Testimony
on behalf of the

Utah Cattlemen's Association

with regard to

"H.R.9062 – *Operational Flexibility Grazing Management Program Act"*

submitted to the

House of Representatives Natural Resources Committee
Subcommittee on Federal Lands

Chairman Tom Tiffany
Ranking Member Joe Neguse

submitted by

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Washington, D.C.

Thank you, Chairman Tiffany, Ranking Member Neguse, and Members of the Subcommittee. On behalf of America's livestock producers and federal lands grazing permittees, I appreciate the opportunity to testify today in support of a series of legislative measures that remove barriers to responsible, proactive resource management by both requiring and allowing federal agencies to support ranchers' good work.

Currently, I serve as President of the Utah Cattlemen's Association (UCA) and have long been a member of UCA the National Cattlemen's Beef Association (NCBA), and the Public Lands Council (PLC). I am the General Manager of Ensign Ranches whose cattle graze public lands in Utah, Idaho, and Wyoming. I have worked in this role for nearly thirty years. I have experience working with public land managers in six BLM field offices and five USFS district offices. Our cattle spend about 60 percent of the year grazing federal lands. We have worked closely with land managers to address problems resulting from wildfire, grasshopper and cricket infestation, drought, severe weather events, and management of two wild horse herds. We have invested heavily in the ranges on which we operate, installing and maintaining more than 200 miles of stock water systems that benefit wildlife, wild horses, as well as our livestock.

I draw experience from Utah, and from around the country. My active involvement with NCBA, the American cattle industry's oldest and largest national trade association, has given me access to the perspective of cattle producers from more than 44 state cattle associations with collective memberships numbering about 178,000 producers. Utah is also a leader in the national PLC, which represents every cattle and sheep producer in the West who holds federal grazing permits. The perspective I offer comes from detailed discussions of how the bills discussed today would improve the grazing industry and ranchers' ability to be more fulsome leaders in public land management.

In Utah, public lands play a significant role in the state's cattle and sheep industries. The federal government owns or manages approximately 68 percent of the state's lands – more than 37 million acres, which is larger than the state of Illinois[1]. There are some counties where the federal government, primarily the Bureau of Land Management (BLM), is the primary land holder; some of Utah's counties are comprised of more than 90 percent federal land. For us, this means that whether we are raising cattle or sheep, hunting, fishing, or simply traveling, the federal government has an immediate and visible impact on our daily lives.

This is particularly true for Utah's cattle producers, who raise more than 800,000[2] head on an annual basis and contribute to the Utah economy. Like our cattle, the vast majority of these livestock spend a significant portion of their lives grazing on federal lands. Utah's cattle industry contributes $628 million to the state economy on an annual basis, but these strict contributions only tell part of the story. Across the West, federal lands grazing contributes an additional $3.7 billion in ecosystem services[3] on an annual basis in services like wildfire risk reduction, offsetting the need to conduct invasive annual grass treatments, infrastructure maintenance, protection of wildlife habitat, prevention of water and air contamination, and more.

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[1] https://publiclands.utah.gov/plr/

[2] https://www.utahbeef.org/ranchers

[3] Maher, A., Ashwell, N., Maczko, K., Taylor, D., Tanaka, J., & Reeves, M. (2021). An economic valuation of federal and private grazing land ecosystem services supported by beef cattle ranching in the United States.

Both the success of livestock operations and the value derived from these ecosystem services depend on a successful relationship between ranchers who hold grazing permits and their federal partners. In Utah, the BLM administers nearly 1,500 federal grazing permits, each of which authorizes grazing on a 10-year basis based on parameters set after analysis under the National Environmental Policy Act (NEPA) and the Federal Land Management and Policy Act (FLPMA). The performance under that grazing permit is evaluated on an annual basis. Grazing permittees and federal agencies conduct annual monitoring of range conditions and grazing conditions of the grazing permit are far too prescriptive. For the last several decades, the BLM has often been inclined to be as specific as possible in NEPA evaluations in order to avoid the risk of frivolous litigation – so often that many of the older NEPA evaluations assessed activities with specific dates. For example, a rancher's "on" date – the date they turn livestock out onto an allotment - was identified in the NEPA evaluation as if it were fact. Over a 10-year period, however, that date (June 15, for example) may need to vary.

In Utah, precipitation is the most common factor in needing to adjust an "on" date or an "off" date. Take the Sevier Basin Valley for example: over the last six years, we have seen high water marks halved year to year. In 2018, the basin received approximately 17 inches of precipitation, which doubled in 2023[4]. This variability affects when grass grows, how quickly it grows, and is a factor in whether late-season grass growth will contribute to a more aggressive fire season the next year.

For ranchers, this requires annual management changes. One year, we may have an incredibly wet spring and need to turn livestock out early to make best use of the forage and optimize regrowth. In this scenario under current permit conditions, we would be unable to turn out early because the permit and NEPA doesn't allow it. The next year, it may be a cold, dry spring and we may need to delay turnout a week or 10 days to ensure the livestock aren't grazing the short grasses too close to the ground and stunting late spring/summer growth. In this scenario, current permit conditions would allow us to delay our turnout date, but we would still be required to adhere to the "off" date specified in the permit – even if we had not used the full forage allocation. While permittees are intensely focused and invested in landscape health, ranching is also a business, and many ranchers cannot afford to lose forage access that is crucial to their livestock's growth. Having flexibility in these on and off dates on an annual basis would allow ranchers and their agency partners to make more responsive changes to landscape needs.

Flexibility in grazing permits and the ability to adjust timing, stocking rates, and grazing rotations based on real-time conditions allows ranchers to play an active role in improving the health of the land, including maintaining native vegetation, promoting biodiversity, and reducing the risk of catastrophic wildfire. A rigid system that doesn't allow for flexibility undermines the collaborative spirit necessary to create sustainable, long-term solutions.

For thousands of permittees across the West, these changes are simply not possible if the agency and the permittee remain in strict compliance with their permit. Plainly put, sometimes the specificity of NEPA and the construction of the permit result in the permittee and the agency choosing whether to make the best choice for the land and water resources, or whether to remain in compliance with the law. It goes without saying that ensuring compliance with the law wins every time.

[4] https://water.utah.gov/wp-content/uploads/PrecipitationGraphs/Sevier-River-Basin.pdf

H.R.9062 provides relief. The bill removes the false choice between legal compliance and landscape health. It would allow the agency and permittee to work together to determine the kind of flexibility in management needed to make best use of the allotment – and best use of grazing as a land management tool. The bill is modeled on flexibilities provided in the BLM's Outcome Based Grazing pilot program authorized in 2018 that has proven its success over the last several years.

Wyoming rancher and former PLC President Niels Hansen volunteered his ranch to be an early adopter of the BLM's pilot program because he saw the opportunity to demonstrate the value of this flexibility, even if it took a little more work to navigate a new pilot program:

> *We* [the PH Ranch] *are the Outcome Based Grazing ranch for Wyoming, with the flexibility written into our grazing permits we have been able to adopt to the changing weather patterns and the market pressures of the recent years.*
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> *We operate on approximately two hundred forty thousand (240,000) acres of mixed and intermingled BLM and private property. We have been practicing Joint Cooperative Monitoring on these lands for approximately 30 years during which we experienced a wide range of weather events ranging from severely dry summers followed by hard winters. We were able to take all of that into account during the development of our Outcome Based Grazing Permit so that we'd be able to adjust our cow herd and our grazing practices.*
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> *One example is that during these dry years we had been steadily reducing our cow herd and didn't know what was going to come next. During the summer of 2022 we operated at approximately thirty percent (30%) of our normal numbers. At this time, we advised BLM of our plans to liquidate the remainder of the herd if we didn't see a change in the weather, which means that we wouldn't meet the legal requirement of minimum numbers to hold our grazing permit. We also developed a plan to rebuild the herd over time with the knowledge that we'd get rain eventually so we'd need a way to mange the forage and resume operations. We explained that after several bad years we would need to diversify and over time build a new herd. Through the Outcome Based Grazing process, we were able to make plans for our cows and for the land to make sure it wouldn't suffer in the drought or after.*
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> *Use of our high desert land is most often dictated by the available water. Our operation has areas that lend itself to Short Duration High Intensity Grazing because it gets more precipitation, and other areas with limited water that need a lower number of cattle grazing for longer periods of time. By writing two grazing plans, one plan with our normal numbers and slightly expanded on and off dates, and the other with a drought management plan that allows us to graze using short duration and high intensity (higher cow or yearling numbers) as our preferred tool, we're able to meet the needs of both our cows and the land.*
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> *Since completing our Outcome permits, we have been able to quickly adapt our management to fit our range, weather and market conditions better which has made our ranch easier to manage and economically stronger for the future.*

Resource management shouldn't be static, it should be responsive. The best part is that it works. Mr. Hansen's management was recently recognized by the BLM as their 2024 awardee for the

Rangeland Innovation Award, which recognizes the demonstrated use of beneficial management practices to restore, protect, or enhance rangeland resources while working with the BLM and other partners. The PH Ranch is just one of a number of ranches in the West that enrolled in the program, and use of these flexibilities should be available to every permittee.

While H.R.9062 isn't a direct replica of the BLM's existing program, it provides the necessary flexibility for permittees and the agency to do what they need to do on an annual basis. Representative Curtis' bill allows for changes in on and off dates, changes in water placement that benefits both livestock and wildlife, and generally makes everyone more responsive to the needs of the landscape. All of these activities would still be compliant with NEPA, FLPMA, and all the other requirements currently in place for these activities.

H.R.6441, the Ranching Without Red Tape Act

I also would like to thank Representative Vasquez for introducing the *Ranching Without Red Tape Act.* His bill occupies the same good-governance space as Representative Curtis' bill and promotes a more effective management partnership between grazing permittees and their agency partners.

As part of their grazing permits, ranchers are responsible for the construction and maintenance of range improvements. These range improvements can be structural and non-structural, and may have different requirements based on the specific grazing permit. All range improvements are considered and analyzed under NEPA, but ultimate responsibility for construction and maintenance of improvements lies with the permittee. Things like fences, water pipelines, wells, invasive species treatments, and other prescribed activities are examples of things that may be required of a grazing permittee. If a grazing permittee does not maintain these improvements to an adequate standard, they are in jeopardy of the agency finding them in noncompliance which threatens their ability to hold a grazing permit.

H.R.6441 fixes a significant problem. Even though a permittee is required to do construction or maintenance and the NEPA analysis already permits the work, they still need to obtain specific permission from the agency to actually begin the work. Often, the agency is so backlogged, or otherwise delayed, that maintenance is delayed months or years. The result is the permittee facing threats of noncompliance – even when the agency is the reason for the delay. Simply put, ranchers who are trying to be proactive and compliant should not be unfairly burdened because their agency partners are unable to respond in a reasonable timeframe. I appreciate Representative Vasquez's leadership in setting realistic timeframes on when work can begin if an agency partner fails to authorize the work in a timely manner.

In Utah, we often joke that if you don't like the weather, wait five minutes and you'll have something different. We need to be able to adjust quickly to keep our livestock, our families, and our communities safe. We need to be strategic in our management plans to make sure the future is more secure than the past. Both of the bills included in my testimony are progress in that direction, and I am so pleased to offer support for them today. I commend Representative Curtis and Representative Vasquez, and their staff, for the time they have taken to hear the concerns of ranchers and take steps to address those issues.

It is no secret that over the course of time, trust between our nation's ranchers and their federal partners has eroded – often because the processes that both parties must follow is not designed to be nimble and responsive has eroded. These bills restore collaboration and establish an improved environment where producers and agency partners can come together to implement strong management plans. By fostering flexibility in grazing management, we can help bolster the resilience of the landscape, protect our natural resources, and ensure that the ranching community continues to thrive for generations to come.

Thank you for the opportunity to testify today and I welcome the questions of the Committee.