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Working to protect and restore Western Watersheds and Wildlife

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By online submission through the *regulations.gov* portal

U.S. Fish and Wildlife Service
Attn: Shannon Estenoz
Asst. Secretary for Fish and Wildlife and Parks

Re: Proposed regulations and policy addressing BIDEH on the NWR System (FWS-HQ-NWRS-2022-0106)

Dear Assistant Secretary Estenoz:

Thank you for the opportunity to submit comments on the proposed rule and Service Manual chapter on Biological Integrity, Diversity, and Environmental Health (BIDEH) on the National Wildlife Refuge System. Western Watersheds Project (WWP) is a nonprofit conservation group dedicated to protecting wildlife and habitats in the American West. On behalf of our 14,000 members and supporters, we write to support the proposed regulations and policy updates generally, and specifically to urge your adoption of the proposed prohibition of agricultural use of national wildlife refuges.

The proposed regulation states that the Service would “prohibit the use of agricultural practices unless they are determined necessary to meet statutory requirements, fulfill refuge purposes, and ensure [BIDEH], and where we cannot achieve refuge management objectives through natural processes.” 50 C.F.R. § 29.3(d)(6). Further, agricultural uses can only occur if consistent with management directives to address climate change, conserve fish and wildlife populations, sustain functioning ecosystems, restore and recover imperiled species, and promote and maintain healthy soil and water. *Id.* § 29.3(d).

The proposed Manual at 601 FW 3.13F reiterates: “we prohibit agricultural use, including cooperative agriculture, unless the Refuge Manager determines that we cannot achieve refuge management objectives through natural processes, and [agriculture] is necessary to meet statutory requirements, fulfill refuge purposes, and ensure BIDEH.” WWP notes that in practice, agricultural use under this scheme would be allowed on refuges very rarely, and we strongly support this outcome.

However, some further clarification is needed. For example, the regulations create a “default position” that agricultural practices will not be employed. 89 Fed. Reg. 7345, 7348 (Feb. 2, 2024). Consistent with that position, the Manual explains that unless legally required

or necessary to meet refuge purposes or ensure BIDEH, ongoing farming or agricultural practices will be “appropriately cease[d]” and the Service will “restore the location to native habitats.” Manual at § 3.13F(2). Nonetheless, the preceding paragraph appears to walk back that presumption by discussing agriculture as a “conservation tool.” *Id.* § 3.13F(1); *see also* 89 Fed. Reg. at 7348. Despite listing several requirements for authorizing agriculture as a conservation tool, such as ensuring it is “informed by the best available scientific information,” fully evaluated, and enhances BIDEH, the language still implies that the Service may use agriculture as a conservation tool even when natural processes are available. *Id.* § 3.13F(1). The Service should clarify and confirm that there is no separate standard for agriculture as a “conservation tool.”

Relatedly, several critical terms used in both the regulations and Manual should be defined. The Service should specify that “agricultural uses” and “agricultural practices” are the same thing, and include “cooperative agriculture,” “cooperative agricultural use,” and “agriculture as a conservation tool” under the same definition. All activities such as crop cultivation, haying, grazing by domestic livestock, and the harvest of vegetative products, regardless of who conducts the activities, should be included. Further, the definition of “natural processes” should make clear that domestic animals, such as cattle, goats, and sheep, are not included because these animals require substantial human oversight, and do not interact with the environment similarly to wild animals. 50 C.F.R. § 29.3(b).

We applaud the recognition that agriculture is incompatible with wildlife conservation on refuges in most cases. To be sure, this issue has been brought into sharper relief in the context of the ongoing climate (Steinfeld et al. 2006)¹ and biodiversity crises. Domestic livestock grazing and haying are particularly damaging to many ecosystems, especially in the arid West. That is one reason why commentators have consistently advocated for reducing the impacts of livestock on public lands as one of the most cost-effective and meaningful forms of climate change mitigation (Beschta et al. 2013, Kauffman et al. 2022).²

In instances where domestic livestock grazing (as well as wild horses) have been removed from refuges, substantial ecological recovery has taken place. For instance, when livestock were removed from the Hart and Sheldon National Wildlife Refuges, riparian areas

¹ Steinfeld, H., Gerber, P., Wassenaar, T., Castel, V., Rosales, M., de Haan, C. (2006). Livestock’s long shadow Environmental issues and options. 390 pp. Food and Agriculture Organization of the United Nations.

² Beschta, R.L., Donahue, D.L., DellaSala, D.A., Rhodes, J.J., Karr, J.R., O’Brien, M.H., Fleischner, T.L., and Williams, C.D. (2013). Adapting to Climate Change on Western Public Lands: Addressing the Ecological Effects of Domestic, Wild, and Feral Ungulates. *Environmental Management*, 51:474-491. <https://doi.org/10.1007/s00267-012-9964-9>; Kauffman, J.B., Beschta, R.L., Lacy, P.M., and Liverman, M. (2022). Livestock Use on Public Lands in the Western USA Exacerbates Climate Change: Implications for Climate Change Mitigation and Adaptation. *Environmental Management*, 69:1137-1152. <https://doi.org/10.1007/s00267-022-01633-8>.

recovered dramatically (Batchelor et al. 2015).³ Bird communities also increased in diversity and abundance (Dobkin et al. 1998).⁴ Languishing aspen stands vigorously sprung back to life (Beschta et al. 2014).⁵ The story is told in a recent documentary presented at the 2020 Wild and Scenic Film Festival: “Rewilding a Mountain.”⁶

Multiple studies have implicated livestock grazing in the introduction, spread, and persistence of cheatgrass and other annual, invasive grasses by disturbing biological soil crusts and reducing native perennial grasses (Reisner et al. 2013; Root et al. 2020).⁷ Further, absent livestock grazing, fences that are deadly for many species including sage-grouse (Stevens et al. 2013)⁸ and ungulates (Kauffman et al. 2022)⁹ can often be removed. These are only several of the benefits to wildlife and the public when domestic livestock are removed from an area.

We appreciate your consideration of these comments. Please feel free to contact me at any time if you have any questions or would like to discuss these issues further. Thank you very much.

Sincerely,



Paul Ruprecht
Nevada Director
Western Watersheds Project

³ Batchelor, J.L, Ripple, W.J., Wilson, T.M., and Painter, L.E. (2015) Restoration of riparian areas following removal of cattle in the Northwestern Great Basin. *Environmental Management*.

⁴ Dobkin, D.S., Rich, A.C., and Pyle, W.H. (1998). Habitat and Avifaunal Recovery from Livestock Grazing in a Riparian Meadow System of the Northwestern Great Basin. *Conservation Biology*, 12(1): 209-221. <https://doi.org/10.1046/j.1523-1739.1998.96349.x>

⁵ Beschta, R.L., Kauffman, J.B., Dobkin, D.S., and Ellsworth, L.M. (2014). Long-term livestock grazing alters aspen age structure in the northwest Great Basin. *Forest Ecology and Management*, 329:30-36.

⁶ Available at <https://vimeo.com/351426636>

⁷ Reisner, M.D., J.B. Grace, D.A. Pyke, and P.S. Doescher. (2013). Conditions favouring *Bromus tectorum* dominance of endangered sagebrush steppe ecosystems. *Journal of Applied Ecology*, 50(4); Root, H.T., J.E.D. Miller, and R. Rosentreter. (2020). Grazing disturbance promotes exotic annual grasses by degrading soil biocrust communities. *Ecological Applications*, 30(1).

⁸ Stevens, B.S., D.E. Naugle, B. Dennis, J.W. Connelly, T. Griffiths, and K.P. Reese. (2013). Mapping Sage-Grouse Fence-Collision Risk: Spatially Explicit Models for Targeting Conservation Implementation. *Wildlife Society Bulletin*, 37(2).

⁹ Kauffman. (2020). *Ungulate migrations of the western United States*. U.S. Department of the Interior, U.S. Geological Survey.