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Rangeland Reform '94

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**U.S. Department of the Interior
Bureau of Land Management**

**Michael J. Penfold
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RANGELAND REFORM '94

RANGELAND REFORM '94

I. HISTORY

- A. Prior to 1906, grazing on public lands was unregulated with no fees.
- B. Grazing fees first charged by the Forest Service in 1906.
- C. Taylor Grazing Act (1934) passed. Grazing Associations formed and grazing fees first charged by Grazing Service (BLM) in 1936.
- D. Current fee formula was enacted by Congress in 1978 as a part of the Public Rangelands Improvement Act and has been extended by Executive Order since the law expired in 1986 with Congress unable to get agreement.
- E. Public debate over control of public land intensifies.
- F. Advance Notice of Proposed Rulemaking published in August, 1993.
- G. Notice of Intent to prepare environmental impact statement published August, 1993.
- H. Proposed rule published in March, 1994.
- I. EIS published in April 1994.
- J. 48 Public Hearings held on rule.
- K. 3 Congressional Field Hearings held.
- L. Public comments encouraged (closes September 9, 1994).

II. THE RANGELAND REFORM '94 PROPOSAL

- A. Goals for Rangeland Reform '94:
 - 1. Provides for sustainable ecologically-based management of federal rangelands.
 - 2. Promotes sustainable economic activities on behalf of rural western communities.
 - 3. Provides a fair and equitable return to the Government for the use of public lands and resources.
 - 4. Improves grazing program administration.
 - 5. Increases consistency between BLM and Forest Service rangeland program administration.
- B. IMPROVEMENTS IN ADMINISTRATION AND ENFORCEMENT
 - 1. New water rights for livestock watering on public lands will be held in the name of the United States where permitted by state law.
 - 2. Subleasing will be regulated to recover a share of profits for taxpayers.

3. Enforcement orders will be effective in 75 days or less instead of 2 or 3 years.
4. Standards and guidelines to protect ecological condition will be reflected in permits and leases.
5. Consistency in land management between BLM districts will be enhanced.
6. All interested parties can participate in decision-making.
7. Conservation use of range resource is authorized.
8. Range improvement funds can be spent to cover the associated cost of range improvements.

C. FIVE PROPOSALS FOR CLOSED RELATIONSHIPS WITH WESTERN COMMUNITIES

1. Multiple Resource Advisory Councils (MRACs): Citizen advisory bodies that represent a broad range of interests, and expertise and provide advice to the BLM.
2. Standards and Guidelines: State-based direction-based on ecological principles to direct management of livestock grazing on public land.
3. Technical Review Team's (TRTs) and Rangeland Resource Teams (RRTs): Fact finding bodies that report to the MRAC to provide advice on livestock grazing, range improvement projects, and problem resolution.
4. Subleasing: Provides the opportunity for the rancher to lease his or her base property to another rancher and legally lease the grazing privileges on public land.
5. Interested Publics: Provides the opportunity for input by all public interested in the management of grazing on public land.

D. COMMUNITY-BASED DECISION-MAKING

Purpose: Move BLM management toward maintaining or restoring healthy, sustainable eco-systems, through advice and feedback from a broad range of public interests, experience, and expertise.

1. Eliminate Grazing Advisory Boards and District Advisory Councils and charter Multiple Resource Advisory Councils based upon BLM Districts or eco-regions.
2. 15 members representing 3 groups: commodity users; conservationists; and all other land users.
3. One Multiple Resource Advisory Council (MRAC) per BLM District.
4. MRAC provides advice on State or regional standards and guidelines.
5. MRAC may request Secretarial review of BLM decision.
6. Consensus for action: agreement by 3 members from each of the 3 groups; agreement by all 15 members for raising issues with Secretary.

E. STANDARDS AND GUIDELINES

Purpose: Ensure ecologically-based management to sustain rangeland eco-systems.

1. 4 National Requirements:
 - a. Maintain or achieve healthy, properly functioning eco-systems;
 - b. Enhance or maintain properly functioning riparian systems;
 - c. Maintain, restore or enhance water quality that meets or exceeds State water quality standards; and
 - d. Ensure to the extent practicable the maintenance, restoration or enhancement of the habitat of threatened or endangered, and Category 1 or 2 candidate species.
2. When management practices do not meet these requirements, the authorized officer would take appropriate action before the start of the next grazing year.
3. State or Regional standards and guidelines must be developed within 18 months.
4. Standards and Guidelines developed with advice of MRAC.
5. If Standards and Guidelines not developed within 18 months, then fall-back standards and guidelines go into effect.
6. Standards for rangeland health will address the following:
 - a. Soil stability and watershed function;
 - b. The distribution of nutrients and energy; and
 - c. Plant community recovery mechanisms.
 - d. Riparian functioning condition.
 - e. Guidelines will address management actions to ensure meeting standards.

F. FULL FORCE AND EFFECT/APPEAL RIGHTS

Purpose: Improve administrative efficiencies by applying the same appeals process to grazing decisions that is applied to other DOI decisions.

1. Rights to appeal will be protected.
2. 30-day period to file appeal or petition to stay.
3. Decision goes into effect after 30-days unless stay is requested.
4. 45-day period to review stay.
5. Decision goes into effect no later than 75-days if stay is denied.

G. PUBLIC INVOLVEMENT

Purpose: Improve grazing program administrative efficiencies by providing consistent public involvement opportunities for affected interests.

1. Establishes a national policy to expand opportunities for citizen participation in the land management programs.
2. No selection criteria will be used to limit participation by any party.
3. Full force and effect provisions should prevent endless appeals.
4. Become Interested Public by indicating in writing their desire to participate in land management actions.

H. SUBLEASING OR LEASING

Purpose: Provide a fair and equitable return to the taxpayer for the subleasing of public rangeland resources.

1. Surcharges of 20% of the annual grazing fee for Federal AUM's transferred to a lessee as a result of a base property lease and 50% of the annual grazing fee for Federal AUM's involved in pasturing agreements. If both types of leases occur simultaneously, the surcharge would be 70% of the annual grazing fee.
2. Family-owned businesses will not be subjected to any surcharges for sons and daughters operating within the family operation or assuming control of the family operation.
3. Secretary requesting comments on whether pasturing agreements should be subject to surcharges.

I. MANDATORY QUALIFICATIONS

Purpose: Require applicants for livestock permits or leases to have a satisfactory performance record.

1. Prohibit permittees or lessees from holding a BLM grazing permit or lease for up to 3 years if they have had Federal or State permits previously canceled.
2. Only new permit applicants will be disqualified.
3. Only performance on State lands within the Federal allotment will be considered.
4. Other existing permits will not be affected.

J. PROHIBITED ACTS

Purpose: Improve grazing program administrative efficiencies by expanding the list of environmental laws which put the permit or lease at risk, when violated.

1. Suspension or cancellation of a grazing permit or lease could be considered for violations of laws and regulations protecting wildlife, regulating use of pesticides, protecting archaeological resources, and protecting water quality and stream courses.
2. Rule ensures that no suspension or cancellation of a grazing permit or lease can occur until there has been a full opportunity to appeal the finding of a violation or conviction.
3. Limited to violations involving or affecting public lands.

SUMMARY: Range Reform '94 is an attempt to forge a new consensus to the West.

"My wager, reflected in the draft regulations, is that in this emerging West the stakeholders, in all their diversity, can come together and forge a new consensus for public land management. For we are neighbors, we grew up and went to school together, shared outdoor experiences that shaped our lives, and we all know that the West is a better place for having both a strong livestock industry and a healthy environment".

Secretary of the Interior Bruce Babbitt

**COLORADO RANGELAND
REFORM PROPOSAL**

SUBMITTED TO

**DEPARTMENT OF THE INTERIOR
SECRETARY
BRUCE BABBITT**

BY THE

**COLORADO RANGELAND REFORM
WORKING GROUP**

JANUARY 20, 1994

The Colorado Rangeland Reform Working Group was formed by Governor Roy Romer in November 1993, to make recommendations to the U.S. Department of the Interior on grazing fees and public rangeland reform.

The group was composed of local ranchers, rural officials, local environmentalists and leaders from both the Cattlemen's Association and the conservation community in Colorado.

For an intensive two-month period, this group met in Grand Junction and in Governor Romer's Office for nine all-day sessions to hammer-out common ground on the contentious issue of grazing reform.

Interior Secretary Bruce Babbitt was impressed by Colorado's efforts and attended seven of the group's meetings. He indicated an interest in knowing the group's recommendations to Governor Romer as the Department of the Interior considers its rangeland reform proposals later in 1994.

This document represents the working group's views on the issue of governance and for improving public and community involvement in federal rangeland management.

"More than one-third of all the land in Colorado is managed by the federal government. This means that if we are to preserve our way of life in Colorado, and if we are to sustain rural communities, our wildlife and the environment we love, we must do a better job of managing the public lands.

"I believe that job is enhanced by empowering those who live close to these lands, those with an interest in protecting the land, both conservationists and ranchers, to work together for the benefit of their communities.

"If we work together, we can preserve our communities and the public lands that are America's greatest resource."

Governor Roy Romer

Members of the Colorado Rangeland Reform Working Group

Stan Broome, Executive Director, Region 10, Montrose,
Colorado

*G. Reeves Brown, rancher, Beulah, Colorado

*Jay Paul Brown, rancher, Ignacio, Colorado

*Reeves Brown, Executive Vice President, Colorado
Cattlemen's Association, Arvada, Colorado

Tom Colbert, Montezuma County Commissioner, Mancos,
Colorado

*T. Wright Dickinson, rancher, Maybell, Colorado

Tom Dougherty, Regional Director, National Wildlife
Federation, Boulder, Colorado

Maggie Fox, Director, Southwest Regional Office of the
Sierra Club, Boulder, Colorado

Bill Hegberg, Colorado Wildlife Commissioner, Snowmass
Village, Colorado

*Eric Johnson, Board of Directors, Club 20, Redstone,
Colorado

*Bill Riebsame, Professor of Geography, University of
Colorado, Boulder, Colorado

*Ken Spann, rancher/lawyer, Gunnison County
Stockgrower's Association, Almont, Colorado

Gary Sprung, Director, High Country Citizens'
Alliance, Crested Butte, Colorado

Virgil Valdez, rancher, former president, Colorado
Cattlemen's Association, La Jara,
Colorado

*John Wade, Conservation Chair, Sierra Club, Englewood,
Colorado

*original members of the Colorado Resource Roundtable

MODELS FOR ENHANCED
COMMUNITY-BASED INVOLVEMENT IN RANGELAND REFORM

January 20, 1994

The Colorado Rangeland Reform Working Group ("working group") is committed to these seven goals: (1) healthy and sustainable rangeland ecosystems, (2) healthy, sustainable and diverse economies and communities, (3) accountability of management and users of public lands to broad public goals, (4) efficient and effective management of our public lands, (5) fostering mutual respect among public land users, (6) encouraging the retention of private land open space, and (7) ensuring public lands are managed to comply with federal laws.

Consistent with these goals, the Colorado working group has concluded that the current framework for public and community-based involvement in public lands management is inadequate. That framework could be significantly enhanced by experimenting with a bottom-up, grass roots model of public participation that includes multiple interests and some identified areas of responsibility for on-the-ground rangeland management decisions, and ensures that all members of the public who wish to actively participate in public rangelands decisions, have a full opportunity to do so.

These recommendations are based on two principles: 1) This is a Colorado model (the Colorado working group recognizes that this Colorado model may not be applicable to other western states, and that there may be other models that are better suited to those states); and 2) that this Colorado model represents a change from the current and/or traditional management, and that this is an experimental approach.

The working group has explored a number of different models based in part on the favorable experiences of community and ecosystem-based approaches like that underway in Gunnison, Colorado; the "Owl Mountain" example in Jackson, County, Colorado; the Coordinated Resource Management (CRM) experience near Craig, Colorado; and the Federal Lands Program in Montezuma County, Colorado. We recognize that these models may not be appropriate for other states.

For purposes of discussion, the attached "draft" represents an experimental approach to reforming the governance structure for advisory boards and community-based rangeland decision-making. Based on the working group's discussions to date, there is consensus on the basic approach suggested by these models -- and consensus on the value of having Interior Secretary

Bruce Babbitt share this draft with other states and experts in the Department of the Interior for their review. The group further agrees that many of the concepts and ideas described in this model could be useful and applicable to the U.S. Forest Service.

I. MULTIPLE RESOURCE ADVISORY COUNCILS:

The working group recommends that Multiple Resource Advisory Councils be created in order to advise the BLM on a wide variety of public lands issues, including grazing.

Group consensus exists that these councils should:

- o Focus on the full array of ecosystem and multiple use issues associated with federal lands.
- o Have up to 15 members appointed on a nonpartisan basis by the Interior Secretary. In making the appointments, the Secretary shall consider the recommendations of the Governor. Membership shall be self-nominated. Members could be nonresidents. Nominations will be accompanied by letters of recommendation from local interest groups which the nominee will be representing. At least one member will be a local elected official.
- o Require that members bring to the table; (1) a commitment to collaborate; (2) relevant experience or expertise, and (3) a commitment to success and to apply the law.
- o Require that, in the aggregate, council membership must represent the full array of issues and interests, custom and culture related to federal land use, management, protection, and a general understanding of the federal laws and regulations governing these lands.
- o Participate directly and effectively in the preparation and amendment of resource management plans.
- o Serve as a link between broad national policy direction and the more specific local, on-the-ground actions and public input.
- o Have an effective role with respect to influencing or guiding decisions about the implementation of resource area plans.
- o Require that all council members attend a "rangeland ecosystem course of instruction" within three months of their appointment. (The working group agreed to an acceptable standardized curriculum and process -- such as the Rangeland Ecosystem Awareness Program developed by a subgroup -- with a full

understanding of the associated costs and a number of the details yet to be worked out.)

- o Each council shall develop a policy on attendance to encourage full participation of all members.

Jurisdictional Level:

Since the purpose of Multiple Resource Advisory Councils is to foster broader public input in planning and management activities by federal public lands agencies, it makes sense for Councils to operate at a jurisdictional level that is: (1) close to local communities, and (2) close to the land planning decisions made by federal agencies while still ensuring that they are readily available and open to public comment.

The Colorado working group believes that to be effective in the State of Colorado, these advisory bodies need to be created at the Bureau of Land Management (BLM) District level. As appropriate, the formation of these Councils should also allow for the integration of both BLM and Forest Service units into one Council, and as the respective agencies move toward management and planning on an ecosystem basis, the Councils should re-align accordingly.

A governor or a Multiple Resource Advisory Council could petition the Secretary to authorize these councils at a BLM Resource Area level if that was thought to be desirable. A Rangeland Resource Team (described below) could make such a request to the Multiple Resource Advisory Council.

Membership:

All interests, uses, and values should be represented to the extent possible, and a balanced composition should be achieved. The District BLM manager (or his/her designee) would be non-voting ex-officio members of the Council. Members would not be required to reside in the counties served by the respective BLM District. Members would be required to demonstrate relevant experience and knowledge of the lands and communities in their jurisdictional area. A single individual could serve on only one Council.

Functions:

The Council would be advisory in nature. Council members would be involved in the preparation, amendment and implementation of federal agency land management plans in an advisory capacity. If the Council disagreed

with a federal land manager's decision that relates to one of the Council's functions, the Council would have the authority to submit a request for review of the decision to the Secretary. The Secretary's office would have discretion on the timeliness of a response, although a date certain could be encouraged (20 to 30 days).

A Council's opportunity to influence land management decisions shall be in compliance with the public participation process outlined by federal laws (The National Environmental Policy Act, the Federal Advisory Committee Act, the Administrative Procedure Act, etc.) Opportunities to streamline and simplify these procedures need to be explored (perhaps by fully utilizing other authorities noted in the Federal Land Policy and Management Act and the Public Rangelands Improvement Act).

The Council would have the authority to designate Rangeland Resource Teams (described below) and Technical Review Teams to address specific issues or problems in the District and/or serve as fact-finding teams.

Councils should work to promote better public participation and engagement in land management decisions, and to foster conflict resolution through open dialogue and collaboration instead of litigation and bureaucratic appeal.

Creation:

If it is thought to be desirable to authorize Multiple Resource Advisory Councils at other levels (i.e., below the BLM District level), a governor or Multiple Resource Advisory Council could make that request to the Secretary, or the Rangeland Resource Team could make such a request to a Multiple Resource Advisory Council. Multiple Resource Advisory Councils could be created or "chartered" in one of three ways:

1. By local initiative and official appointment by the State BLM Director.
2. By local initiative and appointment by the Secretary.
3. By the Secretary with due consultation given to any recommendations offered by the Governor.

II. RANGELAND RESOURCE TEAMS:

Within each BLM District and administrative unit, local Rangeland Resource Teams could be formed for the purpose

of enhancing public and community-based involvement in federal public lands decision-making.

Rangeland Resource Teams are premised on the notion that rangeland decisions ought to be made with good stewardship, with appropriate multiple use and compliance with federal laws as guiding principles. They are also premised on the following principles:

- o Permittees are in the best position over time to exercise good stewardship, and to ensure full compliance with federal laws, and that this opportunity is further enhanced by direct dialogue and full participation of community-based environmental and wildlife/sportsmen interests.
- o Good stewardship and full compliance with federal law is enhanced and strengthened when community and public interests are empowered with permittees, members of the public and agency officials in making decisions.
- o A substantial portion of the increase in grazing fee revenues from public lands should be retained and expended at the local level for the purpose of promoting the ecological health of the range and investing in good stewardship practices.
- o There is value in empowering individuals no matter where they live to work in concert with federal and public interests in resolving local public lands/rangeland issues at the community level.

It is expected that these community-based Rangeland Resource Teams will have a true ecosystem focus. With time and experience, this model could be organized around eco-regions rather than according to arbitrary land ownership and federal management boundaries.

This vision cannot be achieved in one step. The opportunity presented by this model is to encourage good stewardship by permittees and other users, and to improve rangeland use, rangeland ecosystems and management. The Colorado working group believes this model is an important step toward enhancing these goals -- while laying the foundation for this broader vision.

Jurisdictional Level:

In order to have credibility and to ensure that both community and public interests are represented, Rangeland Resource Teams should be allowed to spring up in as small an area as a single allotment but in no case

to go beyond an area larger than that encompassed by the corresponding Multiple Resource Advisory Council for that area.

Creation:

They could be established and dissolved in any of the following ways:

1. By local initiative and petition to a respective Multiple Resource Advisory Council. If a petition is denied, the locals could petition to be a FACA body (see below).
2. By the Multiple Resource Advisory Council when deemed necessary by that Council.

As a matter of formality, all appointments would be made by the Multiple Resource Advisory Council. The teams could be terminated by an affirmative act of the Council. Individual terms for team members would be established by the Council.

Membership:

Rangeland Resource Team membership would be limited to five members from the following interests: Two resident permittees who hold permits in the area, one resident at-large community representative, one environmental representative and one wildlife/recreation representative. The environmental representative and the wildlife/recreation representative could be nonresidents; however, all members shall be required to demonstrate substantial knowledge and experience of the land and community where they serve. Nominations will be accompanied by letters of recommendation from local interest groups which the nominee will be representing.

These members would be required to participate in a "rangeland ecosystem course of instruction" (the working group agreed to an acceptable standardized curriculum and process -- such as the Rangeland Ecosystem Awareness Program developed by a subgroup -- with a full understanding of the associated costs and a number of the details yet to be worked out), and would also be required to demonstrate knowledge of the local rangeland ecosystem.

Under this alternative, at least one member of the resource team must also be a member of the Multiple Resource Advisory Council. Other team members could also serve as members of the Multiple Resource Advisory Council -- but such dual appointment would not be required. For purposes of this section, residency means two years.

Functions:

The primary function of Rangeland Resource Teams is to encourage good stewardship, collaborative solutions and healthy rangeland ecosystem management through collaboration and by providing recommendations and information to the Multiple Resource Advisory Councils.

These teams would encourage community and public participation and problem-solving on the ground. Rangeland Resource Teams could have authority to spend the 12.5% range improvement monies currently under the authority of grazing advisory boards, according to state law.

Rangeland Resource Teams would also be empowered to develop proposed solutions for local rangeland problems and make recommendations to Multiple Resource Advisory Councils. These teams would participate in developing resource management plans, act as fact finding bodies and make recommendations on rangeland improvement monies.

The Multiple Resource Advisory Councils shall give careful consideration to the recommendations, options and information provided by the Rangeland Resource Teams.

Rangeland Resource Teams could be charged with assisting in monitoring rangeland health and reporting on the full scope of their activities to the Multiple Resource Advisory Councils on a regular basis. In addition, Rangeland Resource Teams could be charged with assisting in implementing programs such as the Rangeland Ecosystem Course of Instruction.

In cases where Rangeland Resource Teams disagree with a management decision by the federal land manager, the team could petition the Multiple Resource Advisory Council for an opinion or create a Technical Review Team (see below) to make recommendations on specific issues. This does not preempt the ability of any citizen to challenge a management or planning decision through the existing administrative and legal appeal process.

Although federal or state land managers would not be members of the Rangeland Resource Teams, open communication and collaboration with federal land managers would be expected and encouraged. Federal land managers should be ex-officio members of the boards.

Rangeland Resource Teams could petition the Secretary for recognition as advisory bodies under FACA. In such cases, these teams would be authorized to directly advise federal land managers.

III. TECHNICAL REVIEW TEAMS:

Technical Review Teams (TRTs) can be established on an as needed basis by Multiple Resource Advisory Councils or Rangeland Resource Teams if they are operating as a FACA body (see above). The Rangeland Resource Teams may request the Multiple Resource Advisory Councils to establish TRTs. In some instances, the need for the TRT may be negated by the Rangeland Resource Team performing a fact-finding role. Bodies that create TRTs (Multiple Resource Advisory Councils or Rangeland Resource Teams that are functioning as FACA advisory bodies) must have at least one member on those TRTs.

TRTs could be empowered to investigate and develop proposed solutions to specific resource issues which may arise in the local area. Such teams may also participate in the development of resource management plans by providing information and options to the Multiple Resource Advisory Councils. TRTs can function as "fact finding" teams. Selection of TRT members should be at the discretion of the Council and may be based on the recommendations of the Rangeland Resource Team, but members should possess sufficient knowledge and expertise about the resource issues in the area. Federal land managers as well as members of other governmental agencies could be ex-officio members of these teams.