

**BRENDA RICHARDS**  
**SECRETARY/TREASURER**  
**PUBLIC LANDS COUNCIL**

TESTIMONY ON HR 4234, TO AMEND THE FEDERAL LAND POLICY AND  
MANAGEMENT ACT OF 1976 TO IMPROVE THE MANAGEMENT OF GRAZING  
LEASES AND PERMITS, AND FOR OTHER PURPOSES

BEFORE THE

**SUBCOMMITTEE ON NATIONAL PARKS, FOREST AND PUBLIC LANDS**  
**COMMITTEE ON NATURAL RESOURCES**  
**U.S. HOUSE OF REPRESENTATIVES**

WASHINGTON, DC

MARCH 29, 2012

Chairman Bishop, Ranking Member Grijalva and Members of the Subcommittee:

I am Brenda Richards, Secretary/Treasurer of the Public Lands Council, the only National organization dedicated solely to representing public land ranchers. I am a cattle rancher actively involved in the family business with my husband and our three sons, who are fifth generation in the ranching industry. I appreciate the opportunity to appear before you today to share the western livestock industry's strong support for HR 4234, the "Grazing Improvement Act of 2012".

Today I am representing the Public Lands Council, National Cattlemen's Beef Association and the Idaho Cattle Association. Affiliates of PLC include not only NCBA but also the American Sheep Industry Association (ASI), the Association of National Grasslands (ANG) and sheep and cattle organizations from thirteen western states.

Livestock grazing represents the earliest use of federally managed lands (public lands) as our nation expanded westward. Today it continues to represent a multiple use that is essential to the livestock industry, wildlife habitat, open space and the rural economies of many western communities. While grazing was historically viewed only as a "use" of the public lands, today it has also come to be recognized as an important "tool" for the management of these lands.

The public land livestock industry seeks and supports the essential legislative changes provided by HR 4234, as they are essential steps in restoring a stable business environment to our industry. By allowing for grazing permit renewals despite agency paperwork backlogs, extending the life of grazing permits, and providing greater certainty to ranchers in the appeals process, HR 4234 will provide environmental, economic, and government cost-saving benefits.

#### Environmental Benefits of a Stable Public Lands Grazing Industry

Greater business 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. This stability is also at the foundation of the evolving science of rangeland management. By implementing long-term plans, ranchers are able to bring about significant changes in forage composition, to the benefit of livestock and wildlife alike.

Sophisticated analytical systems, such as the State and Transition Model (STM), which has been embraced in recent years by both BLM and Forest Service, allow livestock grazing to be utilized to bring about significant changes in forage composition over long periods of time. But without the assurance that they will be able to hold onto their permits, many ranchers are hesitant to make the commitment of resources it takes to implement such plans.

Accompanying the recent advances in range science are the longstanding benefits of grazing, which will only be bolstered by better business certainty. Wildlife depend on the habitat and improvements provided by public land ranching. The improvements ranchers make to water sources – building, maintaining and protecting reservoirs and stock ponds, for example – can

improve and, in some cases, create, wildlife habitats<sup>1</sup>. In the West, where productive, private lands are interspersed with large areas of arid, less desirable public lands, biodiversity of species depends greatly on rangeland. 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.”<sup>2</sup> Knight also noted that other uses – such as outdoor recreation and residential use – are not as conducive to the support of threatened or endangered species.

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. Many ranchers across the West are purposefully implementing grazing practices to improve habitat and help prevent the addition of species such as the Greater Sage-grouse to the Endangered Species List. According to the Natural Resources Conservation Service, in 2010 ranchers had already employed practices to help save between 800 and 1,000 grouse, and the efforts continue<sup>3</sup>. Well-managed grazing also reduces the risk of catastrophic wildfire and encourages healthy root systems and robust forage growth<sup>4</sup>. Large animals such as elk and deer are known to thrive in areas where cattle graze<sup>5</sup>.

Other research suggests that livestock grazing helps prevent invasion by non-native grasses, which threaten plant biodiversity on the land.<sup>6</sup> Ranchers’ brush control also benefits wildlife, helping more grass take root and decreasing the spread of cheatgrass, a highly flammable invasive weed. 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.”<sup>7</sup>

A study by Mark W. Brunson and Lynn Huntsinger published 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

---

<sup>1</sup> <http://cesantaclara.ucdavis.edu/files/33367.pdf>

<sup>2</sup> “Ranchers as a Keystone Species in a West that Works.” Richard L. Knight. *Rangelands* Oct. 2007.

<sup>3</sup> Natural Resources Conservation Service, USDA (2010). *USDA Promotes Sage-Grouse Protection Efforts in the Western United States*. Release No. 0630.10

<sup>4</sup> Natural Resources Conservation Service, USDA (2004). *Environmental Benefits of Improved Grazing Management*. Illini PastureNet Papers. Hendershot, R.

<sup>5</sup> 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.

<sup>6</sup> Ranching as a Conservation Strategy: Can Old Ranchers Save the New West? Mark W. Brunson and Lynn Huntsinger. *Rangeland Ecology Management* 61:127-147 March 2008.

<sup>7</sup> “Vegetation Change after 65 Years of Grazing and Grazing Exclusion.” Barry Perryman. *Journal of Rangeland Management* Dec. 2004.

exurban subdivisions.”<sup>8</sup>

### Economic Benefits of a Stable Public Lands Grazing Industry

Meanwhile, countless communities across the West depend upon the continued existence of the public land rancher. In my own county of Owyhee, 87 percent of the land is publicly owned, and our ranchers’ dependency on public land forage during the spring and fall is about 85 percent<sup>9</sup>. A 1992 Census of Agriculture for two Idaho counties revealed that two out of three commercially viable ranches held federal grazing permits<sup>10</sup>. I know that many communities across the West, where public lands account for roughly half of the landmass, depend just as we do on the tax base, commerce, and jobs created by the public land grazing industry.

Indeed, the national-level statistics give light to the importance of public lands grazing. The latest available data show that there were over 8.7 million animal unit months (AUMs) of grazing authorized on BLM lands in fiscal year (FY) 2010. This grazing was administered through 17,740 permits and leases.<sup>11</sup> The Forest Service in the fifteen western states permitted 6.1 million AUMs on National Forests and an additional 2.2 million of National Grasslands.<sup>12</sup> While false data is often cited showing the relatively small amount of beef or lamb that is produced on public lands, such statements ignore the importance of these lands in an integrated ranching operation. Approximately 40% of beef cattle in the West and half of the nation’s sheep spend some time on federal lands. Without public land grazing, grazing use of significant portions of state and private lands would necessarily cease, and the cattle and sheep industries would be dramatically downsized, threatening infrastructure and the entire market structure.

### Challenges to the Industry

Despite the broadening acclaim for public lands livestock grazing’s environmental and economic benefits, today’s public land livestock industry faces challenges unlike ever before, making the aforementioned goals of a stable business environment and long-term grazing plans increasingly difficult to achieve. Private ranchland values in the west have skyrocketed based on competing uses—primarily rural subdivision development. Increasing land values render the estate tax—from which we have failed to secure permanent relief—a bigger threat than ever, making succession planning an ominous prospect for future generations of ranching families. Enhanced livestock genetics and current market prices for sheep and cattle have combined with the rising

---

<sup>8</sup> Ranching as a Conservation Strategy: Can Old Ranchers Save the New West? Mark W. Brunson and Lynn Huntsinger. *Rangeland Ecology Management* 61:127-147 March 2008.

<sup>9</sup> Rimbey et al., *Ranch-Level Economic Impacts of Grazing Policy Changes: A Case Study from Owyhee County, Idaho*, in CURRENT ISSUES IN RANGELAND RESOURCE ECONOMICS: PROCEEDINGS OF A SYMPOSIUM SPONSORED BY WESTERN COORDINATING COMMITTEE 55 (WCC-55), L. Allen Torell, E. Tom Bartlett, and Rena Larranga (eds.), New Mexico Ag Exp. Station Research Report 737, available at <http://agecon.lib.unm.edu>.

<sup>10</sup> Harp et al., *Spatial Distribution of Economic Change From Idaho Ranches*, 53 J. RANGE MGMT. 164, 165 (2000).

<sup>11</sup> Fact Sheet on BLM Management of Livestock Grazing, September 2011, Table 3-8c, Table 3-9c. Fiscal Year 2010-

<sup>12</sup> USDA – Forest Service, Annual Grazing Statistical Report, Grazing Season 2009

land prices to dramatically increase the need for operating capital—and at the same time, agricultural lenders are demanding greater long-term certainty in livestock operations. Burgeoning government regulation and the resulting litigation demand ever-greater investment of both financial and human resources. Extreme, predatory “environmental” groups wage a constant, partly taxpayer-funded war against public lands grazing<sup>13</sup>. Altogether, these and other factors create a business environment that is less certain than ever.

Adding to the uncertainty is the changed nature of the grazing permit renewal process. In the 1960s, renewal of term grazing permits every ten years on both BLM and National Forests was little more than an administrative exercise. The permit renewal routinely arrived in the mail it was signed and returned to the agency for final execution, completing the renewal process. Any on-the-ground issues regarding management were addressed during the many opportunities that the agency range personnel and I had to spend time together in the field.

Today, permit renewals are subject to compatibility with a Resource Management Plan or Land Use Plan, prior environmental analysis under the National Environmental Protection Act (NEPA), a potential need for consultation under Section 7 of the Endangered Species Act and the likely appeal by an anti-grazing organization that has been granted “interested public” status by the agency and standing by the courts. The opportunities that our members once appreciated to spend time in the field with range personnel have become scarce as agency personnel are inundated by process, Freedom of Information Act requests and endless appeals. The NEPA analysis now deemed necessary is seldom completed in a timely manner. As a result, the public land rancher has, for the past ten years, been at the mercy of the annual congressional appropriations rider to allow permits to be renewed in a timely manner. HR 4234 would alleviate this annual cliffhanger, codifying language that has been approved annually by Congress for over a decade.

### Challenges Facing the Federal Land Management Agencies

As noted above, new regulations and resulting litigation have added dramatically to agency workloads. Over the past decade, the agencies have operated under pressure to produce environmental analyses on permit renewals either under a schedule imposed by Congress, or under self-imposed schedules. These timelines have seldom been met. The current NEPA backlogs for grazing allotments impacting permit renewals are 4,200 and 2,700 for the BLM and Forest Service respectively, with no end in sight. Time pressures have led to NEPA analysis that is frequently either substantively or procedurally inadequate and is therefore subject to successful administrative and judicial challenge. Reducing the requirement for perfunctory environmental analysis, as HR 4234 proposes to do, would enable the agencies to be more thorough when analyzing actions that actually impact the resource. It would also help reduce the opportunity for litigation by extreme anti-grazing groups who, by virtue of fee-shifting statutes such as the Equal

---

<sup>13</sup> Budd Falen, K. (2005). *Environmental Organization's use of NEPA to Eliminate Land Use and Obtain Attorneys' Fees Under the EAJA*. Legal Memorandum, November, 2005.

Access to Justice Act, have made a cottage industry out of process-based litigation, draining agency budgets and reaping taxpayer dollars to the tune of millions, annually.

### HR 4234 Offers Solutions

As noted above, proper range management, economic certainty at the individual, community, and west-wide levels, land management agency workloads, and taxpayers would all benefit from a longer-term approach to the permitting of public lands grazing. HR 4234 takes a sizeable step in that direction.

Section 2 of the bill extends the life of grazing permits from 10 to 20 years. This critical change will bring needed certainty, improved range management and greater agency efficiency. In the context of this change to a 20 year permit, it is important to note that the ability of the agency to make needed management adjustments through the annual authorization to graze (BLM) or annual operating plan (Forest Service) is not diminished. In addition, the agencies retain the authority to issue shorter term permits under special conditions. Lengthening term grazing permits from 10 to 20 years provides more certainty to permittees and reduces process burdens on the land management agencies, all while retaining current standards for adjusting on-the-ground practices.

Section 3: As referenced above, federal lands ranchers have relied for more than a decade on language being included into annual appropriations bills to allow the agencies to renew grazing permits on federal lands under current terms and conditions until the renewal process is complete. HR 4234 would codify that language. The bill recognizes that the renewal, reissuance or transfer of a permit does not, per se, have a resource impact so long as there is no significant change in the grazing management. By categorically excluding these actions from the requirement to prepare an environmental analysis, this section restores the role of environmental analysis to its proper function—an analysis of the potential impacts of a commitment of resources (changes to an RMP or Forest Plan) or a new on-the-ground activity. This section also takes a practical approach by properly acknowledging that minor modifications to renewed, reissued or transferred permits are acceptable, so long as they do not interfere with the achievement of or progress toward land and resource management plan objectives, and so long as extraordinary circumstances do not indicate a need for further analysis. Additionally, in order to solve a problem with crossing permits we have seen in my home state of Idaho, HR 4234 would correctly exclude the issuance of crossing and trailing permits from NEPA analysis. There is no need for endless analysis of an activity with minimal impact which takes place in an effort to comply with the terms and conditions of underlying term grazing permits.

Taken together, Sections 2 and 3 represent a major step toward returning the focus of public land grazing to on-the-ground activities including management plans and range improvements. The resource, the land management agencies and the grazing permittees all stand to benefit from

these adjustments. Entities that oppose these commonsense provisions show their true intentions: removal of all livestock from public lands with no real interest in the natural resources.

Section 4 of HR 4234 will further assure the stability of individual ranching operations by requiring that all appeals of grazing permit decisions be conducted “on the record,” in accordance with the fundamental principles of the Administrative Procedures Act (APA). This provision is particularly critical as applied to the Forest Service. The Forest Service currently lacks an independent body to hear administrative appeals similar to the Interior Board of Land Appeals (IBLA), which adjudicates BLM appeals. As a result, permit appeals within the Forest Service are decided by the next level line officer. Most often, the deciding officer is the immediate supervisor of the author of the decision being appealed. It is understandable that research shows 85 percent of appeals under this structure are upheld. Frankly, an administrative appeal of a Forest Service permit decision is little more than a necessary procedural step to set the stage for a judicial appeal.

While BLM appeals are conducted through a less prejudiced system, these permittee appeals nevertheless place a tremendous burden on the appellant. Strict adherence to the APA will properly place the burden of proof on both federal agencies to show that their decisions are correct in law and in fact. Because there is no current provision for a stay of a decision pending appeal, the permittee can be faced with making significant and costly adjustments to his ranching operation based on a decision that may be overturned through the administrative appeal. By then, the rancher may well be out of business. Section 4 will assure that the decision is suspended and that current grazing is allowed to continue until the appeal is resolved. Permittees should not be negatively affected by frivolous appeals and challenges while an administrative challenge winds its way through the system. There is, appropriately, an exception where failure to implement the decision would result in an immediate deterioration of the resource.

### Conclusion

All but the most extreme opponents of public lands grazing acknowledge that the continuation of grazing on public lands is essential to maintaining the integrity of landscapes in the West. Given the mosaic pattern of land ownership in most public land areas, a majority of ranches in these areas are not economically viable ranching operations without access to forage on public lands. These associated intermingled private lands will often readily find a market as rural subdivisions and other non-agricultural uses. The resulting land fragmentation equates to a loss of wildlife habitat, open space and scenic vistas, and public access. This can diminish the value of the public lands themselves for recreational use. Keeping ranchers in business is good policy for conservation of both private and public land.

Most public land ranchers do not want to develop their private lands. It is not in the public interest to drive them to do so by increasing the uncertainty that they face in continuing public lands ranching. Over the past 10 years, many states have seen an increase in the use of

conservation easements. The primary reason for doing so is to provide another tool to keep private ranchlands in ranching. However, as we visit with public land ranchers, we often hear, “I would be very interested in placing an easement on my private land if my grazing permit were more secure. If I lose the permit, I will have little choice but to subdivide my land.”

There are certain times when small steps can produce large results. In HR 4234, Congressman Labrador takes those small steps. The results will include greater stability for the livestock industry, a renewed focus on long-term resource management, enhanced agency efficiency and flexibility, and continuation of the broad public benefits provided by both public and private lands in the West. On behalf of the Public Lands Council and its affiliates and, most significantly, the over 22,000 families dependent on public land grazing, I urge your support for this legislation.

Thank you for the opportunity to testify before the Committee today.

###