

Testimony on behalf of
The American Sheep Industry Association and The Montana Wool Growers

With regards to
“Preserving Opportunities for Grazing on Federal Land”

Submitted to the
United States House of Representatives
House Committee on Oversight and Government Reform,
Subcommittee on Interior, Energy and Environment

Greg Gianforte, Chairman

Submitted by

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Chairman Gianforte, Ranking Member Plaskett and Members of the Subcommittee, thank you for the opportunity to visit with you today. I am John Helle, a third-generation sheep and wool producer from Dillon, Montana, a member of the Montana Wool Growers Association, the American Sheep Industry Association and past board member of the Public Lands Council. I am here today to represent the nation's 88,000 sheep producers and those that spend some time grazing on Federal Lands. My family first came to Montana over a century ago and currently raise sheep in the same area that the first sheep were brought to Montana in 1869. Now, with my parents, brother and my wife and children, our family not only raises sheep, but also high-quality wool. In early 2012, we cofounded a clothing company called Duckworth, the world's only source-verified, single origin, Merino wool apparel company. Through hard work, Duckworth has taken Helle wool from being sold as a raw commodity to a 100 percent USA source, manufactured and distributed product that is sold world-wide. In fact, our company was featured on Good Morning America this past Christmas season. We're proud of the products we are able to produce and proud to turn grass forage into meat and clothing, while caring for the natural resources on our private ground and Federal permits.

As I mentioned earlier, our private property in Western Montana, outside Dillon has been in the family for three generations. And my family is the fourth generation to run sheep on this land. Over the years, we have expanded and diversified our ranching operation, preserving open space and adding economic growth to the local economy.

As part of our livestock operation, we run four bands of sheep on United States Forest Service allotments within the Beverhead-Deerlodge National Forest. In the past, the Forest on which we run used to carry several dozen bands of sheep, but now because of the effects of misguided policy enforcement, only 6 bands of sheep in total graze those lands.

Our private land serves as the commensurate base for our federal grazing permits. Our ranch works by utilizing both private and Federal lands grazing. Without both components, our ranch is not viable. Our relationship with the National Forest is a mutually beneficial one. When we graze on Federal Lands, we provide much needed fire suppression, control noxious weeds and generate revenue for both the Forest Service and the local economy. What is more, our commensurate private property base provides winter grazing for all forms of wildlife from deer to moose, wolves and antelope by protecting tens of thousands of acres of well stewarded open space.

I hold an animal science degree from the Montana State University Animal and Range Science Program, my father has a master's degree in range science and worked for years for the Forest Service, and my youngest son will graduate with a range science degree. As such, I understand the complex relationship between domestic livestock grazing, wildlife, forage and watersheds.

Our sheep are attended by a herder while grazing the landscape, which reduces fuel load and promotes new growth and enhances the habitat for species like sage grouse, in addition to other birds, wildlife and insects. As noted, this is a beneficial relationship and mirrors the environment under which the western landscape evolved. However, we face a number of challenges that threaten the future of rangeland management west-wide.

One of the greatest of these challenges is coming from environmental groups who are seeking to impose single use concepts on federal lands that are mandated, by federal law, to be managed for multiple use – including for livestock grazing. These groups are weaponizing statutes like the National Environmental Policy Act (NEPA) and bypassing the collaborative forest planning process by filing federal lawsuits every time there is a forest or wildlife management decision with which they do not agree. And, they are doing so to the detriment of landowner-wildlife management relations.

We have personally witnessed this abuse of federal law and the federal court system as our ranch and Forest Service allotments were targeted for legal action following the introduction of bighorn sheep into the Gravelly Mountain range of Southwest Montana in 2003. When our state wildlife management agency, the Montana Department of Fish, Wildlife and Parks determined that they would seek to introduce bighorn sheep, the department assured ranchers, such as myself, that the introduction of this species into areas where domestic livestock were present would not result in any harm to our ranching operations. This promise that no harm would come to our ranch has proven, with time, to be false.

In order to effectuate the introduction of a new bighorn sheep herd into the Gravelly Mountain Range, our ranch, along with others, entered into a Memorandum of Understanding detailing the obligation to preserve domestic grazing and support wildlife populations with Montana FWP, BLM, USFS and local sheep producers. The goal of entering into the cooperative agreement was to protect both the newly introduced wild sheep herd and our existing agriculture operations. While the terms of the MOU have worked exactly as intended, i.e. to allow all parties to manage the newly introduced bighorn herd, the MOU has been used as the basis for federal court litigation filed by radical environmental groups seeking to drive domestic grazing off the range.

To state this another way, our reward for working cooperatively with our state fish and game agency to introduce a bighorn sheep herd into the Gravelly Mountain Range was to be subject to what is now going on three years of costly federal litigation. And, if we are to ultimately lose the litigation, we are subject to losing our ability to graze the lands we have grazed for multiple generations. I cannot imagine this scenario is what Congress envisioned when it passed the National Environmental Policy Act.

Our story is not unique. Throughout the west, domestic sheep grazing has been the target of these self-styled conservation groups. These groups all operate under the pretext that they are preventing harm to wildlife or the physical environment and do so without the support of sound-science.

Initially, it was advanced, as a matter of settled science, that domestic sheep were passing pasteurella (*Bibersteinia trehalosi* and then *Mannheimia haemolytica*) pathogens to bighorn sheep causing die-offs, then the blame was placed on *Mycoplasma ovipneumonia (movi)*. The concept being that only domestic sheep carried these pathogens and that any contact between domestic sheep and bighorn sheep would cause a die off. Using this flawed and post hoc logic, groups pushed for “effective” and complete separation between domestic sheep and bighorn sheep. This separation has been advocated by the Wild Sheep Working Group of the Western Association of Fish and Wildlife Agencies in their Recommendations for Domestic Sheep and Goat Management. It also forms the basis for grazing policies like BLM Policy 1730 and species viability claims under the National Forest Management Act. These recommendations were developed without input from the domestic sheep industry or USDA Agricultural Research Service’s Animal Disease Research Unit. And these policies persist despite scientific evidence that they are not effective at preserving bighorn health. A narrow, single pathogen approach to this complex subject led to poor management decisions, the loss of many livelihoods and threatens the loss of our operation.

Thanks to research being conducted by the USDA/ARS Animal Disease Research Unit, we now know that the pathogen blamed for these deaths in wildlife is found not only in domestic sheep, but other wildlife species such as deer, bison, caribou and likely other species not yet identified. We also know, thanks to research done at Montana State University that the *movi* pathogen is resident or endemic in bighorn herds across our state. We have seen through research that the presence of these pathogens is not indicative of an overall bighorn herd’s health. Yet, this continues to be the basis for closing active sheep allotments across the west and reducing sheep AUMs. Moreover, it is flawed legal precedent based off these assertions that form the jurisprudence on this issue and lead to the loss or threatened loss of grazing allotments across the west.

In 2010, the U.S. Forest Service (USFS) prohibited 13,000 sheep from grazing on their historic grazing allotments within the Payette National Forest in Idaho, driving one ranch out of business entirely and drastically reducing the operations of three others. Not only are Payette decision impacts spreading to other national forests with bighorn sheep populations, the Bureau of Land Management is considering grazing restrictions on federal lands under its administration, creating a west-wide issue that threatens a substantial part of the domestic sheep and wool industry. Forest Service officials continue to make decisions on the future use of “high risk” allotments grazed by domestic sheep, even though only 3 percent of federal sheep allotments

overlap with occupied bighorn habitat. While it is impossible to accurately predict the total impact of this approach, at a minimum 400,000 domestic sheep, and the families who raise and care for them, may be affected. The impacts are serious, affecting not only sheep operators and their employees, but meat packing plants, woolen mills, and even the military, which purchases twenty percent of the nation's wool production to help equip America's service men and women.

Using these tactics and threats of litigation based on flawed Forest Service and BLM policy, self-serving artificial environmental groups offer Federal sheep allotment holders so called buyout agreements and then tout acceptance as a voluntary action. Citing threats of litigation and loss of livelihood to compel a sale is not voluntary, it's extortive. As an industry, we have seen a number of these offers come from outside groups before or very shortly after the allotment holder has been contacted by the land management agency. It is very clear that the relationship between these falsely termed environmental groups and certain regional land management agencies is anything but arm's length. Due to these practices, it is impossible to accurately assess the number of AUMs our industry has lost, but we know the number is significant, as is the impact to the local community and tax base as ranchers are driven off their permits and overall sheep numbers in the west decline.

Together, with area producers we have strived to be a good steward and cooperate with other interests. With our ranching neighbors, we started the Ruby Valley Strategic Alliance to educate ourselves on the issues we are facing and protect Federal Lands ranching. Through that alliance and others, we have always had an open-door policy for any conservation group, or individuals, who are genuinely looking for science-based solutions to enhance the range. We are not against wildlife, bighorn sheep, sage grouse or other species, as most if not all of us are active hunters. But, we are tired of being the brunt of these issues when agenda driven research leads the way. We understand and believe that science is critical and science-based solutions to managing Federal Lands is the key to success with landowners, permittees, and true conservation minded groups. This outlook has provided a beneficial relationship for understanding shared values and resolving potential conflicts in our valley. Unfortunately, this is not the tact for many groups that have found they can effectively use the legal system and the Equal Access to Justice Act (EAJA) as a mechanism to not only force their policy priorities but pad their pockets with taxpayer dollars in doing so.

Abuse of EAJA in the area of environmental law is rampant and anything but transparent. While I have to pay for legal representation on each of these challenges to our ranch, plaintiff groups suing the Forest Service and BLM are paid hundreds of thousands of dollars, not only when they win, but when they settle with the Federal Government. Again, these are taxpayer dollars being used to target public lands grazing and to undermine the multiple-use mandate of the National Forest Management Act, as well as the Taylor Grazing Act.

Earlier this month, my attorney had to appear before a three-judge panel in the 9th Circuit Court over an appeal on the denial of an injunction on my grazing permit in the Beaverhead-Deerlodge National Forest. This case arose from the same fact pattern earlier referenced on bighorn sheep habitat under the Forest Management Plan. The plaintiff in this case was again weaponizing NEPA in an effort to end multiple use on Federal Lands. While we believe the hearing went well, these federal policies foster uncertainty in the Courts and with the land management agencies. Laws like EAJA do not encourage an end to frivolous litigation, they encourage the propagation of litigation and excess legal filings in hopes of being deemed a prevailing party under the Act.

A perfect example of this is that the plaintiffs in that legal case have filed four injunction requests to prohibit us from using our summer pasture – and all of those requests have been denied. Yet, there is nothing in the law that prohibits them from seeking a fifth injunction. Quite the contrary, the structure of the EAJA actually encourages them to keep filing legal pleadings in order to run up the cost of their case. Conversely, when we protect our agriculture operations by defending against these suits, there is no such payday when we prevail, only the threat of another lawsuit as these groups forum shop.

Domestic sheep grazing on Federal Lands presents tremendous opportunities for the west. Sheep are targeted and efficient grazers. Lamb and wool prices are strong and demand for both is on the increase. Outdoor products like we produce at Duckworth are in high demand. Barriers to entry for the next generation are low and the economic potential to raise a family raising sheep is very real. However, for that to exist, we need sound policies coming out of Washington, D.C. We need certainty that our agreement with the federal government will be upheld. Unfortunately, that is not where we are today and the trend is not looking positive.

As ranchers we understand how to manage domestic livestock, we know how to manage the range for optimal outcome and we foster an environment that provides habitat for wildlife of all kinds. Yet, too often detrimental decisions are made at a regional, or worse national level, that impact rangeland health. On our ranch, we aim to use prescribed burns to increase rangeland health. Fires are a natural part of the western range. Fire controls forest encroachment, which we know enhances the habitat for prairie nesting birds like sage grouse which will not nest where ravens and other predatory birds frequent. Fire controls sage brush, freeing up water resources for mountain lakes and streams, enhancing habitat for fish and wildlife. And prescribed burning reduces fuel loads, supporting new grass growth and limiting catastrophic wildfire. Using fire as a prescription for range health, our aim is to burn five percent of our range each year, to get on a natural 20 to 25-year cycle. Due to weather and other factors, that will never be completely achievable, but that is our range management goal. The Beaverhead-Deerlodge National Forest

contains 3.5 million acres and the district we run sheep on is 750,000 acres. To accomplish the same management goals we have for our private ground, they would have to treat hundreds of thousands of acres per year, at least tens of thousands of acres. Under the current management strategies there is no way they can do that, which is why catastrophic wildfires will continue to occur. These are the types of decisions and lack of management that reduce rangeland health and diminish carrying capacity for wildlife and domestic livestock and are a clear indication of why more cooperation is needed at the state and local level in rangeland management decisions.

Range science and land management is not about setting and adhering to strict standards. These tactics are ineffective and will continue to be so unless and until we start thinking about rangeland ecology on a landscape scale. The range is dynamic, based on short and long-term weather patterns. The Forest Service could learn a lot by looking at the practices of the people who have been on these ranges for three, four or five generations. Those folks are the land stewardship experts. In my 35 years managing our operation, I have seen at least six rangers come and go and countless decisions made in deference to environmental activists with an agenda driven mentality. The unfortunate fact is that land stewardship is not driving decisions, it is management based on fear of litigation and that is not management at all. Livestock grazing is an effective tool and a prescription for range management. We understand these lands and make decisions looking back on generations of active participation in management.

To conclude, nearly half of the sheep raised in the United States spend some time on Federal Lands. These producers contribute to the economic success of rural America. They maintain access to open space, provide for wildlife and turn forage into food and fiber. With support for multiple use on Federal Lands, there is opportunity to continue to foster a productive environment for livestock production, wildlife habitat, and recreation. Science-based solutions, aimed at actual rangeland health and cooperation, is the only path forward for the health of our Federal Lands and the preservation of the opportunities that legacy presents. True conservation minded groups and local ranching communities understand the greater consequences of not supporting public lands grazing and its protection of open space, local economies, and the people and wildlife that depend on those shared values.

I would ask that you consider the following as take-aways from my testimony.

1. There has to be reform of the Equal Access to Justice Act to allow agriculture producers, such as myself, who successfully defend against cases brought under the act to be awarded our attorneys' fees and costs should we prevail in the case;
2. There has to be reform of the National Environmental Policy Act so that the act is not used as a surrogate for allowing federal management of state wildlife and state wildlife

agencies. Wildlife management is a reserved right under the 10th Amendment to the United States Constitution and should remain so;

3. More grazing of federal lands should be encouraged, because, as I testified to, domestic sheep grazing provides the stewardship that protects and enhances ecosystems, is beneficial for the physical environment, for wildlife, local economic stability through agriculture production; and
4. Above all, federal laws and the federal court system should not be used as the basis for interfering with collaborative, site-specific management projects. The recent spate of federal litigation against the forest service over domestic sheep grazing using memorandums of understanding, such as the one we signed, is a signal to livestock producers, such as myself, not to work cooperatively with any state wildlife management agency for fear that such cooperation will ultimately result in the loss of long-standing grazing practices. This scenario is not good for agriculture, wildlife, or wildlife advocates.

I appreciate your consideration of this critical topic for the west.

Sincerely,

John Helle