

GROUSE INC.

Testimony of Clait E. Braun, Ph.D.

Testimony on H.R. 657, the “Grazing Improvement Act”

Subcommittee on Public Lands and Environmental Regulation

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This testimony concerns H. R. Bill 657 which has the title of “Grazing Improvement Act”. My testimony will focus on native species of wildlife and how the proposed language would ensure at least two species will be listed as Endangered.

There are two species of Sage-grouse (Gunnison and Greater) both of which are dependent on public lands for survival. The Gunnison Sage-grouse has been proposed for listing as Endangered (there are likely less than 4000 individuals remaining) and the Greater Sage-grouse has been determined by the U.S. Fish and Wildlife Service as being warranted for listing but is precluded by higher priority species. A final decision by the U.S. Fish and Wildlife Service for Greater Sage-grouse is pending in 2015.

Both species are dependent upon public lands for survival. These lands are also used for livestock grazing. Their dependence on public lands is well documented, especially those with sagebrush-steppe type vegetation (Connelly et al. 2000, Braun et al. 2005 attachments). Livestock management on public lands allows overgrazing of grasses and forbs as well as changes the vegetation type from robust bunchgrasses with a taller forb component to mat forming species of little value to Sage-grouse. Over use of grasses and forbs as the result of repetitious grazing by livestock, as well as past large-scale treatments to decrease live canopy coverage of sagebrush to increase availability of herbaceous vegetation preferred by livestock is also negative for Sage-grouse. Treatments to control and reduce live sagebrush with herbicides and controlled burns have continued on public lands. Fires (both controlled and wildfires), especially those where cheatgrass now predominates because of past mismanagement (overgrazing) of public lands negatively effects native habitats. This reduces the security of the habitat for successful nesting and survival of young. This results in fewer Sage-grouse over time and causes population declines at a massive scale. There were once several millions of Sage-grouse whereas a published estimate in 1998 indicated possibly at least 142,000± remained (Braun 1998 attachment). Presently, only about one-half (56%) of the presettlement range of Sage-grouse is capable of supporting occupancy by this species (Schroeder et al. 2004, Braun 2006 attachments).

It is important to keep in perspective the magnitude of the size of the area once used by Sage-grouse (~ 481,469 mi ²) which now is estimated to occupy only 56% (2004

estimate) of their presettlement range. Sage-grouse are functionally extirpated in Canada where they are listed as Endangered. Thus, the only real hope to keep Sage-grouse from becoming extirpated as species is in the Western United States on public lands managed by the BLM and USFS. These public lands are used primarily for grazing. Livestock grazing is the common practice on most public lands.

Thus, the concern with H. R. Bill 657 which basically makes the National Environmental Policy Act (NEPA) discretionary instead of mandatory, and eliminates NEPA review for crossing and trailing authorizations of domestic livestock and the transfer of grazing preferences. In addition it creates unwarranted Categorical Exclusions (CEs). Further, the bill permanently enshrines the appropriations rider that was first enacted in the late 1990s to deal with a short term increase in the number of permits needing renewal. Thus, the BLM now rarely does NEPA on grazing permits. Making permanent the rider which allows the agency to renew permits with the same terms and conditions until the date on which the Secretary concerned completes the processing of the renewed or reissued permit or lease that is the subject of the expired, transferred, or waived permit or lease, in compliance with each applicable law (the schedule of which is solely at the discretion of the secretary), combined with 20 year permits means NEPA will rarely be completed on grazing permits. This is legislatively gutting the landmark ruling in NRDC v. Morton in the mid 1970s that required NEPA for permits.

The management of hundreds of millions of acres of federal rangelands by the BLM and USFS must be conducted in a transparent manner to ensure these critical resources remain conserved in a manner befitting their extraordinary value to local communities, the region, and the American public. NEPA requires that the true economic, environmental, and health impacts of activities are considered and it ensures the public – which includes industry, landowners, local and state governments, and businesses – can make their concerns heard by providing their unique expertise. H.R. 657 will strike at these core provisions of NEPA and essentially lock the public out of decisions on how federal livestock grazing is managed on public lands

The following specific provisions will be extremely damaging for management of public lands:

Elimination of Public and Environmental Review Through NEPA Exemptions

The legislation completely exempts two activities from NEPA review: the crossing and trailing authorizations of domestic livestock and the transfer of grazing preferences. If passed, this bill will totally eliminate all public and environmental review for these decisions.

Limiting Environmental Review by Creating Unwarranted Categorical Exclusions (CEs)

The legislation limits review required under NEPA by creating legislative CEs which will unnecessarily undermine the public's right to participate in the management of federal resources that belong to all citizens. By limiting the use of NEPA, the public will be denied opportunities to positively contribute to management decisions by the BLM and the USFS. Historically, the use of CEs

for the renewal of grazing permits has been defined by mismanagement, which has resulted in imperiled critical natural resources. The severity of the impact of these CEs is amplified by the Bill's extension of grazing permits from 10 to 20 years – thus ensuring decades with no public or environmental review.

Provisions such as these, and others, only serve to undermine NEPA - one of the primary tools available to manage our public lands. NEPA encourages collaboration by providing meaningful opportunities for states, stakeholders, federal agencies, and the public to inform critical decisions on federal rangelands. This Bill invites controversy by shutting out impacted stakeholders.

The issue of climate change also needs to be considered as it is likely Western rangeland ecosystems are undergoing major climate related changes. Thus, more careful environmental study (NEPA) will be needed. H. R. 657 basically makes NEPA discretionary instead of mandatory as it has been since NEPA passed in the 1960s.

What happens to Sage-grouse conservation if permits are renewed for 20 years? It is likely that after 20 years the permit will be renewed under the rider with no change in terms and conditions; under that scenario a permit renewed now would be valid until 2033. Most grazing permits that I have seen have no terms and conditions related to Sage-grouse. These permits would continue with no changes for 20 years. Where will Sage-grouse be in a quarter century under the current trajectory? They will likely be extirpated in large areas of the west.

Resource Management Plans (RMPs) are presently being revised to include Sage-grouse. Even if the revisions (amendments) are truly wonderful for Sage-grouse, it would be 2033 before permits issued now would even be considered for changes to implement any amendments designed to benefit Sage-grouse per the revised RMPs.

The BLM has consistently failed to address Sage-grouse habitat needs in grazing plans or issuance of grazing permits. The current system (10 years) is broken and doubling the time before it can be fixed is not appropriate if Sage-grouse are to persist. This is a major step in the wrong direction.

H. R. 657 basically makes Sage-grouse (or any other ESA listed species) recovery nearly impossible because there is no mechanism to implement regulatory requirements to benefit Sage-grouse. The problem becomes real when one realizes that none of the plans developed by BLM by their National Technical Team (NTT) or the U.S. Fish and Wildlife Service (Conservation Objectives Team) (COT) can be implemented. They will remain theoretical as the impacts of livestock will be entirely divorced from what may be needed to be done to ensure Sage-grouse population stability and enhancement.

My professional review of the proposed amendments to the Federal Land Policy and Management Act of 1976 within H. R. 657 indicates that approval of this Bill would ensure listing of both species of Sage-grouse as Endangered and the Gunnison Sage-grouse would be extinct in the wild within 20 years.

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