percentage of utilization” hard to measure. As noted by Laycock (1997), accuracy and precision of utilization estimates generally are not very high because:

- 1) Patterns of utilization are highly variable in both space and time. Herbivory, by nature, is not uniform across the landscape nor is it uniform from year to year.
- 2) Different methods of determining utilization will yield different results.
- 3) Different observers get different results using the same method to estimate utilization.
- 4) An average utilization figure is, at best an index to amount of use and is not an exact figure.
- 5) Using the paired cage/uncaged plot technique overestimates utilization by 30% or more because:
 - a. The cage environment enhances forage production.
 - b. Grazing can decrease production outside cages.
- 6) Based on early research, the ocular-estimate by plot method probably also overestimates utilization.

COUNTY POLICY:

- Range management decisions must be based on long-term monitoring, range trend, precipitation, forage production, and utilization over time, rather than one-time forage inventories or average annual grazing use.
- The County opposes the use of computerized forage allocations and any range evaluation system using strict percentage of utilization figures.
- The County agrees with Laylock’s (1997) determination as to the proper use of utilization as a decision-making tool:
 - 1) Utilization, by definition, must be measured at the end of the growing season, not earlier.
 - 2) Utilization is only one tool to achieve a land management objective (such as a Desired Plant Community). It never should be the objective of management.
 - 3) Without a measured trend over time, utilization alone is not an accurate indicator of the effect of grazing on a pasture and never should be used as the sole factor to adjust stocking rates.
 - 4) Utilization standards should be applied as an average over years (such as the number of years for a complete cycle in a grazing system), not imposed every year.³⁶

MONITORING PROMOTION

Due to the requirements for NEPA analysis of permits under current regulations, extensive range monitoring documentation is necessary. However, the agencies often do not have the resources to perform all the monitoring and recordkeeping that is necessary.

Ranchers, who typically spend more time on their allotments than do agency personnel, are well-suited and have a vested interest in collecting monitoring data. As such, monitoring memoranda of understanding (MOUs) have been established between the ranching industry (via Public Lands Council) and the BLM and Forest Service.³⁷

Meanwhile, third-party interests sometimes attempt to influence agency decisions by providing the agencies with “monitoring data” of their own. These parties are often biased against grazing and, therefore, may color their data sets accordingly. Of note: these third-party interests have no MOU with the federal agencies to collect monitoring data, as do permittees.

COUNTY POLICY:

- The County encourages the voluntary participation of permittees in monitoring. This monitoring must be accepted by Forest Service and BLM so long as it is in keeping with the methods specified in the appropriate memorandum of understanding.
- The County opposes federal agency use of third-party monitoring data that cannot be verified over the long-term by qualified agency personnel or permittees.

MANAGEMENT OF PREDATORS AND PESTS

The County recognizes wildlife as a valuable public resource, but also realizes that wildlife must be responsibly managed to reduce damage to agriculture and private property. The presence of large apex predators such as wolves can increase management costs and production losses through decreased rate of gain, lower conception rates, altered forage utilization and direct loss through predation. A six-year study in Wallowa County Oregon showed that annual losses on a 100 cow/calf operation were \$39,600 on a ranch where wolves were present (John Williams, personal communication, July 2015).

COUNTY POLICY:

- The County supports legal animal damage control through the continued cooperation with USDA Wildlife Services to remove animals causing damage to livestock, damage to personal property, or a threat to public health and safety.
- The County supports legislative action to amend the National and California Endangered Species Acts to allow the harassment or take of an endangered species known to be harassing, chasing, injuring, or killing domestic livestock on private land or federal grazing areas.
- The County supports legislative action to secure funding for compensation for losses from predation by protected species and for “payment for predator presence” when wolves, grizzlies, or other protected predators occupy areas where cattle are being grazed.
- The County is strongly opposed to the expansion of designated habitat areas for predators or other state or federal actions that prioritize predator protection over preservation of viable livestock operations.
- The County opposes all temporary closures or seasonal restrictions placed on grazing permittees or their operations as a means to limit harm; eliminate harassment; or

satisfy other “take” requirements associated with ESA-listed predators. Any revision of a permit or the ESA consultation for these species shall be in coordination with the County Grazing Advisory Board.

TRANSPLANTING OF WILDLIFE

The transfer and transplant of wildlife or feral animals presents a number of challenges. In some cases, federal or state agencies introduce wild ungulates where forage is insufficient to accommodate both the new species and historic grazing rights. Another problem posed is the potential threat of disease transfer between livestock and wildlife. And finally, the introduction of new species can sometimes be accompanied by regulatory restrictions by national and state wildlife agencies. These regulatory restrictions can do damage to the safety and wellbeing of Siskiyou County citizens.

COUNTY POLICY:

- The County must be consulted in every state or federal proposal to introduce species to the county.
- The County opposes any introduction of species should that introduction be accompanied by federal or state regulations that harm Siskiyou County citizens.
- The County opposes any transfer or transplant of species unless peer-reviewed and replicable data and science demonstrate adequate forage and a lack of disease transfer threat.
- The County opposes any wildlife releases or agreements made without the consensus of the affected private interests within the area of impact.

FERAL HORSES AND BURROS

Excessive numbers of feral horses and burros continue to cause increasing deterioration of range conditions in many areas of the West.

COUNTY POLICY:

- The County supports agency actions consistent with their statutory mandate to achieve appropriate management levels of feral horses and burros.³⁸
- Livestock should not be displaced due to overpopulations of feral horses and burros.
- The appropriate managing agencies must replace range improvements or reimburse livestock operators for damages to improvements caused by feral horses/burros.
- Livestock operators shall not be directed to provide water for feral horses/burrows at any time on grazing allotments.

IMPROVEMENT OF RIPARIAN AREAS

The County considers expansion of riparian surface area an indicator of riparian improvement. The best available science shows that riparian expansion can be promoted by proper grazing.

Long-term monitoring shows a marked decline in riparian areas/meadows in Siskiyou County due to brush and woody species encroachment. These areas are crucial both to wildlife species and continued livestock grazing. According to Veach et al (2014), woody plant encroachment is occurring across numerous grassland ecosystems (in North America and across the globe), converting them into shrublands and forests.³⁹ Woody, riparian vegetation may reduce baseflow discharge rates and increase periods of no flow.⁴⁰ Woody plants access groundwater sources in riparian zones and can increase rates of evapotranspiration potentially causing declines in water yield.⁴¹

The agencies often promote grazing exclusion of riparian areas. Yet, in some instances, grazing ungulates have been shown to reduce woody vegetation cover, potentially through selective grazing on woody seedlings.⁴² According to Grime (1979), in general, increasing grazing intensity results in a reduction of slower-growing, larger-seeded plant species.⁴³

Additionally, Borman et al (1999) found that, of 9 stream reaches surveyed, riparian area expansion occurred in 3 reaches that were excluded from grazing and in 6 that were grazed. Excluding cattle did not result in a greater increase in riparian area than an appropriate grazing strategy. Bank damage decreases occurred in grazed reaches as well as in excluded reaches.⁴⁴ Results from this study and from observations of numerous grazing management prescriptions evaluated at other locations in the west suggest that grazing can often be compatible with improving deteriorated riparian conditions and with maintaining those functioning properly.^{45 46 47 48}

The key is an appropriate grazing prescription (which must be site and situation specific) and adherence to that prescription. Instead of excluding grazing from riparian areas, the agencies and permittees should avoid inappropriate grazing—which usually means growing-season grazing (for desirable plants) or year-long grazing with little or no active management. Herding, fencing, and strategic placement of water improvements are management tools that can be employed, on a site-specific basis. Off-stream stock water sources can reduce grazing use or time spent in riparian areas.⁴⁹

COUNTY POLICY:

- BLM and Forest Service shall use grazing as a tool to protect and reestablish meadows and other riparian areas in the County, considering the abovementioned scientific literature.
- The agencies shall consider the installation of additional water developments as another tool to help protect riparian areas.
- The County opposes the mandatory fencing of riparian areas on the public lands.
- At the very least, the County insists that the federal agencies conduct full NEPA

analysis prior to excluding livestock from riparian areas.

WATER QUALITY

In-depth research from California’s public rangelands shows that current livestock grazing practices generally do not pose a threat to water quality.⁵⁰ Yet, the state and federal agencies sometimes propose additional regulations on livestock on or near waterways. This threatens to make livestock management more costly and, in some instances, to preclude the use of privately-owned water rights.

COUNTY POLICY:

- Livestock grazing shall not be considered detrimental to water quality unless long-term data collected by qualified agency personnel can directly link livestock use to water quality contamination levels that exceed U.S. Environmental Protection Agency standards.
- The County opposes the mandatory fencing of riparian areas along streams or springs on the public lands.
- In the event that fencing of a waterway is required, an alternative water source within a reasonable distance must be established prior to the fence being completed. This must be preceded by an agreement with the permittee that the alternative water source is acceptable.
- The County insists that the federal agency conduct full NEPA analysis prior to excluding livestock from rivers and streams.
- The County opposes water quality sampling until protocols are Coordinated with the Grazing Advisory Board. The water quality standards applied to any given sampling or testing shall correspond to the given Beneficial Use(s) that apply at the site (e.g., drinking water standards shall not apply to a site where livestock or wildlife use is the Beneficial Use). All grab samples for E Coli will differentiate between fecal coliform originated by humans, wildlife and livestock. Total Coliform exceedance counts found in samples without such differentiation shall not be solely attributed to livestock operations, nor shall corresponding compliance actions be taken on permits.

PREVENTING FEDERAL SEIZURE OF PRIVATE WATER RIGHTS

Siskiyou County has an interest in protecting the private water rights of its citizens. Those rights help ensure the sustained use of the water resource, which is the lifeblood of Siskiyou County’s agriculture-based economy. Several initiatives by the federal government in recent years have threatened to violate private water rights on and near federal land.

In 2014, the Forest Service released a “Proposed Directive on Groundwater Management.”⁵¹ The proposal was an attempt to control nearly all waters found in a watershed—both surface and subsurface, on and off Forest Service land. Livestock grazing would have inevitably been affected. Neither statute nor case law supported this effort. The proposal has since been withdrawn.

In another example of Forest Service's desire to control water, the agency has attempted to require forfeiture of private water rights in exchange for use permits. In other words, the agency has demanded that private water right holders (both ski areas and some ranchers) hand part or all of their water right over to the United States as a condition to be granted their use permit (e.g., grazing permit). This policy is a wildly inappropriate gesture of extortion.

COUNTY POLICY:

- The County opposes all efforts by the federal land management agencies to obtain water rights already allocated or adjudicated.
- The County opposes any unilateral federal evaluation or discussions affecting the free exercise of water rights of a permittee prior to a thorough review and recommendation by County Counsel or council of our choosing, and any additional review deemed necessary by other responsible entities within the county who have responsibility within adjudicated water basins or for ground water management. This paragraph includes any federal decision or action on public land or adjacent to such with a connected action or effect to private land operations.

OPPOSITION TO NEW/EXPANDED LAND DESIGNATIONS

A proliferation of special land designations (wilderness study areas, wilderness areas, national monuments, Areas of Critical Environmental Concern, etc.) in Siskiyou County have made access and proper livestock management more difficult for our producers. Access issues have also led to increased wildfire damage. In some instances, water rights owners have lost the ability to utilize their water.

COUNTY POLICY:

- The County strongly opposes additional or expanded special land designations which conflict with private property rights or restrict the continued multiple use of federal lands. This applies particularly to National Monuments, which have tended to extinguish virtually all existing private property rights within Monument boundaries.
- The county strongly opposes any new land protections for introduced or newly established predators of livestock and any competing large grazing ungulates. We oppose all restrictions placed on the full use or operational entry of our permittee, either temporary or through land designations for species such as Elk, Big Horn Sheep, Wild horses and Wolves. Such species shall not be used to diminish the grazing allotment's livestock AUM potential or the permit feasibility.
- The federal agencies shall maintain access to livestock producers for the use of historic federal land grazing allotments, both on and off specially designated lands.
- Existing Wilderness Study areas should be immediately evaluated for release. Such areas shall be immediately evaluated for new grazing permit issuance via the NEPA process.
- The agencies must allow for increased grazing on specially designated areas when range conditions permit. This includes reactivation of vacant allotments.
- Activities associated with livestock management (motorized vehicle use; range

improvement development and maintenance; etc.) must not be prevented on specially designated areas.

- In the event that more wilderness is designated, the following language must be included in the designating legislation: “No provisions of this Act or any other act of Congress designating areas as part of the National Wilderness Preservation System, nor any guidelines, rules or regulations issued thereunder, shall constitute the establishment of an expressed or implied right to the acquisition, diversion, appropriation, use or flow of water to the federal government because of the designation except in full compliance with California’s water law.”
- Similarly, the agencies must recognize that a national monument or other special designation does not nullify any existing water rights or grant water rights to a federal agency.

FUNDING AND OWNERSHIP OF RANGE IMPROVEMENTS

Rangeland improvements on federal lands in Siskiyou County are long overdue in many cases. Renewal of grazing permits, proper range management, and producer efficiency are often directly dependent on properly functioning range improvements. Yet, federal range betterment funds (on U.S. Forest Service lands) and range improvement funds (on BLM lands) are, at times, being allocated to non-rangeland improvement uses.

COUNTY POLICY:

- Federal range improvement and betterment funds and state funds (see California Water Quality Supply and Infrastructure Improvement Act of 2014) must be allocated to range improvements. The County calls for continuous accounting of all BLM Section 8100 and USFS range betterment funds to determine whether said funds have been and continue to be spent for on-the-ground improvements.
- The agencies shall withhold punitive actions against permittees that rebuild, construct, repair, and enhance deteriorated range improvements.
- When public funds are not available for range improvements and the permittee is willing to totally or partially fund the cost of an authorized improvement, such improvements become the property of the permittee and may add to the local tax base. Records must be kept of private improvements so that permittees’ financial contribution will be recognized. Upon termination of a permit, the permittee will be compensated for the remaining value of improvements he owns, or be allowed to remove such improvements.

OPEN RANGE

California’s so-called “no fence or trespass law” requires private landowners to fence out livestock. However, in some instances, livestock owners in Siskiyou County have been threatened with legal prosecution for damages done to private property by roaming livestock. In some cases, these ranchers have met the legal requirement of making good-faith efforts to keep their livestock contained. These ranchers should not face the threat of legal action.

COUNTY POLICY:

- The County reiterates that Siskiyou County is an “open range” county (Calif. Stats., April 29, 1851, pg.149).
- All real estate transactions must include disclosure that Siskiyou County is an open range county.

UNWILLFUL TRESPASS

Many range boundaries are currently unfenced and fences/gates are often opened or destroyed by persons other than grazing permittees. As a result, timely control of livestock may be hampered, resulting in unwillful trespass of livestock onto public land. This can result in fines and/or other penalties levied on the permittee by BLM or Forest Service.

COUNTY POLICY:

- Where unauthorized use has occurred through no fault of the livestock permittee, the permittee will not be penalized or held responsible by the federal agency/agencies.
- Grazing Drift is not Trespass and is therefore not subject to legal prosecution. We urge the agency to defend our position and our permittees with neighboring forests and any regulatory agencies alleging such violations.

VANDALISM

Resource damage and damage to range improvements is often done by members of the public—some identified, some not. This happens both on public land and on adjacent private land. Neither the offending individuals nor the BLM and Forest Service are usually held accountable for repairing such damages. Livestock operators are often left holding the bag.

COUNTY POLICY:

- The agencies must act to address private property damages by users of adjacent public lands. They must work with local and state law enforcement personnel to identify and charge the parties responsible for such damage. If such parties are not identified, the agencies must repair the damages or compensate the livestock operator for repairs.

¹ Acres in County: 4,038,843. Rangeland acres: 2,525,216. Pp. 60, [Siskiyou Comprehensive Land and Resource Management Plan](#) (1996).

²An AUM is defined as the amount of feed that a mature (1000 pound) cow (with calf), or 5 mature sheep consume in a month. Forest Service may also use the equivalent term “head month.”

³ Pp. 31, [Siskiyou Comprehensive Land and Resource Management Plan](#) (1996).

⁴ Pp. 57, [Siskiyou Comprehensive Land and Resource Management Plan](#) (1996).

⁵ See “History of public lands grazing system” discussion, pp. 67-73, [Siskiyou Comprehensive Land and Resource Management Plan](#) (1996).

⁶ Torell, L.A. et al. 2010. *Ranch-Level Impacts of Changing Grazing Policies on BLM Land to Protect the Greater Sage-Grouse: Evidence from Idaho, Nevada and Oregon*. Rangelands, vol. 32, no. 3, pp. 21-26.

⁷ Torell, L.A., J.A. Tanaka, N. Rimbey, T. Darden, L. Van Tassell, and A. Harp. 2002. *Ranch-level impacts of changing grazing policies on BLM land to protect the greater sage-grouse: evidence from Idaho, Nevada, and Oregon*. Policy Analysis Center for Western Public Lands. PACWPL Policy Paper SG-01-02.

⁸ Taylor, D.T., Coupal, R.H., and Foulke, T. 2005. [The Economic Impact of Federal Grazing on the Economy of Park County, Wyoming](#). University of Wyoming Department of Agricultural and Applied Economics.

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¹⁰ Derner, J. D., et al. 1994. *Little bluestem tiller defoliation patterns under continuous and rotational grazing*. Journal Range Management 47:220-225.

¹¹ Hendershot, R. 2004. *Environmental Benefits of Improved Grazing Management*. Illini PastureNet Papers, Natural Resources Conservation Service (NRCS), USDA.

¹² Knight, R. 2007. *Ranchers as a Keystone Species in a West that Works*. Rangelands Oct. 2007.

¹³ Texas A&M University-Kingsville. 2005. *Cattle Management to Enhance Wildlife Habitat in South Texas*. Wildlife Management Bulletin of the Caesar Kleberg Wildlife Research Institute, Management Bulletin No. 6, 2005.

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- ²¹ Marty, J. 2006. *Grazing Effects on Biodiversity and Ecosystem Function in California Vernal Pool Grasslands*. Cal-Pac Society for Range Management Symposium, Grazing for Biological Conservation. June 23, 2006.
- ²² Diamond, J.M., et. al. 2009. *Effects of targeted cattle grazing on fire behavior of cheatgrass-dominated rangeland in the northern Great Basin, USA*. International Journal of Wildland Fire 2009,18,944–950
- ²³ Davies, K. et al. 2010. *Long-term Moderate Livestock Grazing Reduces The Risk, Size, and Severity of Wildfires*. Oregon State University Beef Research Report 2010. p. 15-17.
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- ²⁶ See coordination requirements under 43 U.S.C. §1712 Sec. 202 (c)(9) (Federal Land Policy and Management Act or “FLPMA”); 40 CFR § 1506.2 and 1501.5, (National Environmental Policy Act or “NEPA” regulations); 43 CFR §1610.3-1 (BLM regulations); 31 U.S.C. §§ 6501-6506 and companion Executive Order 12372; 16 U.S.C.

§ 1604(a) (National Forest Management Act or “NFMA”); 36 CFR § 219.4(b)(1) (U.S. Forest Service regulations). List is not exhaustive.

²⁷ 42 USC 4331(a) (NEPA)

²⁸ Pp. 5, Siskiyou County Comprehensive Land & Resource Management Plan

²⁹ 43 U.S.C. § 1732(a) & (b); 43 C.F.R. § 1610.5-3 (FLMPA); 16 U.S.C. §§ 1600-1614 (NFMA); 16 U.S.C. §§ 528-531 (Multiple Use Sustained Yield Act or “MUSYA”)

³⁰ The County defines “maximum sustainable carrying capacity” as a level of grazing that promotes perpetual continuation of livestock grazing on allotments, so as to promote the stability and strength of our agricultural economy and culture. Thus, the term “sustainable” applies to grazing practices that are both environmentally and economically sound.

³¹ Section 411, Public Law (PL) 113-76, The Consolidated Appropriations Act, 2014.

³² Budd-Falen, K and Falen, F.J. (1994). *The Right to Graze Livestock on the Federal Lands: The Historical Development of Western Grazing Rights*. Idaho Law Review. 30 IDAHO L. REV. 505. http://nationalaglawcenter.org/publication/falen-budd-falen-the-right-to-graze-livestock-on-the-federal-lands-the-historical-development-of-western-grazing-rights-30-idaho-l-rev-505-524-1994/wppa_open/

³³ Data Quality Act (Public Law 106-554).

³⁴ Daubert v. Merrel Dow Pharmaceuticals, Inc., 509 U.S. 579, 1993. The Daubert case explicitly contemplates that the district courts will have a gatekeeping role with respect to scientific expert evidence. Factors include: (1) Does the theory or technique involve testable hypotheses? (2) Has the theory or technique been subject to peer review and publication? (3) Are there known or potential error rates and are there standards controlling the technique's operation? (4) Is the method or technique generally accepted in the scientific community?

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³⁷ See “[Service-wide Memorandum of Understanding No. 09-SU-11132421-171 between Public Lands Council and United States Department of Agriculture Forest Service](#)” and “[BLM-MOU WO220-2004-01 Memorandum of Understanding Between: U. S. Department of the Interior - Bureau of Land Management and Public Lands Council.](#)”

³⁸ Wild and Free Roaming Horse and Burro Act of 1971

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