



PUBLIC EMPLOYEES FOR ENVIRONMENTAL RESPONSIBILITY
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Bureau of Land Management
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RE: Comments on Bureau of Land Management (BLM) Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Revision of Grazing Regulations for Public Lands

The following comments are submitted on behalf of Public Employees for Environmental Responsibility (PEER). These comments concern both BLM grazing-related regulations and also the management practices BLM should employ in operating this program.

PEER urges that the following precepts be incorporated into any BLM livestock grazing program revisions:

1. Make the Grazing Program Transparent

BLM manages commercial livestock grazing across 150 million acres in 13 Western states – a total land area nearly the size of Texas. Yet, this program operates inside a black box, with very little public information about it being released.

Tellingly in this regard, one of the federal government’s biggest programs acreage-wise now occupies the tiniest slice of cyberspace. On the BLM home page, as a result of changes that took place in 2017, grazing is no longer found in the menu for “Programs.” The user must click on the Natural Resources program to see a sub-link for “Rangelands and Grazing.” On this page are two tabs for “grazing” and “success stories.” The former contains two links, one for “Find information about livestock grazing permits, fees, and improvements” and one for “learn about reindeer grazing in Alaska.”¹

This cyber-camouflage reflects a broad abdication of responsible range management because data about conservation outcomes and resource abuses are no longer available. For example, the last time BLM published Rangeland Inventory Monitoring Evaluation (RIME) data was for 2015. In contrast to the paucity of information BLM offers, PEER has deployed a Grazing Reform web center featuring an online Grazing Data Interactive Map displaying data from

¹ <https://www.peer.org/blm-commercial-grazing-program-goes-underground/>

BLM's Land Health Status record system overlaid with high-resolution satellite imagery, allowing users to eyeball current land conditions. PEER obtained these records via the Freedom of Information Act and has worked with a former BLM contractor to analyze what they reveal about the condition of our public lands and BLM's discharge of its duties to safeguard them.²

If a small nonprofit like PEER can facilitate researchers and the public having real-time access to data and satellite views of on-the-ground conditions, BLM can surely do the same. Unless BLM commits to transparency in its grazing program, past malfeasance and abuses will surely recur.

2. Effectively Protect Landscape Health

BLM's most recent data on the health of federal rangelands reveal extensive damage from excessive commercial livestock grazing.

BLM's Standards for Rangeland Health prescribe the minimum quality of water, vegetation and soils, as well as the ability to support wildlife, required by the agency for permitting livestock grazing. The most recent (2018) rangeland health report on BLM grazing allotments across 150 million acres in 13 Western states shows –

- Of total acres assessed, 42% fail to meet BLM Standards for Rangeland Health, totaling nearly 40 million acres, approximately the area of Washington State;
- The largest portion (70%) of range health failure is due to livestock overgrazing in allotments covering nearly 28 million acres, an area the size of Pennsylvania; and
- These figures are underestimates because nearly 40 percent of these federal rangelands – nearly 59 million acres or an area about the size of Oregon – have never been assessed.³

Notably, the vast majority of lands not meeting Rangeland Health Standards where “livestock is a significant factor” are in allotments for which “no appropriate action has been taken to ensure significant progress toward meeting the standards.” Yet, these lands are still being overgrazed.

In order to meet its statutory conservation mandates, BLM should suspend grazing on any allotment not meeting Standards for Rangeland Health until those lands have recovered.

3. Incorporate Steps to Minimize Adverse Effects of Climate Change

Despite ample evidence to the contrary, BLM continues to insist that commercial livestock grazing has no impact on climate change or its effects.

Most BLM grazing environmental assessments make no mention of climate change whatsoever, while the remainder say that impacts are unknowable and therefore will not be analyzed. Further,

² <https://www.peer.org/blm-grazing-data/>

³ https://www.peer.org/wp-content/uploads/2020/03/3_4_20_2018_RIMReport_Land_Health.pdf

BLM never even acknowledges grazing's climate impacts, such as –

- Grazing dramatically reduces soil sequestration of carbon, releasing an estimated 11 million additional tons of carbon annually;
- The livestock sector generates more than one third of all human-induced methane – a gas with global warming potential 25 times that of carbon dioxide; and
- Public lands grazing is the most significant contributor to change in landscape conditions across a vast area of the American West, worsening adverse climate impacts of spreading desertification, degrading vital riparian areas and facilitating introduction of invasive species.⁴

These adverse effects are magnified if grazing is not well managed, and a large portion of allotments fails to meet BLM's own range health standards. In the last decade as more land has been assessed, estimates of damaged lands have doubled where BLM conducts major livestock grazing. These damaged landscapes create a feedback loop that further aggravates other negative impacts of climate change.

PEER urges that all BLM eco-planning include assessments of grazing climate impacts, as required under the National Environmental Policy Act. Further, BLM should adopt regulations that BLM will mitigate adverse climate effects and promote climate-resilient lands in its grazing program.

4. Take Grazing Trespass Seriously

Two scathing Government Accountability Office reports – one in 1990 and another in 2016 – found BLM does little to detect or deter unauthorized grazing across vast stretches of rangeland. The latter report also found BLM had reneged on pledges of reform it had previously made. In 2016, BLM again promised to implement all of the GAO recommendations.⁵

In 2017, PEER asked BLM to disclose whether it followed through on its latest pledge and how much illegal grazing it detected during the past year. After BLM failed to respond, PEER filed a Freedom of Information Act lawsuit to compel production.

Documents produced by the suit indicate BLM initially scheduled steps to implement better recording of grazing trespass incidents, adopt formal procedures for handling trespasses, and conduct compliance inspections. By the summer of 2018, BLM's schedule slipped from a date certain to "ongoing" and later to "on hold." By fall, its official regulatory agenda for 2018 removed any further action altogether.⁶ In its latest 2020 scoping announcement, BLM again belatedly pledges to address the BLM recommendations.

⁴ <https://www.peer.org/shaving-livestock-grazing-s-carbon-hoof-print/>

⁵ https://www.peer.org/wp-content/uploads/attachments/1_30_18_Broken_Promise.pdf

⁶ <https://www.peer.org/blm-still-mia-on-grazing-trespass/>

Significantly, BLM still does not track the hundreds of grazing trespasses GAO estimates occur each year. In addition, BLM does not assess the damage done by illegal grazing to range vegetation, soil, and waters. Nor has BLM updated its 1987 handbook describing procedures that no longer reflect its actual practices.

Eventually, in response to the PEER suit, BLM produced information about grazing trespass incidents, but this information was not compiled in any sort of database from any BLM state office. This indicates that BLM does not track grazing trespass in any systematic fashion.

Moreover, PEER regularly receives complaints from BLM field biologists and range conservationists that BLM field offices provide them little support in responding to grazing trespass. In some cases, BLM management has been outright hostile to staff who report grazing trespass.⁷

This dereliction of duty by BLM occurs against a backdrop of the Bundy family's flagrant violations in southern Nevada over the past two decades. The ongoing Bundy trespass has yet to be resolved.

BLM and Department of Interior leadership continually maintain that federal grazing programs are well regulated. Those assertions are difficult to square with rampant grazing trespass still occurring without any steps toward redressing this resource theft.

5. Adopt a Grazing Fee That Finances the BLM Program

In 2019 and again in 2020, the Interior Department reduced fees for grazing cattle and sheep on federal public lands to the minimum allowed under federal law, \$1.35 an animal-month. The 41-year old formula has been a boon for livestock operators whose animals graze on federal public lands.

This rock bottom fee was imposed despite the fact that a large proportion of BLM grazing land fails to meet the BLM's own rangeland health standards (see above). Lowering already ultra-low grazing fees only encourages more abuse of public rangelands.

Costs to administer the grazing fee program exceed the money collected, resulting in taxpayer subsidies of about \$100 million per year. Grazing fees were initially based on a "fair-market value" set at \$1.23 per AUM in 1966. If the federal government adjusted the fee annually to keep pace with inflation, the current rate would be \$9.47.

In addition, cattle sizes have increased markedly over the years: In 1974 an Animal Unit Month provided forage for a cow weighing 1,000 pounds; today the average slaughter-weight for an adult cow is 1,400 pounds. A report by the nonpartisan Congressional Research Service shows

⁷ <https://www.peer.org/blowing-whistle-on-range-violations-unwelcome-in-blm/>

the average monthly grazing fee for livestock leases on private lands in 16 western states was \$22.60 per animal unit.⁸

A 2015 study by the Center for Biological Diversity, entitled “Costs and Consequences, the Real Price of Livestock Grazing on America’s Public Lands,” found that federal grazing fees were just 7 percent of what it would cost to graze livestock on similar state and private lands.⁹

Half of the federal grazing fees pay for “range improvements” on public lands. These include fences, corrals and cattle troughs that benefit and subsidize livestock operations while causing further environmental degradation. Barbed-wire fences are a major cause of death for sage-grouse and scientists have termed the denuded areas around livestock troughs “piospheres,” which become hotspots for the spread of invasive weeds.¹⁰

As a consequence, the current fees do not come close to covering the cost of administering grazing permits.

The fee structure charged to livestock operators on America’s public lands has remained unchanged since Congress passed the 1978 Public Rangelands Improvement Act. A three-tier formula dictates federal grazing fees based on market indicators but is not indexed to inflation. BLM should work with Congress to overhaul this outdated fee formula as part of any revision of grazing regulation.

6. Ask Your Staff for Feedback

Despite being the smallest federal land agency, BLM has by far the largest jurisdiction – managing 245 million acres of land and 700 million acres of mineral estate. While demands on it have grown, the agency workforce has declined by more than a fifth since 2010.¹¹

In November 2016, days after the presidential election results, PEER sent surveys concerning resources, performance and direction to BLM managers, range, fire and scientific staff in nine Western states.¹² Pertinent responses include:

- ❖ More than two-thirds of respondents do not think BLM has enough resources to accomplish its mission, with only a quarter saying it does;
- ❖ Less than a third “have confidence” in BLM Headquarters leadership or believe that the agency is “more capable” than it was five years ago; and
- ❖ Half of respondents agree with the statement “In my experience, energy development has come to dominate BLM priorities”–nearly double those who disagree.

⁸ https://www.everycrsreport.com/files/20160929_RS21232_b52e04ea00b91486680436e52e5795fea1044398.pdf

⁹ https://www.biologicaldiversity.org/programs/public_land/grazing/pdfs/CostsAndConsequences_01-2015.pdf

¹⁰ <https://www.peer.org/public-land-livestock-fees-hit-rock-bottom/>

¹¹ https://www.peer.org/wp-content/uploads/attachments/6_21_17_BLM_Shinking_Workforce.pdf

¹² https://www.peer.org/wp-content/uploads/attachments/6_21_17_BLM_survey_responses.pdf

In a survey essay about what the new administration should do, one BLM employee wrote:

“My office is currently understaffed and has been for many years...Many employees are performing the work of multiple employees as positions are not being refilled. Critical work is not being completed or timelines being extended.”

It is notable that BLM is soliciting public input on plans to revise grazing regulations but has no apparent plans to consult the people that will be charged with implementing these revisions – its own range staff. Moreover, BLM staff are in a far better position than the general public in assessing what is currently working, what is not working, and whether any revisions are realistic reforms.

PEER urges BLM to develop a means to incorporate staff feedback, on a confidential basis, into any planning for grazing regulatory changes.

7. Assess All Grazing Equally

The method used by the U.S. Bureau of Land Management to assess range conditions is seriously skewed toward minimizing impacts from domestic livestock and magnifying those from wild horses and burros, according to an appraisal by PEER.¹³ As a result, the BLM’s approach to range management targets scattered wild horses and burros while ignoring far more numerous cattle.

The agency’s assessment is part of a 2013 report on factors influencing conservation of the Greater Sage-Grouse, a ground-dwelling bird whose numbers have declined as much as 90% across the West and which is under consideration for protection under the Endangered Species Act. That report concludes that twice the area of sage grouse habitat is negatively impacted by wild horses and burros than the area negatively impacted by livestock. A PEER appraisal of the methodology found –

- ✓ BLM calculates the “area of influence” of wild horses and burros on sage grouse habitat based merely on their presence within Herd Management Areas in sage grouse habitat, while it considers livestock impact to have occurred only when livestock grazing allotments fail the agency’s Land Health Status (LHS) standard for wildlife;
- ✓ If the agency used the same approach for calculating the area of influence of livestock within BLM grazing allotments on sage grouse habitat as it did for wild horses and burros, the area of influence for livestock would be roughly 14 times that given in the report and more than six times that of wild horses and burros; and

¹³ https://www.peer.org/wp-content/uploads/attachments/9_16_14_HMAs_vs_Allotments_Influence.pdf

- ✓ Within BLM's own grazing allotment LHS database records, livestock grazing is cited as a cause of failure to achieve a land health standard 30 times more often than are wild horses and burros.

This helps explain why wild horses are regularly removed from the range, but livestock numbers are rarely reduced. Indeed, BLM's William Pendley hyperbolically claims that wild horses are an "existential threat" to America's rangelands but does not mention the far larger deleterious impacts from commercial livestock grazing.

If BLM is truly going to modernize its approach to grazing regulation, it should commit to apples-to-apples comparisons of all forms of grazing on landscape health.

8. Embrace Scientific Review

Nearly a decade ago, BLM undertook an ambitious plan to map ecological trends throughout the Western U.S. but directed scientists to exclude livestock grazing as a possible factor in changing landscapes.¹⁴ Funded with up to \$40 million of stimulus funds, BLM launched Rapid Ecoregional Assessments in each of the six main regions (such as the Colorado Plateau and the Northern Great Plains) covering the vast sagebrush West. A key task of the most ambitious scientific exercise in BLM history was choosing the "change agents" (such as fire or invasive species) that would be studied.

Yet, when the scientific teams were assembled at an August 2010 workshop, BLM managers informed them that grazing would not be studied due to anxiety from "stakeholders," fear of litigation and, most perplexing of all, lack of available data on grazing impacts.

In 2011, PEER filed a complaint that BLM's action violated Interior's Scientific Integrity Policy. Nearly 18 months later, BLM rejected the PEER complaint, contending that it was an absence of "reliable data"—and not politics—that caused it to exclude consideration of commercial livestock impacts from multi-million-dollar assessments of environmental conditions on Western range lands.¹⁵

This remarkable self-acquittal by BLM did not bear up to scrutiny because:

- Attempts to exclude grazing began at the earliest stages of the study, before data availability was even examined. Further, BLM assertions of data gaps were never examined, let alone verified;
- Other factors being studied, such as invasive species, also have far larger data gaps but these issues did not prevent invasive species from being selected as a study focus; and

¹⁴ <https://www.peer.org/grazing-punted-from-federal-study-of-land-changes-in-west/>

¹⁵ <https://www.peer.org/blm-says-it-cannot-track-cattle-on-its-lands/>

- BLM managers hid the existence of a major livestock database which was never given to researchers.

Nonetheless, the Ecoregional Assessment ultimately went forward without looking at commercial livestock grazing. Today, BLM's grazing program remains a science-free zone. Yet, ironically, grazing is one of the few "change agents" within the agency's mandate to manage, suggesting that BLM only wants analysis on what it cannot control.

PEER urges BLM to rectify this glaring omission and incorporate independent peer-reviewed analysis of all empirical claims about this vast livestock grazing program.

9. Await a Permanent BLM Director

During three years of a Trump tenure, there has been no Senate-confirmed Director of BLM, nor has one even been nominated. Instead, BLM has been led by a series of deputy directors, most all brought in from outside the agency, to supposedly exercise the "authority of the director" on a temporary basis.

The wisdom of this arrangement is increasingly under question. Moreover, the legitimacy of policy changes ordered by these ersatz "acting" directors is uncertain and may result in any changes being nullified as a function of violating the Federal Vacancies Reform Act.¹⁶

By proceeding with major policy revisions without a confirmed director, BLM is foreclosing Congressional oversight of these changes. PEER questions the wisdom of undertaking large-scale regulatory revisions without permanent leadership in place.

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¹⁶ <https://www.peer.org/no-direction-national-park-service-and-blm-to-be-run-by-lower-deputies-for-3-years/>