

Congress of the United States  
House of Representatives  
The Honorable Cynthia Lummis, Chairman  
Committee on Oversight and Government Reform  
Subcommittee on the Interior  
Testimony of Shaun Sims

Wyoming Rancher

Wyoming Association of Conservation Districts President

Wyoming Woolgrowers, Public Lands Committee Chairman

Chairman Lummis Members of the Subcommittee

I appreciate the opportunity to testify before the subcommittee today and voice my concerns with the direction and detrimental regulation that some of the Federal agencies are having on our agricultural operations in the West and more specifically Southwest Wyoming.

I along with my father and brother operate a sheep and cattle ranch in southwest Wyoming. The area just north of Evanston Wy where we are having this hearing has been our home for six generations.

There are many issues that are impacting our industry, ranging from Department of Labor's proposed H2A rule, Bighorn Sheep Domestic Sheep interaction on Forest Service and Bureau of Land Management permits, a Categorical Exclusion settlement agreement for permit renewals on the High Uintas Wilderness, and litigation that the Agencies face from Environmental groups, just to name a few.

I will provide some background on these issues and then discuss the real and potential impacts to the agricultural industry now and into the future.

**Department of Labor**

First I will address the proposed Rule for Temporary Agricultural Employment of H2A Foreign Workers in the Herding or Production of Livestock on the Open Range in the United States.

Since the 1950's the special procedures have allowed for the following:

- 1) Monthly wage rates for livestock herders due to the nature of their work schedule.

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- 2) Herders to live in mobile housing i.e. Sheep Camps, Trailers and other mobile housing. This is necessary to be able to move the herds and graze on the open range. The herders tend to and protect the sheep from predators and others dangers in remote areas. This necessitates the need for the mobile housing so that they can be close to the herds.
  
- 3) Herders have also been able to stay for longer periods of time than farm based H2A to ensure herd safety.

In 2011, four former herders sued the Department of Labor alleging violations of the Administrative Procedures Act. The herders challenged the agencies adoption of documents announcing special procedures governing certification of H2A herder positions without going through a proper rule making procedure.

The herders contend that the documents set wages and working conditions below levels required by the Immigration and Nationality Act, reduce access to herding job opportunities and required wages and working conditions and depress wages and working conditions of similarly employed US workers.

The case was dismissed in 2013 for lack of standing but was subsequently appealed. The appeals court reversed the decision and directed the Department of Labor to proceed with the rule making process for these special procedures..

The Department of Labor has completed the rule and has published for public for comment, received those comments and is in the process of finalizing the rule.

The court directed Department of Labor to complete the rule making process. The court did not direct the Department of Labor to change the Special Procedures. However, the Department of Labor did propose significant changes to these procedures.

I would like to address two of the most substantial changes to the Special Procedures, the Wage Rate and the definition of Open Range.

### Wage Rate

The Proposed rule would increase wages from 750 per month to 2400 dollars per month over a Five year incremental phase in period. Increasing the wages by this amount will force many of the H2A employers into a negative cash flow scenario that will leave them no other choice but to sell the herds and discontinue their sheep ranching operations. This wage increase coupled with employer cost of housing, food, transportation, and document fees is a substantial increase in costs.

Most sheep ranches in the west are dependent upon the H2A worker program. Herds are grazed on large tracks of open range and in common allotments with other ranches. The availability of American sheep herders is practically nonexistent, in 35 years of using the H2A program I have had one qualified American worker whom I employed. Without affordable labor

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the sheep would have to be sold and the industry would suffer a tremendous loss. I have included with my written testimony, a study by the University of Wyoming showing the economic impact of the wage increase on sheep ranches in the West.

Most range sheep ranches in southwest Wyoming have herders to move flocks from one area to another to graze the range in a responsible manner. In the winter this is done on vast tracks of high Wyoming desert where the sheep can utilize snow for water and be able to use these areas that have little to no water. In the spring the herders move the sheep from the winter ranges to spring lambing grounds where the ewes give birth and the herders provide care for the ewes and lambs. In early summer, the herds are then moved along stock driveways and trails to summer pastures and Forest Service allotments. In the fall the sheep return from the forest and higher elevation pastures to the deserts to complete the yearly transhumance migration of both herders and flocks. This provides for a rotational grazing program that is done to utilize the range properly and care for the sheep. This is all done with the use of herders to tend the sheep daily and move the sheep to different areas when necessary. It is necessary to have herders with these animals to protect them from predators and keep them from straying from the herd.

Without affordable herders the ranchers would have no other option but to sell the sheep and devastate an entire industry.

#### Open Range

The definition that the Department of Labor is using in the proposed rule states: "Unenclosed public or private land outside of cities and towns in which sheep, cattle, goats, horses or other domestic hooved animals, by ownership, custom, license, lease, or permit, are allowed to graze and roam. Animals are not meaningfully enclosed where there are no fences or other barriers protecting them from predators or restricting their freedom of movement; rather a worker must actively herd the animals and direct their movement. Open range may include intermittent fencing or barriers to prevent or discourage animals from entering a particularly dangerous area, these types of barriers prevent access to dangers rather than containing the animals, and therefore supplement rather than replace the workers efforts.

The Open Range definition is not representative of what is "on the ground". Sheep need to be herded constantly whether under fence or on open range to care for the health and well being of the animals and to guard against predators and other threats. Sheep are herded around pastures to evenly graze the forage and then move to new pastures when the forage is utilized. Moving the sheep from pasture to pasture is also a very important often times done on fenced county right of ways or federally designated trails. The open range definition of the rule is simply not what the reality of the herding and grazing process and should be rewritten to reflect the fact that fences are used in the herding process and the conservation practices that have evolved through urbanization to what it is today. Fences are a tool that are used in the proper care and management of sheep and should not be used as a reason to disqualify an employer to participate in the H2A program.

Another issue that is not identified is what constitutes a fence? I bring this to your attention as many "Wildlife Friendly Fences" do not pose a barrier to sheep and therefore necessitate being

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herded so that they don't enter into private lands illegally or highways and cause vehicle collisions.

The department does not make reference to the fact that their sister agencies in the Department of Agriculture- Forest Service and Department of Interior-Bureau of Land Management **"Require"** permittees to maintain fences dividing allotments and pastures as part of their annual operating plans. These pastures can be as small as a few acres and up to hundreds of thousands of acres. The requirement of these agencies to have both fences and herders stands in contradiction to the department's definition of open range. The definition of open range will have a very limiting effect on who can qualify for the H2A program in the future. Most if not all open range has perimeter fencing and individual pasture fencing. Herding of sheep is still very necessary to protect them from predators and natural dangers. Sheep by their very nature need to be herded and cared for regardless if they are fenced in or not.

This new requirement of the special procedures will reduce the number of employers that can use the H2A program but their labor needs will remain the same and again with no American workers to fill those jobs they will be forced to sell their flocks.

#### Bighorn Sheep/ Domestic Sheep

I will give the committee a chronological history of events that has transpired that brings us to the present day.

In July 2003, the Payette national forest land and resource management plan was revised. The intermountain regional Forester received five appeals of the decision, which provided for grazing domestic sheep within or near the range of bighorn sheep, thus allegedly threatening the "viability of bighorn sheep" through disease transmission.

On March 9, 2005, the Chief of the Forest Service concurred... that the Final Environmental Impact statement (FEIS) did not adequately address viability or the potential for disease transmission and reversed the regional forester's 2003 decision.

The Chief instructed the regional forester to reanalyze the potential impacts of domestic sheep grazing on bighorn sheep populations in the Payette National Forest.

In September 2008, the U.S. Forest Service released a Draft Supplemental Environmental Impact Statement (DSEIS) that proposed to modify, delete, and add to the current Forest Plan direction in response to the chief's instructions.

In January 2010, the Forest Service released an update to the DSEIS that provided interested stakeholders and the public an opportunity to review and comment on improved analyses and alternatives.

On July 20, 2010 Suzanne Rainville, Forest Supervisor, Payette National Forest, signed the Record of Decision, which provided for the protection of 94% of the Bighorn Sheep summer source habitat. Only 31% of the rangelands suitable for domestic sheep grazing were maintained. This decision has become known as the Payette Decision. It was devastating to the

producers on the Payette Forest putting some out of business and others had to reduce their sheep herds substantially.

On July 29, 2009, the Regional Forester determined that bighorn sheep merited designation as a sensitive species in region 4 because of population declines from disease.

On February 3, 2014 the forest service released a briefing paper in which they outline how they will proceed with the region wide risk assessment framework and subsequent action that would take place. This briefing paper is also attached to my testimony for the Committees information. What is very troubling to me is the fact that in lieu of additional litigation the forest service allowed a known biased anti-grazing organization to collaboratively develop the framework which we as citizens and permit holders were not aware of. The settlement of the categorical exclusion lawsuit also cherry picked out of 77 allotments 11 which had bighorn sheep domestic sheep interaction. One of the reasons for the lawsuit was the impact to wilderness characteristics even though the Utah Wilderness Act clearly states that grazing where established shall continue and the wilderness designation shall not be a reason to discontinue grazing.

That is the background of Forest Service Region 4 development of Bighorn sheep, Domestic sheep management protocol.

The local issue that we are faced with is the implementation of the Risk Assessment and subsequent actions that will take place.

The High Uintas Wilderness is has the most affect on the local ranchers in this area. In 1989, bighorn sheep were reintroduced into the "Hole in the rock" area. Three vacant Domestic Sheep allotments were not restocked in order to reintroduce the Bighorn Sheep. A letter Dated April 5, 1989 from the Wasatch Cache National Forest Mountain View Ranger District was sent to permittee Joe Broadbent to alleviate concerns with the reintroduction in such close proximity to his grazing allotments. In that letter it states that "no permits would be cancelled to accommodate the reintroduction, and that no permits would be in jeopardy of cancellation in the future" This letter is also provided with my testimony.

So now we are 27 years later fighting for our economic future over something that we had assurances from the Forest Service would not affect us. This is a reintroduced herd that we have coexisted with for 27 years with no documented conflicts.

Another very important point that needs to be made is that through the entire process of developing the framework of the risk assessment the Forest Service Has Not consulted with the U.S. Agriculture Research Service. Disease transmission between domestic sheep and bighorn sheep is not well understood as there have been cases of disease die offs in areas where no known contact has been documented. Contact between the two species also does not mean disease transmission. Some herds of bighorn sheep test positive for the diseases that cause the die offs but have no pronounced symptoms or die offs.

At our last meeting the Forest Service released its Risk of Contact Model and a discussion was held on which allotments would be available to replace the impacted allotments. We again were

told that they were working on those replacement allotments. We were told that it was not a decision but that the decision would be based on the model and would be made within a couple of years. Without an economic replacement for these allotments the sheep that occupy these allotments will have to be sold.

The governors of the states of Utah, Wyoming, Idaho, and Nevada have all been told that they will be receiving the vacant or alternate allotment list also and to date they have not received the list. Wyoming has a Bighorn Domestic Sheep working group that has spent the last 14 years developing a management plan that address the bighorn-domestic sheep interaction the risks and management. The state legislature codified this into law in the 2015 legislative session. The Bighorn Sheep is under state jurisdiction and should be treated as such. The Forest service should not be dictating management to the states.

If the allotments are closed without an economically viable replacement, sheep ranches that have taken generations to build will be forced to sell their sheep. These sheep have been bred over decades to thrive in this area and instinctively know the trails and different areas that they graze. This will be lost. It is next to impossible to replace the quality of sheep that are grown in these range flocks.

The ranches that produce these sheep provide an influx of economic monies and activity that benefits the small western communities. This is done by harvesting a renewable resource, forage, that is transformed into the highly valuable and saleable products of wool, and meat. The purchases that are made by these ranches help support grocery stores, truck dealers, equipment dealers, feed stores, and the list goes on. The services and products help support a larger economy of trucking firms, feedlots, slaughter facilities, packaging facilities, and retail meat and grocery stores. The wool that is shorn also supports trucking firms, wool warehouses, shearers, woolen mills and retail clothing to name a few. Wool because of its flame retardant properties is used in our military uniforms to help in keeping our soldiers safe.

The underlying issue that connects all of these issues is the rampant abuse of the Equal Access to Justice Act that was designed to help the ordinary citizen to be financially able to challenge federal decisions. It has now been turned into a way to fund extremist anti-grazing groups who often times have significant financial resources, to destroy our rural economies. With the onslaught of litigation from radical environmentalist continuing, more and more taxpayer's dollars are spent to put me and future generations out of business. We appreciate Congressman Lummis' efforts to require disclosure and tracking of these attorney fee reimbursements. Without transparency, the tax payer has no way of realizing just how much of their money is going to feed the litigation machine.

Decisions by our public lands managers are based on the threat of litigation. As a result we increasingly see the agencies enter into settlement agreements, such as the one I mentioned, earlier in my testimony. This is having a profound and demoralizing effect on our public lands managers and the professionals that manage the range resource that we use. Under the threat of litigation the resource managers all too often respond by reducing AUM's or add more restrictions to grazing.

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This is destroying our ranching community's long term economic sustainability and security. This will destroy rural communities that have agribusinesses that depend upon these ranch operations and ultimately it is bad for the natural resources. The federal agencies, need to stop succumbing to threats and stand up to these litigious organizations as their goal as clearly stated by them is to remove all grazing on public lands.

These litigious groups use every federal law they can, Endangered Species Act, Clean Water act, National Environmental Policy Act and more. Often these challenges are based on procedural issues not substantive issues. It has caused a polarizing impact on the agency personnel and the ranching community.

With the insecurity that these looming decisions have made it is almost impossible to plan any long term management for our ranches. Most ranches require some level of financing and without some level of security and expectation of a probable future, financial institutions will become reluctant to make loans for these businesses. It is extremely difficult for a new producer to be able to enter the sheep business in the light of all the detrimental decisions that are coming in the future.

In summation I am the sixth generation to operate our family ranch. I take pride in the fact that my family has been agriculture producers since 1865 in the Almy area just north of here. My biggest fear is that due to these upcoming decisions and the litigious attacks on grazing that our ranch and others will come to an end on my watch.

Respectfully submitted

Shaun Sims

## **Economic Importance of Sheep Production in Wyoming**

**David T. Taylor, B.M. Feuz, J.P. Ritten**

### **Introduction**

Although sheep production has declined from historical levels, it remains a viable part of the Wyoming economy. The 2012 Census of Agriculture estimates that there were 354,785 head of sheep and lambs in Wyoming in 2012 (Table 1). Of this total 84 percent were in agricultural operations with 1,000 head or more of sheep and lambs. This suggests that while there are a large number of farm flocks in the state, most of the sheep production in Wyoming is associated with fairly large range flocks. The Census also estimates that total wool production in Wyoming for 2012 was 2.4 million pounds, and that 261,820 head of sheep and lambs were sold in 2012.

Based on the North American Industry Classification System, the 2012 Census of Agriculture classifies 224 agricultural operations in Wyoming as commercial sheep ranches whose primary enterprise is sheep production. These 224 operations manage 1.1 million acres of owned or leased land, excluding land used under government permits on a per-head basis. On average each of these commercial sheep ranches represents over 5,000 acres of open space in the state. The total capital investment by these sheep ranchers in land, buildings, and equipment is estimated to be \$399.0 million or \$1.8 million per ranch.

### **Current Economic Impact**

Table 2 summarizes the economic impact of sheep production in Wyoming in terms of jobs and income generation. These economic impacts were estimated using a 2013 IMPLAN model for the state of Wyoming. The sheep sector in the model was modified to better reflect sheep ranching in Wyoming based on a Wyoming Range Sheep Budget for a 1,000 ewe ranch in Southwest Wyoming, selling lambs in the fall. This budget was developed by Bridger Feuz, Wyoming Extension Livestock Marketing Specialist, through interviews with sheep producers in the region (Table 3).

Based on the Wyoming 2013 Agricultural Statistic estimate of 225,000 ewes in Wyoming during 2013, it is estimated that the total value of production from sheep in 2013 was \$33.5 million. If secondary economic impacts associated with other businesses that provide services and products to the sheep industry and workers' household expenditures are considered the total economic impact of sheep production in Wyoming for 2013 is estimated to be \$66.1 million. This represents about two dollars of total economic impact for each dollar of sheep production. The \$66.1 million of total economic impact associated with sheep production in Wyoming supported total employment of 835 jobs and total labor earnings of \$27.0 million representing average earnings per job of \$32,317.

## **Impact of New Labor Rules**

The sheep industry in Wyoming relies on foreign workers to work as herders. Recently the U.S. Department of Labor has released a draft of new rules for foreign workers holding H-2A visas working in open range operations (WyoFile, 4/28/215). The existing regulations gave foreign herders a longer visa stay, allowed them to live in mobile housing, and set the monthly wage for Wyoming at \$750, plus room and board. The proposed new regulations would, within five years, more than triple the wages to \$2,400 per month, plus board and room.

On an annual basis the proposed wage increase would increase the operating costs in the Wyoming Range Sheep Budget by \$39,600 for the two foreign herders. This would increase total operating costs in the budget by 40 percent to \$137,447.50. At current prices this would reduce income above operating costs by 78 percent to \$11,313 and would reduce returns to land, risk, and management to a negative -\$16,237.

In order to pay total operating costs in the existing Wyoming Range Sheep budget, total receipts per ewe would have to be at least \$97.85. An analysis of total receipts per ewe over the past 20 years indicates that the sheep operation would have been able to pay total operating costs 85 percent of the time (Ritten). In order to cover both total operating costs and total ownership costs in the existing Wyoming Range Sheep budget, total receipt per ewe would have to be at least \$125.40 per ewe. Over the past 20 years the sheep operation would have been able to pay both total operating costs and total ownership costs 40 percent of the time.

In order to pay total operating costs with proposed wage rate changes, total receipts per ewe would have to be at least \$137.45. Based on historic total receipts per ewe over the past 20 years, the sheep operation would have been able to pay total operating costs only 30 percent of the time with the increased costs. In order to pay both total operating costs and total ownership costs, total receipts per ewe would have to be at least \$165.00. Based on historic total receipts per ewe, the sheep operation would have been able to pay both total operating and total ownership cost only 8 percent of the time with the increased costs.

The level of reduced profitability for sheep operations due to the proposed changes in H-2A visa would significantly increase the financial risk for sheep operations in Wyoming, particularly the 85 percent with 1,000 head or more of sheep and lambs.

**Table 1.**  
**Selected Characteristic of Sheep Production in Wyoming, 2012**

Characteristic	Amount
Sheep & Lamb Inventory	354,785 head
Wool Production	2,437,181 pounds
Sheep & Lambs Sold	261,820 head
Number of Commercial Sheep Ranches	224 operations
Owned & Leased Land	1,122,940 acres
Capital Investment	\$398,885,536

**Table 2.**  
**Economic Impact of Sheep Production in Wyoming**

	Per Ranch	Per Ewe	State Total
Value of Production	\$148,761	\$148.76	\$33,471,113
Total Economic Impact	\$293,930	\$293.93	\$66,134,165
Total Employment	3.7 Jobs	.003714 Jobs	835.6 Jobs
Total Labor Earnings	\$120,014	\$120.01	\$27,003,231
Ave. Earnings Per Job	\$32,317	\$32,317	\$32,317

**Table 3. Wyoming Range Sheep Budget****1000 Ewes - Sell Lambs in Fall**

	Weight	Unit	Number of Head Units	Price Cost Unit	Total Value	Per Ewe Value or Cost
<b>Gross Receipts</b>						
Lambs	90	lb	840	1.65	124,740.00	124.74
Cull Ewes	150	lb	150	0.32	7,200.00	7.20
Cull Rams	225	lb	5	0.30	337.50	0.34
Wool - Ram, fine wool	12	lb	15	2.25	405.00	0.41
Wool - Ram, meat breed	8	lb	15	0.65	78.00	0.08
Wool - ewe	10	lb	1000	1.60	16,000.00	16.00
<b>Total Receipts</b>					<b>\$ 148,760.50</b>	<b>\$ 148.76</b>
<b>Operating Costs</b>						
Alfalfa Hay		ton	38	190.00	7,220.00	7.22
Feed Grain		cwt	215	7.00	1,505.00	1.51
Salt/Mineral		lb	4000	0.15	600.00	0.60
Federal Range		AUM	1500	1.35	2,025.00	2.03
Pasture		AUM	900	15.00	13,500.00	13.50
Hauling		head	1000	2.70	2,700.00	2.70
Marketing		head	1000	1.50	1,500.00	1.50
Predator Assessment		head	1000	1.00	1,000.00	1.00
Shearing - ewe		head	1000	3.80	3,800.00	3.80
Shearing - ram		head	30	7.75	232.50	0.23
Camp Supplies		head	1000	5.00	5,000.00	5.00
Dog Food		head	1000	2.00	2,000.00	2.00
ASI lamb checkoff		head	1100	0.50	550.00	0.55
Veterinary Medicine		\$	625	1.00	625.00	0.63
Machinery (fuel, lubrication, Repair)		\$	1200	1.00	1,200.00	1.20
Vehicle (Fuel, Repair)		\$	8600	1.00	8,600.00	8.60
Equipment (repair)		\$	520	1.00	520.00	0.52
Housing and Improvements (repair)		\$	720	1.00	720.00	0.72
Hired Labor		Herder	15000	2.00	30,000.00	30.00
Owner Labor		hour	675	20.00	13,500.00	13.50
Interest on Operating Capital		\$	21000	0.05	1,050.00	1.05
<b>Total Operating Costs</b>					<b>\$ 97,847.50</b>	<b>\$ 97.85</b>
<b>Income Above Operating Costs</b>					<b>\$ 50,913.00</b>	<b>\$ 50.91</b>

<b>Ownership Costs</b>						
Capital Recovery						
Purchased Livestock	\$	5500	1	5,500.00	5.50	
Housing and Improvement	\$	1000	1	1,000.00	1.00	
Machinery	\$	500	1	500.00	0.50	
Equipment	\$	2500	1	2,500.00	2.50	
Vehicles	\$	2800	1	2,800.00	2.80	
Interest on Retained Livestock	\$	125000	0.05	6,250.00	6.25	
Taxes and Insurance	\$	800	1	800.00	0.80	
Overhead	\$	8200	1	8,200.00	8.20	
<b>Total Ownership Costs</b>				<b>\$ 27,550.00</b>	<b>\$ 27.55</b>	
<b>Total Costs</b>				<b>\$ 125,397.50</b>	<b>\$ 125.40</b>	
<b>Returns to Land, Risk and Management</b>				<b>\$ 23,363.00</b>	<b>\$ 23.36</b>	



## U.S. Forest Service National Forest System, Region 4

### Briefing Paper

Date: February 3, 2014

**Topic:** Intermountain Region Bighorn/Domestic Sheep Management Framework

**Issue:** The relationship between bighorn sheep (BHS) population viability and domestic sheep grazing on NFS lands in Intermountain Region continues to be an important wildlife and range management issue. On August 19, 2011, the Washington Office (WO) issued guidance for conducting BHS analyses for NEPA documents. Region 4 is implementing a management framework to assess BHS viable population requirements, develop management options and tools, and implement those options that best address allotment specific conditions. The need for the framework has become especially acute due to the regional emphasis on completing updated grazing authorizations on domestic sheep allotments containing intersected BHS habitats and populations and recent Categorical Exclusion litigation settlement.

#### Objectives of the Framework:

- Support viable populations of BHS and a sustainable domestic sheep grazing program on National Forests in R4.
- Conduct a regionally consistent and scientifically defensible risk assessment of BHS habitat and populations with active domestic sheep grazing allotments for each R4 national forest.
- Conduct a forest specific BHS viable population analysis to identify domestic sheep allotments that place NFMA regulatory requirements for viable BHS populations at-risk.
- Identify a suite of potential management options that will meet agency management objectives for management of domestic sheep/BHS interaction.

#### Key Features of the Framework:

- The BHS Risk Assessment is consistent with the 2011 Chief's Letter of Direction.
  - Regional validation of the draft Source Habitat layer for BHS.
  - Development of updated State-wide BHS population (occupied habitat) layer.
  - Identification of BHS Core Herd Home Ranges – in cooperation with States.
  - Apply Risk of Contact Assessment Geospatial Model.
  - Conduct BHS viable population analysis for each national forest – the appropriate scale; Not allotment by allotment which is inefficient and an inappropriate scale.
  - Completion of the assessment by August 2014 identifying specific domestic sheep allotments placing BHS population viability at risk.
  - Design response strategy with Forest Supervisors and Regional leadership and staff.
2. Update R4 Allotment database to identify potential management options for domestic sheep allotments at risk of contact with BHS populations:
- Adjustment of current permits and allotment status based on changed management conditions, risk to BHS population viability.
  - Potential re-classification to explore options for alternative domestic sheep allotments:
    - Common Use between sheep and cattle
    - Activation of vacant allotments to domestic sheep/cattle grazing
    - Establishment of Forage Reserve allotments
    - Conversions of kind and class of livestock

Background:

- Remand of the Payette N.F. Plan with direction to complete a BHS NFMA viability assessment (2005).
- Collaborative negotiation with Western Watersheds, Inc. to develop a regional assessment framework for Forest compliance with NFMA viability requirements by 2012 in lieu of additional litigation against nine additional Forests containing known BHS/domestic sheep intersections.
- Payette litigation associated with Forest implementation of the viability decision against Simpson legislation: Plaintiffs prevailed.
- Chief's Letter of Direction on "Bighorn Sheep Analysis for NEPA Documents" (2011).
- Idaho Woolgrower's lawsuit against the Payette Decision (2012), oral arguments scheduled for hearing in February 2014.
- R-4 Categorical Exclusion (CE) litigation – Settlement of litigation challenging ten CE decisions authorizing grazing on 77 allotments located on five different forests spanning four states. This litigation and subsequent settlement included 11 allotments containing known bighorn/domestic sheep intersections.
- Western Governors request an agency analysis that provides for a "hard look" at management options for agency producers adversely affected by agency bighorn viability decisions.

**Contacts:** Terry Padilla, Regional Range Staff and Team Lead; Danielle Chi, Director of Natural Resources; Chris Iverson, Deputy Regional Forester, Intermountain Region, USFS.

File Code: 2230

Date: April 5, 1998

Joe Broadbent  
Box 734  
Evanston, WY 82930

Dear Joe:

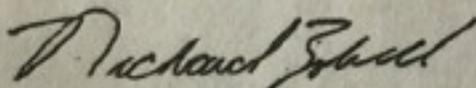
In 1989 big horn sheep were re-introduced into the Hole-in-the-Rock area. The decision to do so was made in the 1988 Burnt Beaver Area Analysis. No domestic sheep grazing permits were cancelled, but rather a decision was made not to re-stock three vacant domestic sheep allotments above Hoop Lake. When the proposal was made, the District Ranger and I met with several individuals and the Summit Co. Commissioners to assure them that no permits would be cancelled to accommodate the re-introduction, and that no permits would be in jeopardy of cancellation in the future.

The District Ranger, a Forest Service biologist, a UDWR biologist, and I were all aware that there was permitted sheep grazing as close as Gilbert Peak, and that there was a real possibility that some of the big horns could possibly mix with domestic sheep in that area and other areas to the west. However, all felt that it was worth the risk; it was felt that the area around and south of Hoop Lake would be adequate for the big horns.

The decision in the Burnt Beaver Area Analysis did not preclude any future analysis and decisions that could involve your grazing allotments and the future management of the big horns.

I hope this has answered your questions and addressed your concerns.

Sincerely,



Richard Zobell  
Rangeland Management Specialist