

Consolidated Appeal Nos. 22-8031 and 22-8043

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

WESTERN WATERSHEDS PROJECT, ALLIANCE FOR THE WILD
ROCKIES, and YELLOWSTONE TO UINTAS CONNECTION,
Petitioners/Appellants,

and

CENTER FOR BIOLOGICAL DIVERSITY and SIERRA CLUB
Petitioners/Appellants,

v.

DEBRA A. HAALAND, et al.,
Federal Respondents/Appellees

and

STATE OF WYOMING and UPPER GREEN RIVER CATTLE ASSOCIATION,
et al.,
Intervenor Respondents/Appellees

On Appeal from the United States District Court for the District of Wyoming
Civil Action Nos. 0:20-cv-231-NDF and 0:20-cv-234-NDF
(Hon. Nancy D. Freudenthal)

**ANSWERING BRIEF FOR INTERVENOR RESPONDENTS/APPELLEES
GREEN RIVER CATTLE ASSOCIATION; SOMMERS RANCH, LLC;
PRICE; CATTLE RANCH; MURDOCK LAND AND LIVESTOCK CO.,
AND WYOMING STOCK GROWERS ASSOCIATION**

Oral argument is requested

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Stock Growers Association*

CORPORATE DISCLOSURE STATEMENT

Pursuant to Fed. R. App. P. 26.1, Intervenor Respondents/Appellees Upper Green River Cattle Association, Sommers Ranch, LLC, Price Cattle Ranch, Murdoch Land and Livestock Co., and Wyoming Stock Growers Association certify that none issues public shares or has any corporate parent or affiliate that issues public shares.

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PRIOR OR RELATED APPEALS

There are no prior or related appeals in this matter.

GLOSSARY

AMP	Allotment Management Plan
AOI	Annual Operating Instructions
APA	Administrative Procedure Act
AUM	Animal Unit Month
BiOp	Biological Opinion
BTNF Plan	1990 Bridger-Teton National Forest Land Resource Management Plan
CBD	Center for Biological Diversity
DMA	Demographic Monitoring Area
ESA	Endangered Species Act
FWS	Fish and Wildlife Service
GYE	Greater Yellowstone Ecosystem
IGBST	Interagency Grizzly Bear Study Team
ITS	Incidental Take Statement
NEPA	National Environmental Policy Act
NFMA	National Forest Management Act
Project	Upper Green River Area Rangeland Project
Project FEIS	2017 Final Environmental Impact Statement for the Upper Green River Area Rangeland Project
ROD	2019 Record of Decision for the Upper Green River Area Grazing Project

RZ	Recovery Zone
USFS	United States Forest Service
WWP	Western Watersheds Project

INTRODUCTION

Grizzly bears in the Greater Yellowstone Area (“GYE”) have made a profound recovery. That recovery has occurred alongside century-old grazing activity in the Upper Green River Area Rangeland Project (“Project”). Nevertheless, Appellants seek to end grazing on Bridger-Teton National Forest lands, arguing that this longstanding use of land outside of the Grizzly Recovery Zone jeopardizes the entire existence of the species that has recovered so robustly. This substantive allegation is contradicted by history and data. Moreover, none of Appellants CBD’s and WWP’s (together, the “Environmentalists”) procedural objections to the FWS’s 2019 Biological Opinion (“BiOp”) and USFS’s approval of the Project carry water.

Separately, WWP argues again on appeal that the Forest Service failed to comply with the National Forest Management Act (“NFMA”). In particular, WWP claims that the Forest Service’s allowance of grazing did not provide for suitable and adequate forage, at the expense of sensitive amphibians and migratory birds. However, the Forest Service properly considered multiple uses on the Project, adhered to the 1990 Bridger-Teton National Forest Land Resource Management Plan’s (“BTNF Plan”) specific forage levels, and should be given deference when interpreting undefined terms in the BTNF Plan.

The district court properly upheld the agencies' decisions, which were reasonable, based on the scientific evidence, and demonstrate that the agencies considered all relevant factors. This Court should affirm.¹

¹ In the interests of avoiding doubt and minimizing duplication, Rancher Respondent-Intervenor Appellees concur in and incorporate by reference all factual claims and arguments included in Federal Appellees' Answering Brief.

STATEMENT OF JURISDICTION

Rancher Respondent-Intervenor Appellees (collectively “Ranchers”) concur in and incorporate by reference the statement of jurisdiction contained in Federal Appellees’ brief. *See* Fed. Br. 2.

STATEMENT OF THE ISSUES

Rancher Respondent-Intervenor Appellees concur in and incorporate by reference the statement of the issues contained in Federal Appellees' brief. *See* Fed. Br. 2-3.

STATEMENT OF THE CASE

I. Statutory and regulatory background

Grazing on national forest land is governed by a bevy of statutes and regulations, including the Endangered Species Act, the National Forest Management Act, and the Administrative Procedure Act.

A. The Endangered Species Act

When a species is listed as endangered or threatened under the Endangered Species Act (“ESA”), all federal agencies are charged with ensuring that their actions are unlikely to jeopardize the species or to destroy or adversely modify its designated critical habitat. 16 U.S.C. § 1536(a)(2). If a proposed action might affect the species, ESA Section 7 requires that the agency proposing an action (the “action agency”—here, USFS) consult with the “consulting agency” responsible for management of the species (here, FWS) to determine whether the action is likely to jeopardize the existence of the species. The 2019 BiOp is the document produced by FWS providing and explaining its determination (the “no-jeopardy determination”) that the action proposed by USFS—approving the Upper Green River Allotment Grazing Plan—was not likely to jeopardize the existence of the grizzly bear, which is listed as “threatened.” Section 9 of the ESA generally prohibits “taking” of a covered species, where to “take” is defined as “to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect” the animal. 16 U.S.C. § 1532(19). However,

take that is incidental to a federal action may be exempted from the prohibition by an incidental take statement (“ITS”) issued with a BiOp produced from the consulting process. 16 U.S.C. §§ 1536(b)(4), 1536(o)(2).

B. The National Forest Management Act

The National Forest Management Act (“NFMA”) requires the Forest Service to develop management plans for its forests, and then evaluate projects occurring on forest lands against the applicable forest plan. *See* 16 U.S.C. §§ 1604(a); 1604(i). Forest plans must consider “physical, biological, economic, and other sciences,” and “shall” provide for “multiple use and sustained yield of the products and services” obtained from the forest, coordinating range, timber, wildlife, and other products and uses. 16 U.S.C. §§ 1604(b), 1604(e). This Court has repeatedly described a forest plan as “a broad, programmatic document.” *See McKeen v. U.S. Forest Serv.*, 615 F.3d 1244, 1247 (10th Cir. 2010), *quoting Colo. Env’tl Coalition v. Dombeck*, 185 F.3d 1162, 1167–68 (10th Cir. 1999).

NFMA requires site-specific projects (like plans, permits, or contracts) to “be consistent with” the applicable forest plan. *See* 16 U.S.C. § 1604(i). The NFMA arguments raised by WWP in this appeal turn on several factors, including how to determine whether a project is “consistent with” a plan that has multiple competing economic and biological goals and the level of deference owed to the Forest Service

when making such determinations and reconciliations. *See* WWP Opening Br. 25-35; Fed. Br. 13, 45–53.

C. The Administrative Procedure Act

Citizen claims under the ESA or NFMA are reviewed under the Administrative Procedure Act (“APA”). *See Ctr. for Native Ecosystems v. Cables*, 509 F.3d 1310, 1320 (10th Cir. 2007). Under the APA, courts set aside agency action only if it was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Review “is highly deferential” to the agency. *Ecology Ctr. v. U.S. Forest Serv.*, 451 F.3d 1183, 1188 (10th Cir. 2006).

D. Factual Background

Central to this case is Ranchers’ use of the Upper Green River Cattle Allotment located within the Upper Green River Area Rangeland Project. The Upper Green River Cattle Allotment is accessed by use of the Green River Drift and Green River Drift Trail, which is the oldest continually used, traditional cattle drive in the State of Wyoming, and perhaps the United States. R-Supp-App-35. Since at least 1896, the Green River Drift has functioned as the essential connector between seasonal grazing lands for cattle ranches in the Upper Green River Valley. R-Supp-App-33. Indeed, use of the Drift began when the grazing of public lands in the Green River Valley region was still free and unregulated. *Id.* Ranches in the Upper Green River Valley region, including the Sommers Ranch, LLC, the Price Cattle Ranch,

and the Murdock Land and Livestock Co., are dispersed along waterways and valleys that contain irrigable land for producing hay. *Id.* Grazing land is located further out on the surrounding mesa, desert, foothill, and mountain pastures based on a seasonal feeding pattern. *Id.*

In November 2013, the Green River Drift Trail was listed in the National Register of Historic Places as a Traditional Cultural Property (“TCP”). *Id.* The Drift is representative of a rural community’s land use patterns, and reflects the local ranchers’ traditional occupational culture, including shared practices, customs, and beliefs. *Id.* It is the oldest continually used stock drive in Wyoming, and is one of the only remaining cattle trails still in use in the same manner in which it was originally developed. *Id.* Moreover, the Drift is the first listed TCP in the nation to recognize a traditional culture rooted in a shared occupation such as ranching. *Id.*

“Livestock grazing is among the oldest land uses in Bridger-Teton National Forest with the majority of local ranches dependent upon on the National Forest for summer forage.” 5-App-44. Indeed, entire communities depend on Forest land grazing. *See, e.g.*, F-Supp-App-16 (“Domestic livestock grazing within and adjacent to the project area has played a key role in sustaining the vitality of Pinedale, Big Piney, and the surrounding communities since the early 1900s.”); 5-App-077 (“Ranching, farming, and associated agri-business are some of the most important

factors in the economy of western Wyoming. Some of the smaller communities are almost totally dependent upon the agricultural economy.”).

The Forest Service developed the livestock grazing allotment system in the Project area, and some of the allotment boundaries were fenced, over a century ago. 11-App-126; R-Supp-App-46. Intervenor-Appellee Upper Green River Cattle Association was formed in and has operated continuously since 1916, with grazing remaining a constant but diminishing environmental presence. 2-App-275.

In return for the opportunity to put Forest grazing areas to socially beneficial use, Ranchers work “very cooperative[ly] . . . with the Forest Service to improve range conditions on their allotments.” R-Supp-App-48. In 2013, for example, an Environmental Coordinator for Forest Service noted that permittees had not merely “been compliant over the last five years,” but that moreover:

their compliance is a consistent pattern over the years. . . . [P]ermittees have be[en] compliant with the grizzly bear conservation measures and terms and conditions of the B[i]O[p] and are proactive managers of their allotments, working cooperatively with the Forest Service to address any resource concern as it arises. The Upper Green Allotment permittees are also involved in a cooperative monitoring program with the Forest Service since 1996.

3-App-116.

Even so, grazing permitted on the Bridger-Teton National Forest has declined notably over time. The BTNF Plan indicated that the Forest provided over 253,000 animal unit months (“AUMs”) of forage in the mid-1980s, while a 2016 report noted

that the Forest by then authorized only approximately 180,000 AUMs. 5-App-064; R-Supp-App-42. In thirty years, grazing has diminished by nearly 30%.

As explained in greater detail below, grazing, particularly at the reduced levels and in the supervised manner now currently approved, does not threaten the grizzly or other wildlife populations and is consistent with the Forest Plan.

E. Proceedings Below

Ranchers concur in and incorporate by reference the recounting of proceedings below contained in Federal Appellees' brief. *See* Fed. Br. 14-17.

SUMMARY OF ARGUMENT

The district court correctly concluded that the United States Fish and Wildlife Service (“FWS”) and the United States Forest Service (“USFS”) acted lawfully when FWS adopted the 2019 Biological Opinion (“BiOp”) and USFS relied on that opinion and issued its Record of Decision (“ROD”) authorizing continued livestock grazing in the Upper Green River area of Bridger-Teton National Forest (“BTNF”) in Wyoming. The agencies fully satisfied the requirements of the Endangered Species Act (“ESA”), the National Forest Management Act (“NMFA”), and the Administrative Procedure Act (“APA”), and the district court’s decision should be affirmed.

FWS complied with the ESA when it adopted the 2019 BiOp. Contrary to Environmentalists’ claims, the absence of a sex-specific female take limit in the BiOp is lawful, because the agency reasonably concluded based on the best available evidence that a non-sex-specific take limit was sufficient to ensure that the project would not threaten the survival of GYE grizzlies. The BiOp does address grizzly mortality (including female mortality) both within and outside the Project area, and reasonably concludes that the removal of a limited number of problem bears from the Project area does not threaten the species. Moreover, FWS properly considered and utilized reasonable conservation efforts in the BiOp, and Environmentalists’ contrary position would perversely amount to a ban on the inclusion of useful

conservation measures in future biological opinions unless those measures were *independently* sufficient to support such an opinion's conclusion.

Even if the 2019 BiOp had been flawed, USFS's reliance on the opinion was reasonable and therefore lawful. USFS was not required to duplicate effort by undertaking its own independent analysis of the issues addressed in the BiOp; such a rule would seriously undermine the expertise of consulting agencies like FWS. Environmentalists here take for granted that reliance on an unreasonable BiOp is itself arbitrary and capricious, but that position is contrary to law.

USFS's decision approving the Project also complied with NFMA and with the BTNF Plan. *First*, although WWP argues that the plan's Forest Utilization Standard ("FUS") incorporated all aspirational, unenforceable "Objectives" in the BTNF Plan and converted them into binding and enforceable "Standards," and that therefore the ROD fails to comply with BTNF Plan Objective 4.7(d) (concerning suitable and adequate amounts of cover for wildlife and fish), WWP's proposed reading of the Plan is unreasonable. Moreover, WWP's reading would mean that the FUS transmogrified *all* plan objectives into binding standards, including many objectives that conflict with Objective 4.7(d); WWP offers no basis for concluding that its preferred Objective 4.7(d) trumps the other 47 plan objectives – including the objective of providing grazing opportunities for 260,000 Animal Unit Months ("AMUs") annually. *Second*, USFS's decision *does* provide for "reasonable and

adequate” forage and cover and would thus satisfy Objective 4.7(d) even if it were transformed into an enforceable standard. *Third*, even if USFS’s decision were not correct, USFS is entitled to deference in its judgments balancing conflicting forest uses, and the Court may not lawfully substitute its own judgment for the agency’s.

STANDARD OF REVIEW

This Court reviews the district court's decision upholding the challenged agency decisions *de novo*. *Wildearth Guardians v. Nat'l Park Serv.*, 703 F.3d 1178, 1182 (10th Cir. 2013).

The standard of review applied by this Court is the same extremely deferential standard applied by the court below under the Administrative Procedure Act. Under the APA, courts set aside agency action only if it was “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). Review “is highly deferential” to the agency. *Ecology Ctr. v. U.S. Forest Serv.*, 451 F.3d 1183, 1188 (10th Cir. 2006). The burden of proof rests with the party challenging agency action. *Colo. Health Care Ass'n v. Colo. Dep't of Social Servs.*, 842 F.2d 1158, 1164 (10th Cir. 1988). The inquiry focuses on the decisionmaking process, rather than the substantive outcome of the decision. *Colo. Wild v. U.S. Forest Serv.*, 435 F.3d 1204, 1213 (10th Cir. 2006). The court may not weigh the evidence or substitute its own judgment for that of the agency's, even if a different choice would be fully justified. *Custer Cnty. Action Ass'n v. Garvey*, 256 F.3d 1024, 1030 (10th Cir. 2001); *Gallegos v. Lyng*, 891 F.2d 788, 795 (10th Cir. 1989).

ARGUMENT

I. FWS complied with the ESA.

FWS complied with the ESA when it adopted the 2019 BiOp. Environmentalists contend that the absence of a sex-specific female take limit in the BiOp is arbitrary and capricious. But FWS reasonably concluded based on the best available evidence that a non-sex-specific take limit was sufficient to ensure that the project would not threaten the survival of GYE grizzlies. The BiOp does address grizzly mortality (including female mortality) both within and outside the Project area, and reasonably concludes that the removal of a limited number of problem bears from the Project area does not threaten the species.

Environmentalists also argue that FWS unlawfully relied on various conservation measures in the 2019 BiOp to support its no-jeopardy determination. But FWS properly considered and utilized reasonable conservation efforts in the BiOp, and Environmentalists' contrary position would perversely amount to a ban on the inclusion of useful conservation measures in future biological opinions, unless those measures were *independently* sufficient to support such an opinion's conclusion.

A. **The absence of a female-specific take limit in the 2019 BiOp is not arbitrary and capricious.**

Environmentalists suggest that the failure to include a female-specific take limit in the 2019 BiOp was an unexplained change from past practice. CBD Opening

Br. 21-22; WWP Opening Br. 38. But the 2019 BiOp is the *third* time FWS had declined to include a female take limit for conflict bears (violent bears that attack and kill or injure humans or livestock) in the Project area. *See* 2-App-184 (2010); 2-App-184 (2014).

Even if such a practice had been established, the 2019 BiOp would not materially deviate from it, because it *does* discuss and rely on the specific mortality limits for female grizzlies. 2-App-163-164, 2-App-175-176, 2-App-189-190, 2-App-192. FWS noted that removals “are considered on a case-by-case basis but follow standard protocols in the Interagency Grizzly Bear Guidelines” and that “data demonstrate that management removals of a limited number of grizzly bears on these and other Allotments have not had detrimental impacts on the GYE grizzly bear population.” 2-App-190-91. The 2019 BiOp does not rely on female take limits specific to the Project Area, but that’s because such limits are irrelevant unless they cause population mortality at the larger GYE scale to reach unacceptable levels. If that happens, as the 2019 BiOp notes, the IGBST will convene and develop a new review. 2-App-245-46 (2017 Supplement to Recovery Plan). *See also* *Ctr. for Biological Diversity v. U.S. Fish and Wildlife Svc.*, 807 F.3d 1031, 1046 (9th Cir. 2015) (holding measures sufficiently enforceable under ESA where BiOp required reinitiating consultation if measures or stipulations unmet). But there’s no reason to think it will, as the GYE population has achieved and maintained recovery goals

while grazing has been ongoing. *See* Fed. Br. 23.

Environmentalists' position that the absence of a sex-specific take limit threatens the species' existence is directly contrary to FWS's reasoned conclusion that removal of a limited number of problem bears has not had detrimental impacts on the GYE population, and thus will not jeopardize the survival of the species. 2-App-182. Even if Environmentalists had some contrary evidence, a reviewing court may not "displace the agencies' 'choice between two fairly conflicting views, even though the court would justifiably have made a different choice had the matter been before it de novo.'" *Custer Cnty. Action Ass'n v. Garvey*, 256 F.3d 1024, 1030 (10th Cir. 2001) (citation omitted). Neither may it "weigh the evidence nor substitute [its] discretion for that of the agency." *Gallegos v. Lyng*, 891 F.2d 788, 795 (10th Cir. 1989).

Finally, Environmentalists' suggestion that FWS failed altogether to consider female mortality as an aspect of the problem (CBD Opening Br. 21-25; WWP Opening Br. 40) is belied by the 2019 BiOp's specific discussion of female mortality. 2-App-033-34, 2-App-192. And the reason female mortality is relevant is because it is relevant to maintaining the species, which USFS reasonably concluded would be accomplished without a sex-specific limit. 2-App-169 ("[T]otal mortality limits will preclude population-level impacts.").

B. The 2019 BiOp addresses mortality (including female mortality) within and outside the Project area.

WWP invokes the “sink habitat” designation for much of the Project area, implying it is a serious signal of danger to the species’ survival. WWP Opening Br. 11-12, 17, 41-43. But the existence of a sink habitat is not dispositive of anything; the phrase merely denotes any area in which deaths exceed births and emigration exceeds exmigration. 2-App-240. Sinks are generally “associated with human activity and development,” 7-App-224, but a source-sink dynamic exists “across the GYE,” with positive growth rates tending to occur inside the RZ and negative rates outside the RZ. 2-App-240. Good management involves encouraging bears to choose source habitats over sink habitats, 2-App-240, in order to “ensure that mortality . . . does not result in a population decline in source habitat,” 2-App-241. But as bears become over-concentrated in source habitats, some will inevitably drift to sink habitats. 2-App-240 (“Animals move from source to sink habitats either because of density-dependent competition or density-independent dispersal.”). Bear drift into sink habitats thus inevitably accompanies successful recovery efforts. As Environmentalists acknowledge, not all the grazing areas are sink habitats. WWP Opening Br. 11. Nor are all sink habitats grazing areas. USA-Supp-App-60, Fig. 5. And the fact that allotments are a sink habitat makes them *more* suitable, not less suitable, for socially productive uses other than recovery; source habitats are source habitats because bears are better off being there than in sink habitats, which are

relatively unsuitable.

Thus, removal of bears from the Project area is *not* why the Project area is largely sink habitat; in fact, conflict bears have been specifically *excluded* from source-sink population analysis, because they form a biased sample. *See, e.g.*, 2-App-051 As grazing in the Project area has decreased, conflicts have increased, because conflicts are not a function of grazing, but of the expanding grizzly population. 2-App-177 (“Grizzly bears continue to expand outward in the GYE, including and beyond the action area.”), 2-App-189 (“We believe this trend [increasing conflicts] was due to a growing bear population[.]”), 2-App-190 (conflicts increasing “as the number of bears using the core habitats have reached capacity”).

C. The 2019 BiOp properly considered and utilized reasonable conservation measures.

Environmentalists object to the conservation measures included in the 2019 BiOp, arguing that FWS arbitrarily and capriciously relied on those measures to support its no-jeopardy determination, because various measures are allegedly vague, not certain to occur, unenforceable, and ineffective. CBD Opening Br. 25-30; WWP Opening Br. 47-54. Environmentalists’ arguments about vagueness, uncertainty, and unenforceability fail for two reasons: first, because the relevant measures are not vague, uncertain, and unenforceable; second, because Environmentalists misunderstand the requirement that certain measures meet those

standards under limited circumstances not present here. Environmentalists' arguments regarding ineffectiveness are unsupported by the record and merely seek impermissibly to substitute their own judgment for that of FWS.

Generally, Environmentalists misinterpret standards a conservation measure must meet to be *sufficient* to support a no-jeopardy determination as a ban on inclusion of conservation measures that do not meet those standards, even if the conservation measures at issue are not necessary to the no-jeopardy determination. But there is no such ban. WWP (at 47-54) relies primarily on *Ctr. for Biological Diversity v. Rumsfeld*, 198 F. Supp. 2d 1139 (D. Ariz. 2002), which dealt with “a laundry list of possible mitigation measures” essential to the no-jeopardy finding, all of which were “merely suggestions.” *Id.* at 1153. There, the no-jeopardy determination was premised on the hope that the agency and other interested parties would come up with a mitigation plan in the future. *Id.* at 1154. Here, by contrast, there is no indication that the conservation measures included in the 2019 BiOp were essential to its no-jeopardy determination. Compare 2-App-192 (noting FWS “*review[ed]* . . . the Forest’s commitment to implement their Conservation Measures” (emphasis added)) with 2-App-192 (“The Service reached [its] conclusion by considering the following: [listing only factors *not* including conservation measures]”). See also *Ctr. for Biological Diversity v. Bernhardt*, 982 F.3d 723, 743 (“Binding mitigation measures cannot refer *only* to generalized

contingencies or gesture at hopeful plans[.]” (emphasis added)).

In *Bernhardt*, on which Environmentalists also rely, CBD Opening Br. 19, 26, 28; WWP Opening Br. 49, 51-52, the court determined that the mitigation measures FWS included in its BiOp were insufficiently specific to enforce. *Bernhardt*, 982 F.3d at 743 (although the court noted that “measures can be made enforceable in a variety of ways, including by incorporation into the terms and conditions of an incidental take statement”). It also held, however, that its “conclusion that the mitigation measures in the BiOp are insufficiently specific to enforce has no legal consequence unless we separately conclude that FWS relied on those measures.” *Bernhardt*, 982 F.3d 723, 747 (9th Cir. 2020). And in fact, the court proceeded to find that FWS had not relied on those measures in its no-jeopardy determination. *Id.* at 748. By contrast, the court determined that FWS *had* relied on those measures for its critical habitat determination, because FWS specifically relied on its finding that the “terms and conditions associated with authorizations under the MMPA [(“Marine Mammal Protection Act”)] would minimize the level of persistent disturbance that may result from the Proposed Action[.]” *Id.* at 748.

To the extent any of the 2019 BiOp measures are unenforceable or uncertain, this case is like *Bernhardt*, not *Rumsfeld*, because the no-jeopardy determination of the 2019 BiOp plainly does not hinge on (for instance) whether Conservation Measure 7 (requiring USFS to “Continue to identify and implement opportunities

that reduce the potential for grizzly bear conflicts”) or Conservation Measure 9 (requiring that USFS “Continue to work in cooperation with [agencies] to identify and collect information”) successfully results in unspecified future mortality reductions. 2-App-192. These are “and don’t stop there!” provisions requiring USFS to engage in ongoing efforts at improvement. There is no indication in the record that FWS’s no-jeopardy determination relies on future identification of yet-unknown measures merely because it requires USFS to continue efforts to identify such potential additional measures. Environmentalists perversely seek to turn a requirement for concrete conservation measures into a ban on FWS’s requiring ongoing identification of potential additional or improved conservation measures.

In any case, most of Environmentalists’ objections to the Conservation Measures are dependent on mischaracterizing those measures.

Environmentalists argue that Measure 2, which requires riders to watch livestock closely for sick, injured, or stray animals, is “not reasonably certain to occur,” because it “relies on permittees[.]” CBD Opening Br. 27. But Measure 2 literally uses the word “required.” 2-App-153. CBD complains that Measure 2 fails to define “closely” by specifying a number of riders to be on the range at any given time and “how often they should be checking on the livestock.” CBD Opening Br. 28. But any discretion bestowed by Measure 2 to determine what constitutes “watch[ing] all livestock closely” is bestowed on *USFS*, not its permittees. 2-App-

153 (“Riders are required to watch all livestock closely...”).

CBD argues that Measure 3 is not “reasonably specific” because it requires monitoring on a regular basis and does not define those terms. CBD Opening Br. 29. But there is nothing unreasonable about requiring regular monitoring without creating an inflexible date-specific schedule. 2-App-153.

CBD argues that Measures 4 and 5 are ineffective because they are illusory or aspirational, CBD Opening Br. 25–26. But as Federal Respondents explain, Fed. Br. 38-39, Measures 4 and 5 *do in fact* require removal or destruction of carcasses, with exceptions only for safety reasons. 2-App-153 (“all carcasses . . . *will be removed* if possible” (emphasis added)).

D. Even if the 2019 BiOp had been flawed, USFS’s reliance on it was reasonable and therefore lawful.

“[R]eviewing the decision of an action agency to rely on a BiOp . . . is quite different than . . . reviewing a BiOp directly.” *City of Tacoma, Washington v. FERC*, 460 F.3d 53, 75 (D.C. Cir. 2006). While reliance on a BiOp can be arbitrary and capricious if the BiOp is “facially flawed” or the action agency “blindly adopt[s] the conclusions of the consultant agency,” nevertheless “the action agency need not undertake a separate, independent analysis of the issues addressed in the BiOp.” *Id.* at 75 –76 (cleaned up). “In fact, if the law required the action agency to undertake an independent analysis, then the expertise of the consultant agency would be seriously undermined.” *Id.* An agency’s reliance on a BiOp is lawful “if a

challenging party can point to no ‘new’ information—*i.e.*, information the [consultant agency] did not take into account—which challenges the opinion’s conclusions.” *Id.* at 76 (alteration in original), quoting *Pyramid Lake Paiute Tribe v. U.S. Dep’t of Navy*, 898 F.2d 1410, 1415 (9th Cir. 1990). Environmentalists point to no such information here, and do not claim that the BiOp was facially flawed. Rather, they take for granted that it’s arbitrary and capricious to rely on a BiOp later determined to be arbitrary and capricious. CBD Opening Br. 30; WWP Opening Br. 55-56. That is not the law. *City of Tacoma*, 460 F.3d at 75–76. Environmentalists bear the burden of showing that this (false) claim is true, and they do not attempt to carry it.

E. USFS complied with NFMA.

WWP seeks to have this Court treat an aspirational objective in the BTNF Plan as enforceable standard, and to hold that this specific BTNF Plan “objective” trumps all others. But the Forest Service must balance conflicting Plan objectives, and USFS is owed deference in choosing how to weight and accomplish them. WWP’s arguments disregard the deference afforded to the Forest Service’s technical expertise and need to balance competing mandates, policies, and goals, including the goal of facilitating grazing. Finally, the forage utilization limitations in the Project documents, including the utilization standard for Idaho fescue, *do* provide “suitable and adequate” cover for amphibians and migratory birds. The Project is consistent

with the BTNF Plan, WWP has not proven any NFMA violation, and the district court's decision should be affirmed.

1. The project documents are consistent with the 1990 BTNF plan regarding forage utilization.

The Project documents meet or exceed the requirements of the Forage Utilization Standard in the BTNF Plan. NFMA requires the Forest Service to devise a management plan for each forest unit and then requires that any future projects approved to take place on the forest be consistent with the plan. *See* 16 U.S.C. §§ 1604(a); 1604(i); *See also Utah Native Plant Soc'y v. U.S. Forest Serv.*, 923 F.3d 860, 868 (10th Cir. 2019). The Upper Green River Area Rangeland Project must be consistent with the BTNF Plan; review of the relevant documents demonstrates that it is so.

The Forage Utilization Standard in the BTNF Plan states:

Forage Utilization Standard — The following utilization standards will be maximum utilization levels allowed for all herbivores on key vegetative species. For further information, see *Range Analysis and Management Handbook, FSH 2209 14 Chapter 4*

Upland Range Sites

<u>*Season-Long Grazing</u>		<u>Rotation Grazing</u>	
Unsatisfactory Condition	Satisfactory Condition	Unsatisfactory Condition	Satisfactory Condition
40%	50%	50%	60%

Riparian Range Sites

<u>*Season-Long Grazing</u>		<u>Rotation Grazing</u>	
Unsatisfactory Condition	Satisfactory Condition	Unsatisfactory Condition	Satisfactory Condition
45%	55%	55%	65%

*Season-long grazing only exists on a few allotments and will be changed to rotational grazing as Allotment Management Plans (AMPs) are revised

5-App-133-34. In other words, for an upland range site subject to season-long grazing and in unsatisfactory condition, only 40% utilization will be permitted. In contrast, for a riparian range site subject to rotational grazing and in satisfactory condition, up to 65% utilization will still comply with the BTNF Plan.

As an initial matter, the ROD eliminated any season-long grazing in the Project. See 4-App-169; 4-App-155; 11-App-125 (the Project FEIS elected Alternative 3 as the preferred option); 11-App-130 (under Alternative 3 in the Project FEIS, “[t]he Forest Service would initiate a deferred or rotational grazing system in the Badger Creek, Beaver-Twin Creeks, Roaring Fork and Wagon Creek allotments to meet Forest Plan requirements to eliminate season long grazing[.]”); 2-App-275 (a letter from Albert Sommers, Jr., of Sommers Ranch Partnership in 2000, stating his family has implemented “rest-rotation and deferred grazing systems” for nearly 30 years on the Upper Green River Allotment—in present day that would be

nearly 50 years of rest-rotational and deferred grazing).

Further, the Project FEIS stated that, “[i]n general, the upland areas in the Upper Green River project are in satisfactory condition with a few localized areas of concern described below which comprise a relatively small portion of the project area.” 11-App-175. The Project FEIS identifies seven “focus areas” that “do not currently meet desired conditions...” 11-App-129.

Thus, while the BTNF Plan would allow 60% utilization for most upland areas in the Project, and 65% utilization in many riparian areas, the ROD took a more conservative approach, generally allowing only 50% utilization.² 4-App-148-52 (site-specific utilization rates ranging from 20% to 65%). These conservative utilization standards are carried into the grazing permits (one for each permittee) and AOIs, making them more conservative than, and hence compliant with, the Forage Utilization Standard in the BTNF Plan. For example, a 2021 permit for the Upper Green River Allotment states:

² While utilization of up to 65% is allowed in some areas of the Noble Allotment pastures and its respective separate permit and AOI, these pastures are controlled by additional site-specific guidelines. Noble Pasture 1 is the only pasture with a permanent 6-inch stubble height requirement for the riparian greenline. 4-App-148-152. Noble Pasture 1 also includes a focus area subject to a permanent 6-inch stubble height. *Id.* The focus area in Noble Pasture 4 is the only pasture with a limitation providing that it “would be grazed at a maximum forage utilization of .5 AUMs per acre per year and likely would not be grazed some years.” 4-App-149.

12. UTILIZATION STANDARDS AND GUIDELINES established by Upper Green River FEIS ROD:

- A. Vegetation Range Prescription: Range is managed to maintain and enhance range and watershed condition.
- B. Forage Utilization Standard for Upland: 50%
- C. Forage Utilization Standard for Riparian: 50%
- D. Greenline Stubble heights shall range from 4"-6" as identified in the ROD.
- E. The maximum forage utilization guidelines apply cumulatively to all types of grazing use including wildlife, livestock, and recreational stock.
- F. During monitoring and evaluation a Utilization Guideline may be changed if the prescribed level is not accomplishing planned objectives.

14-App-122. The site-specific limitations are also restated in the respective AOIs:

Additionally, the Upper Green River Grazing EIS record of decision was signed in 2019. Therefore, we will begin implementing that decision and utilization levels will not exceed 50% in uplands/riparians and greenline stubble heights of 4" and 6" shall be maintained dependent on the site as identified in the ROD.

15-App-090 (AOI for Upper Green River Allotment).

In short, the district court correctly concluded that the ROD, the permits, and the AOIs are consistent with the quantified Forage Utilization Standard in the BTNF Plan, and WWP fails to show otherwise.

2. The Forage Utilization Standard in the 1990 BTNF Plan does *not* transmogrify all plan objectives (or even just the one objective WWP cares about) into binding standards.

WWP's argument rests on the erroneous (and undefended) position that the Forage Utilization Standard incorporates all BTNF Plan objectives, and thus converts them from objectives to standards. *See* WWP Opening Br. 27-28. This argument misconstrues one sentence in the BTNF Plan and ignores the rest.

After the quantified utilization standards according to range site, condition, and grazing practice are set forth in the Forage Utilization Standard, the BTNF Plan states:

During AMP revision, the Interdisciplinary (ID) Team and livestock permittees will prescribe site-specific utilization levels needed to meet Forest Plan objectives

5-App-134. WWP claims that this made the “Forest Plan objectives” part of the Forage Utilization Standard. WWP Opening Br. 5-7, 27. Specifically, WWP argues that standards are binding, the BTNF Plan includes the Forest Utilization Standard, and that Standard requires that during AMP revision, site specific forage utilization levels be prescribed to meet BTNF Plan objectives. WWP Opening Br. 5-7, 27-28. WWP notes that Objective 4.7(d), requires suitable and adequate amounts of forage and cover for wildlife and fish. *Id.* at 7. Taking it as a given that the Project is therefore “required” to meet this BTNF Plan objective, WWP proceeds to fault USFS for failing to “adequately explain how the UGRA Project complied with the Forage Utilization Standard” (by which, again, WWP means Objective 4.7(d)). WWP Opening Br. 28. WWP says that because the selected alternative “fails to require the retention of suitable and adequate amounts of cover,” it does not comply with the Objective, which means it does not comply with the Standard, which means that it violates NFMA. WWP Opening Br. 36-37.

WWP’s argument is wrong for a host of reasons. First, the language WWP cites, by its clear terms, only applies “[d]uring AMP revision.” WWP Opening Br. 6, citing 5-App-134. Nowhere does WWP address the language of the two AMPs created since the BTNF Plan, let alone address whether those AMPs meet the BTNF

Plan objectives. WWP also does not explain why this BTNF Plan statement would apply to allotments with pre-existing, unrevised AMPs or allotments that do not have AMPs.

Second, the BTNF Plan specifically defines both “Standard” and “Objective”:

Standard — A land, resource, or human-use value against which organizational actions or resource conditions can be measured and limited, and usually stated as requirements in this document using the term “will be ”

Objective — Accomplishment steps or points designed to achieve a goal

Goal — The desired end result

5-App-010-11. WWP’s theory that Forest Plan “objectives” became part of the Forage Utilization Standard merely because the statement about meeting BTNF Plan objectives was placed after the Forage Utilization Standard is baseless.

Third, there is also no basis for WWP to imagine that the only “objective” incorporated into the Forage Utilization Standard was Objective 4.7(d). The Plan includes no less than 48 explicit objectives, including the objective of providing forage for about 260,000 AUMs of livestock grazing annually. 5-App-118-25; 5-App-119 (Objective 1.1(h)). The BTNF Plan also includes dozens of goals and standards. 5-App-118-27 (listing goals and objectives); 5-App-127-50 (listing standards).

WWP’s entire theory depends upon the Forage Utilization Standard incorporating Objective 4.7(d) to the exclusion of or as a priority over Objective

1.1(h) and every other objective, but nowhere has WWP explained any basis for this conclusion. Despite WWP's desire to abolish grazing, the BTNF Plan requires the Forest Service to "[p]rovide forage for about 260,000 Animal Unit Months (AUMs) of livestock grazing annually" just as much as it requires adequate forage and cover. 5-App-119. *See also* Western Watersheds Project, <https://www.westernwatersheds.org/> (last visited Jan. 19, 2022) (website states, "[t]ogether we can protect western public lands from the *destructive effects of livestock grazing*[]" (emphasis added)); R-Supp-App-42 ("[T]he Forest currently authorizes approximately 180,000 AUMs.").

WWP complains that the District Court only noted *one* conflicting objective before dismissing its theory. WPP Opening Br. 27-29. The District Court's analysis, 1-App-148-49, was correct. The presence of even one objective conflicting with 4.7(d) is sufficient to demonstrate the absurdity of WWP's interpretation of the FUS; that there are (as WWP concedes at 27) many, many more such objectives renders WWP's theory perhaps more amusing, but not more coherent. The District Court, having established a fatal error, was under no obligation to explore every additional way in which the theory's failure might be established.

3. The Forest Service is entitled to deference, and properly provided for "suitable and adequate" forage.

Even if "suitable and adequate" forage and cover were required, the Forest Service is entitled to deference in interpreting Objective 4.7(d). *Native Ecosystems*

Council v. U.S. Forest Serv., 418 F.3d 953, 960 (9th Cir. 2005) (“Agencies are entitled to deference to their interpretation of their own regulations, including Forest Plans.”); *Bark v. Northrop*, No. 3:13-cv-00828, 2016 WL 1181672, at *16 (D. Or. Mar. 25, 2016) (“Where a forest plan directive is susceptible to more than one meaning, the Forest Service’s interpretation and implementation of its own plan is afforded substantial deference unless plainly erroneous.”); *Sierra Club v. Martin*, 168 F.3d 1, 4 (11th Cir. 1999) (stating that “the Forest Service’s interpretation of its Forest Plan should receive great deference from reviewing courts” unless the Forest Service does not “scrupulously follow the regulations and procedures promulgated by the agency itself[.]” (cleaned up)).

WWP’s preferred Objective, of course, is 4.7(d): “[r]equir[ing] that suitable and adequate amounts of forage and cover are retained for wildlife and fish[.]” 5-App-126. The BTNF Plan contains over 100 goals, objectives, and standards. 5-App-118–27 (listing goals and objectives); 5-App-127-50 (listing standards). Naturally, then, “[t]he Forest Plan recognizes that *not all the Forest Plan goals and objectives can be achieved at the same time* from the same land areas.” 11-App-188 (emphasis added). The resulting needed balancing necessarily depends on exercise of discretion by the Forest Service, and this court should not accept WWP’s invitation to refuse deference to that exercise.

Forest Plans “appear more akin to ‘road maps’ on which the Forest Service

relies to chart various course of action. A [Forest Plan] is, in the truest sense, a document that creates a *vision* by integrating and displaying information relevant to the management of a national forest.” *Forest Guardians v. Forsgren*, 478 F.3d 1149, 1155 (10th Cir. 2007) (emphasis in original); *Id.* (“In short, [Forest Plans] are a framework for making later project decisions rather than . . . a collection of project decisions.”) (citation and quotation omitted). Forest Plans “operate like zoning ordinances, defining broadly the uses allowed in various forest regions, setting goals and limits on various uses . . . but [the plans] do not directly compel specific actions[.]” *Conservation Cong. V. U.S. Forest Serv.*, No. 07-2764, 2010 WL 3636142, at *3 (E.D. Cal. Sept. 14, 2010) (quoting *Citizens for Better Forestry v. U.S. Dep’t of Agric.*, 341 F.3d 961, 966 (9th Cir. 2003)). “Forest [P]lans *guide* management strategies in the National Forests[.]” and the Forest Service acted within its discretion. *Coal. For Sustainable Res., Inc. v. U.S. Forest Serv.*, 259 F.3d 1244, 1248 n. 5 (10th Cir. 2001) (emphasis added). Not only are “goals” and “objectives” aspirational by definition (whether in ordinary usage or as defined in the BTNF Plan), but courts grant agencies broad discretion in interpreting their own regulations. WWP forgets that “[a]n agency’s actions need not be perfect; [courts] may only set aside decisions that have no basis in fact, and not those with which we disagree.” *Biodiversity Conservation Alliance v. Jiron*, 762 F.3d 1036, 1074 (10th Cir. 2014) (quoting *Forest Guardians v. U.S. Forest Serv.*, 329 F.3d 1089, 1099 (9th

Cir. 2003)).

4. Project forage levels for Idaho Fescue, sensitive amphibians, and migratory birds accomplish the “suitable and adequate” objective.

WWP argues that the forage levels chosen for the Idaho fescue, sensitive amphibians, and migratory birds in fact do not retain suitable and adequate amount of cover for wildlife. WWP Br. 32-37. As explained below, the Forest Service selected Project level requirements that do retain suitable and adequate cover for each group.

a. USFS properly considered whether 50% utilization of Idaho fescue retains suitable and adequate amounts of forage and cover.

One of the “[k]ey forage species for this and all allotments in this project area . . . [is the] Idaho fescue[.]” 4-App-183. In order to maintain “suitable and adequate amounts of forage and cover[,]” the ROD requires that “[t]he maximum forage utilization on *key forage species* will be 50 percent in upland, riparian, and wetland areas and a 4-inch stubble height minimum will be retained along the green line of streams.” 5-App-126; 4-App-183 (emphasis added). This level meets the Forage Utilization Standard percentages for rotation grazing even if the land was in unsatisfactory condition. *See* 5-App-134.

Unable to show that the Project authorized grazing above the quantitative limits identified in the BTNF Plan, and relying on their theory that an objective is

now a standard, WWP claims that the Forest Service failed to adequately consider, for example, the height of ungrazed Idaho fescue. WWP Opening Br. 30-31. The Ranchers defer Federal Appellees' explanation, Fed. Br. 48-52, of why WWP is wrong biologically – they are, after all, the experts – but WWP is also wrong for other common-sense reasons.

First, WWP misses the forest for the trees. A superficial review of the Project FEIS incorporated into and underlying the ROD demonstrates that the focus of the entire analysis—years of study by dozens of specialists culminating in hundreds of pages of summary data—was reconciling the need to provide forage, pursuant to BTNF Plan Goal 1.1 and Objective 1.1(h), with the need to avoid *all* the possible “unacceptable” effects of livestock grazing, pursuant to Goal 4.7, which includes the Objective 4.7(d) requirement for retaining adequate forage and cover for wildlife.

That is the entire purpose of the Project:

The purpose of the project is to continue to authorize livestock grazing in a manner that will maintain or improve resource conditions. The Bridger-Teton Land and Resource Management Plan (Forest Plan, U.S. Forest Service 1990) provides direction to support community prosperity in part through livestock grazing (Goal 1.1 and Objective 1.1(h), U.S. Forest Service 1990, p. 112-113) in a manner that avoids unacceptable effects from livestock use on range, soils, water, wildlife, and recreation values or experiences (Goal 4.7, U.S. Forest Service 1990, p. 120).

11-App-126 (2017 FEIS); *see also* 4-App-141 N (2019 ROD). This purpose, and the evaluation of every considered alternative against these BTNF Plan Goals, is infused into the Project FEIS. *See* 11-App-152-43 and 12-App-035-36 (table comparing alternatives against Goal 4.7); 11-App-165-66 (discussing Goal 4.7 as a Need for

Action); 11-App-169 (discussing Goal 4.7 as the basis for evaluating current and desired conditions in the Project area); 11-App-182 (specifically considering Objective 4.7(d) in the context of elk); 11-App-188 (concluding Project implements direction of Goals 1.1 and 4.7); 13-App-018 (table summarizing consistency of Project with BTNF Plan, focusing on Goals 1.1 and 4.7, including Objectives 4.7(a)–(d)); 13-App-185-86 (responses to concerns discussing Goal 4.7). USFS manifestly considered Goal 4.7 and Objective 4.7(d).

Second, the Project protects forage and cover in several ways other than the direct utilization standard for fescue. For example, the ROD (and the AOIs) abides by the BTNF Plan in part by assuring that “[l]ivestock will not be allowed to enter the allotment prior to range readiness . . . [and] [r]ange readiness takes into account whether key plant species have had *sufficient* growth and development to *adequately* provide for their vigor. . . .” 4-App-157 (emphasis added). The Project FEIS and ROD also consider and establish objectives for general ground cover, not limited to fescue. 4-App-145, 158. The Project provides additional cover in specific areas by establishing a minimum 4 or 6-inch stubble height limitation. 4-App-148-52. Finally, the ROD provides that forage utilization can be reduced in increments of 10% in subsequent years if satisfactory upland and riparian conditions are not met or maintained. 4-App-145-46. WWP fails to explain why these additional features of the Project documents should not be considered in evaluating, or fail to contribute

to, suitable and adequate cover for wildlife.

i. The Project provides suitable and adequate amounts of cover for sensitive amphibians.

WWP argues that the 50% forage utilization level does not sustain enough herbaceous vegetation to provide cover for sensitive amphibians. WWP Opening Br. 35-37. In the ROD, the Forest Service stated, “maximum forage utilization on key forage species in riparian and meadow areas [will be reduced] from 65% to 50%.” 4-App-166. The forage reduction to 50% is helpful in providing adequate forage for amphibians not only because 15% less forage can be grazed, but because it’s an *even more conservative number* than what is allowed in riparian rangeland — even on unsatisfactory rangeland. *See* 5-App-134 (Forage Utilization Standard allowable percentages).

Further, WWP’s myopic focus on a utilization percentage is no substitute for a robust analysis of cover that will remain available to amphibians. WWP cites an objective of 70% herbaceous retention for amphibians and a study equating 50% key species utilization with 54% herbaceous retention and leaps to the conclusion that herbaceous retention is inadequate. WWP Opening Br. 34. WWP’s criticism, however, disregards that amphibians prefer riparian areas, hence why riparian conditions are the *first* indicator of desired conditions for amphibians, and that the Project provides additional protections of minimum stubble height in each riparian green line. 4-App-148-52.

In addition to a reduction of forage utilization, the “selected livestock grazing strategy includes . . . [twelve] actions intended to improve riparian area conditions[.]” 4-App-166. The Project FEIS had identified riparian function as the first resource objective in determining desired conditions for amphibians, placing it ahead of herbaceous retention. 11-App-126-27. Some of the riparian improvement actions in addition to minimum stubble height include authorizing “approximately 10.5 miles of fence construction[.]” “[i]mplement[ing] all range improvements associated with riparian or wetland areas outside of the amphibian breeding season . . . to minimize disturbance to [the] species[.]” and “[i]mplement[ing] structural improvements that benefit riparian areas” among others. 4-App-166-67. Accordingly, “[t]his strategy positively affects riparian function through the design features and a mix of effects associated with range improvements and permittee travel.” 4-App-166. WWP does not establish that these additional protections cumulatively do not result in adequate cover for amphibians or acknowledge that average total herbaceous retention in the Upper Green Allotment was already at 62% under the less protective prior management approaches. 5-App-077.

The Forest Service’s decision to choose 50% utilization meets the prescribed Forage Utilization Standard in the BTNF Plan, is owed discretion, and is only one small facet of the Project requirements that provide cover for amphibians.

- ii. The Project provides suitable and adequate amounts of cover for migratory birds.**

WWP complains that the selected alternative fails to require retention of suitable and adequate amounts of cover for migratory birds. WWP Opening Br. 35-37. A supplemental wildlife specialist report was produced in 2016 on migratory birds. 9-App-001 (beginning of migratory bird report). The 2016 migratory bird report analyzed Alternative 3, which was subsequently chosen in the 2017 FEIS. 9-App-145-52 (discussing Alternative 3); 11-App-125 (2017 UGRA FEIS stating “[t]he preferred alternative is Alternative 3”). WWP points to certain parts of the migratory bird report that claim that Alternative 3 “was not designed or adjusted to meet Objective 4.7(d),” but the end of the analysis of Alternative 3 says quite the opposite. WWP Opening Br. 36 (quotation omitted) (citing 9-App-151). The migratory bird report reads:

Although there is no indication that the maximum utilization limit of 50% of key forage species (55-70% herbaceous retention) in upland rangelands was designed to meet Objective 4.7(d) with respect to migratory birds, actual use of $\leq 35\%$ of key forage species ($\geq 70\%$ herbaceous retention) in these upland rangelands would retain an *adequate amount of suitable forage and coverage for migratory birds*, and this utilization level likely would continue under this alternative, as explained in the analysis.

9-App-152 (emphasis added).

In response to a comment on the EIS regarding compliance with the Migratory Bird Treaty Act, the Forest Service responded:

As with most NEPA projects there are a range of alternatives, which usually vary in degree of impacts to migratory birds – some alternatives are better and some worse depending on the species. Although

Alternative 3 may not provide as many benefits to migratory birds as Alternative 4, it does *move the area towards better habitat conditions*. This would ultimately benefit migratory birds while also meeting other multiple use missions such as livestock grazing compared to current management.

(emphasis added).

Even when an agency explains its decision with ‘less than ideal clarity[,]’ a reviewing court will not upset the decision on that account ‘if the agency’s path may reasonably be discerned.’” *Alaska Dep’t of Env’tl. Conservation v. EPA*, 540 U.S. 461, 497 (2004) (quoting *Bowman Transp, Inc. v. Ark. – Best Freight Sys., Inc.*, 419 U.S. 281, 286 (1974)); *Citizens’ Comm. To Save Our Canyons v. Kreuger*, 513 F.3d 1169, 1176 (10th Cir. 2008) (“A presumption of validity attaches to the agency action and the burden of proof rests with the appellants who challenge such action.” (quoting *Colo. Health Care Ass’n v. Colo. Dep’t of Soc. Servs.*, 842 F.2d 1158, 1164 (10th Cir. 1988))). The Forest Service’s decision to choose 50% forage for migratory birds not only meets the prescribed Forage Utilization Standard in the BTNF Plan and is owed deference in the absence of a prescribed standard. 5-App-134 (percentages prescribed in the BTNF Plan for the Forage Utilization Standard).

The Forest Service complied with NFMA when it created a BTNF Plan and subsequently allowed grazing on the Project. Grazing on the Project not only meets the multiple use requirements of NFMA, but strictly complies with Forage Utilization Standards set in the BTNF Plan. Absent numerical standards, the Forest

Service has discretion and is owed deference in interpreting the unquantified goals and objectives under the BTNF Plan.

5. Remedy

The Court should uphold the agencies' actions. But as the Federal Government correctly argues, if the Court rules in Environmentalists' favor, it should not vacate the FWS BiOp and USFS decision, but instead remand to the agencies for further proceedings. Fed. Br. 52-53. In particular, vacating the agencies' action here would lead to the sort of egregiously "disruptive consequences" that counsel against vacatur of unlawful agency decisions. *Allied-Signal v. Nuclear Regulatory Comm'n*, 988 F.2d 146, 150–51 (D.C. Cir. 1993). *See also WildEarth Guardians v. U.S. Bureau Land Mgmt.*, 870 F.3d 1222, 1239–40 (10th Cir. 2010) (deciding against vacatur based in part to potential disruption of ongoing mining operations).

The route and use of the Green River Drift Trail, to which grazing on these allotments are essential, currently continues essentially as it has every year since at least the 1890s. R-Supp-App-34-35. In late spring, Ranchers graze their cattle on lower ground. R-Supp-App-34. Cowboys start removing cattle from spring pastures and trailing them up to 68 miles north to the allotments at issue here beginning in the middle of June. *Id.* Summer grazing begins around June 16 and lasts through October 15 of every year. *Id.* Moving the cattle to higher ground allows lower

pastures to produce harvestable hay. The haying season on private lands corresponds with the summer grazing season on public lands. *Id.*

In the winter, cattle graze on the lower pastures and meadows at their respective home ranches. R-Supp-App-35. As the pastures become snow-covered, the livestock are fed from the hay supply that grew in the same fields over the spring and summer. *Id.* This seasonal pattern has been repeated, year after year, since at least the 1890s. *Id.* The grazing allotments accessed via the Drift are essential to the ranchers' entire operations because of the feed they provide to growing cattle, and the time they give private land to grow the next hay crop, which will feed the cattle herds during the next winter. *Id.*

Vacatur would threaten disruption of this tried-and-true, century-old cycle, on which Ranchers and their communities depend for their livelihoods. *See* 4-App-167. If the Court does not affirm, it should remand *without* vacatur so that the agencies may remedy any deficiencies without threatening irreparable harm to Ranchers. *See WildEarth Guardians v. U.S. Bureau Land Mgmt.*, 870 F.3d 1222, 1239–40 (10th Cir. 2010) (remanding without vacatur based in part to potential disruption of ongoing mining operations); *Utah Physicians for a Healthy Env. v. U.S. Bureau of Land Mgt.*, 528 F. Supp. 3d 1222, 1236–37 (D. Utah 2021), *appeal dismissed*, 21-4069, 2021 WL 5570560 (10th Cir. June 21, 2021) (remanding without vacatur where “vacatur would disrupt the activities that have commenced since the lease

approval” at issue); *Citizens for a Healthy Community v. U.S. Bureau of Land Mgt.*, 17-CV-02519-LTB-GPG, 2019 WL 13214042, at *2 (D. Colo. Dec. 10, 2019) (remanding without vacatur based on possibility of disruption and “serious possibility” agencies could substantiate their decisions on remand); *Black Warrior Riverkeeper, Inc. v. U.S. Army Corps of Engineers*, 781 F.3d 1271, 1289–91 (11th Cir. 2015) (remanding to district court without directing vacatur where vacatur might pose risk of “devastating consequences to the mining industry” from disruption of operations).

CONCLUSION

For the foregoing reasons, the Court should affirm the district court’s decision upholding the challenged agency actions.

Respectfully submitted, December 2, 2022,

/s/ Joseph A. Bingham
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Attorney for Ranchers Intervenor Respondents/Appellees

STATEMENT REGARDING ORAL ARGUMENT

Intervenor Respondent-Appellee Ranchers respectfully suggest that oral argument would materially assist the Court.

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CERTIFICATE OF COMPLIANCE

I hereby certify:

1. This document complies with the type-volume limitation of Federal Rule of Appellate Procedure 32(a)(7)(B)(i) because, excluding the parts of the document exempted by Rule 32(f), this document contains 8,545 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5), and the type-style requirements of Rule 32(a)(6), because this document has been prepared in a proportionally spaced Typeface, using Microsoft Word 2016 in 14-point Times New Roman font.

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CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

- (1) all required privacy redactions have been made, per 10th Cir. R. 25.5;
- (2) if required to file additional hard copies, that the ECF submission is an exact copy of those documents; and
- (3) the digital submissions have been scanned for viruses with the most recent version of a commercial virus scanning program, Windows Defender Antivirus, and according to the program are free of viruses.

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CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2022, I electronically filed the foregoing using the court's CM/ECF system, which will send notification of such filing to counsel. Parties who are not registered with CM/ECF system were served via U.S. Mail.

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Attorney for Ranchers Intervenor Respondents/Appellees

Consolidated Appeal Nos. 22-8031 and 22-8043

IN THE UNITED STATES COURT OF APPEALS
FOR THE TENTH CIRCUIT

WESTERN WATERSHEDS PROJECT, ALLIANCE FOR THE WILD
ROCKIES, and YELLOWSTONE TO UINTAS CONNECTION,
Petitioners/Appellants,

and

CENTER FOR BIOLOGICAL DIVERSITY and SIERRA CLUB
Petitioners/Appellants,

v.

DEBRA A. HAALAND, et al.,
Federal Respondents/Appellees

and

STATE OF WYOMING and UPPER GREEN RIVER CATTLE ASSOCIATION,
et al.,
Intervenor Respondents/Appellees

On Appeal from the United States District Court for the District of Wyoming
Civil Action Nos. 0:20-cv-231-NDF and 0:20-cv-234-NDF
(Hon. Nancy D. Freudenthal)

**RANCHER/INTERVENOR RESPONDENTS/APPELLEES’
SUPPLEMENTAL APPENDIX
Volume 1 – Page R-Supp-001 - 048**

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*Attorney for Intervenor Respondents/Appellees Upper Green River Cattle
Association, Sommers Ranch, LLC, Price Cattle Ranch, Murdoch Land and Livestock
Co., and Wyoming Stock Growers Association*

Supplemental Appendix for Rancher Intervenor-Respondents/Appellees Index			
Document	Date	AR No.	Supp. App. No
District Court Docket Sheet			R-Supp-App-001- 028
Sommers Declaration	5/20/2020		R-Supp-App-029-040
Upper Green River Area Rangeland Project (Excerpt)	3/3/2016	NFMA-FS-SAR-042785	R-Supp-App-041-042
Social and Economic Resources Report (Excerpt)	3/3/2016	FS-PAR-008386	R-Supp-App-043-044
Social and Economic Resources Report (Excerpt)	3/3/2016	FS-PAR-008389	R-Supp-App-045-046
Final Environmental Impact Statement Summary (Excerpt)	Unknown	NFMA-FS-SAR-000571	R-Supp-App-046-048

12/2/22, 9:30 AM

CM/ECF-LIVE-District of Wyoming

APPEAL,LEADTR,TERMED

**U.S. District Court
District of Wyoming (Cheyenne)
CIVIL DOCKET FOR CASE #: 2:20-cv-00231-NDF**

CENTER FOR BIOLOGICAL DIVERSITY et al v.
BERNHARDT et al
Assigned to: Senior District Judge Nancy D Freudenthal
Referred to: Honorable Kelly H Rankin
Case in other court: District of Columbia, 1:20-cv-00855
USCA, 22-08031
USCA, 22-08043
Cause: 05:551 Administrative Procedure Act

Date Filed: 12/09/2020
Date Terminated: 05/17/2022
Jury Demand: None
Nature of Suit: 893 Environmental Matters
Jurisdiction: U.S. Government Defendant

Plaintiff

Center for Biological Diversity

represented by **Andrea L Santarsiere**
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Plaintiff

Sierra Club

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12/2/22, 9:30 AM

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Alliance for the Wild Rockies

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12/2/22, 9:30 AM

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Plaintiff

**YELLOWSTONE TO UINTAS
CONNECTION**

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V.

Defendant

DAVID L. BERNHARDT
in his official capacity as Secretary of the
United States Department of the Interior
TERMINATED: 08/09/2021

represented by **J Brett Grosko**
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Wildlife & Marine Resources Section
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Robert Norway
DOJ-Enrd
U.S. Department of Justice
Environmental and Nature Resources
Division

12/2/22, 9:30 AM

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Defendant

AURELIA SKIPWITH
*in her official capacity as the Director of the
United States Fish and Wildlife Service*
TERMINATED: 08/09/2021

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Nicholas Vassallo
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Robert Norway
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Defendant

United States Forest Service

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Defendant

United States Fish and Wildlife Service
also known as
FISH AND WILDLIFE SERVICE

represented by **J Brett Grosko**
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12/2/22, 9:30 AM

CM/ECF-LIVE-District of Wyoming

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Defendant

**United States Department of Interior
Secretary**
in her official capacity
also known as
Debra A Haaland
formerly known as
David L Bernhardt

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V.

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Intervenor Defendant

SOMMERS RANCH, LLC

represented by **Brian Earnshaw Gregg**
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12/2/22, 9:30 AM

CM/ECF-LIVE-District of Wyoming

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Zhonette M. Brown
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Intervenor Defendant

PRICE CATTLE RANCH

represented by **Brian Earnshaw Gregg**
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*TERMINATED: 12/02/2020
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Intervenor Defendant

**MURDOCK LAND AND LIVESTOCK
CO.**

represented by **Brian Earnshaw Gregg**
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*TERMINATED: 12/02/2020
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Intervenor Defendant

Wyoming Stock Growers Association

represented by **Brian Earnshaw Gregg**
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Zhonette M. Brown
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Date Filed	#	Docket Text
03/31/2020	1	COMPLAINT against DAVID BERNHARDT, AURELIA SKIPWITH, FISH AND WILDLIFE SERVICE, UNITED STATES FOREST SERVICE (Filing fee \$ 400 receipt number ADCDC-6972661) filed by William CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB. (Attachments: # 1 Civil Cover Sheet, # 2 Declaration Rule 26, # 3 Summons Bernhardt, # 4 Summons FWS, # 5 Summons Skipwith, # 6 Summons Forest Service, # 7 Summons US Atty, # 8 Summons AG)(Snape, William). [Transferred from District of Columbia on 12/9/2020.] (Entered: 03/31/2020)
03/31/2020	2	LCvR 26.1 CERTIFICATE OF DISCLOSURE of Corporate Affiliations and Financial Interests by William CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB (adh,) [Transferred from District of Columbia on 12/9/2020.] (Entered: 03/31/2020)

12/2/22, 9:30 AM

CM/ECF-LIVE-District of Wyoming

03/31/2020	3	NOTICE <i>Corrected Complaint</i> by SIERRA CLUB, WILLIAM CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # 1 Errata Modified Complaint)(Snape, William) [Transferred from District of Columbia on 12/9/2020.] (Entered: 03/31/2020)
03/31/2020		Case Assigned to Judge Amit P. Mehta. (adh,) [Transferred from District of Columbia on 12/9/2020.] (Entered: 03/31/2020)
03/31/2020	4	SUMMONS (6) Issued Electronically as to DAVID BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE, U.S. Attorney and U.S. Attorney General (Attachment: # 1 Notice and Consent)(adh,) [Transferred from District of Columbia on 12/9/2020.] (Entered: 03/31/2020)
03/31/2020	5	MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Andrea Santarsiere, Filing fee \$ 100, receipt number ADCDC-6974875. Fee Status: Fee Paid. by SIERRA CLUB, WILLIAM CENTER FOR BIOLOGICAL DIVERSITY (Attachments: # 1 Declaration Andrea Santarsiere, # 2 Text of Proposed Order)(Snape, William) [Transferred from District of Columbia on 12/9/2020.] (Entered: 03/31/2020)
04/01/2020		MINUTE ORDER denying without prejudice 5 Motion for Leave to Appear Pro Hac Vice. The non-member attorney's declaration should include an office telephone number and a statement as to whether the attorney, if the attorney engages in the practice of law from an office located in the District of Columbia, is a member of the District of Columbia Bar or has an application for membership pending. The motion may be resubmitted with the missing information. Signed by Judge Amit P. Mehta on 04/01/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/01/2020)
04/03/2020	6	Amended MOTION for Leave to Appear Pro Hac Vice :Attorney Name- Andrea Santarsiere, Filing fee \$ 100, receipt number ADCDC-6988485. Fee Status: Fee Paid. by CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB (Attachments: # 1 Affidavit, # 2 Text of Proposed Order)(Snape, William) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/03/2020)
04/03/2020		MINUTE ORDER granting 6 Amended Motion for Leave to Appear Pro Hac Vice. Andrea Santarsiere is hereby admitted pro hac vice to appear in this matter on behalf of Plaintiffs. Counsel should register for e-filing via PACER and file a notice of appearance pursuant to LCvR 83.6(a). Click for instructions Signed by Judge Amit P. Mehta on 04/03/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/03/2020)
04/10/2020	7	NOTICE of Appearance by Andrea Santarsiere on behalf of All Plaintiffs (Santarsiere, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/10/2020)
04/17/2020	8	NOTICE of Appearance by John B. Grosko on behalf of All Defendants (Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/17/2020)
04/23/2020	9	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DAVID L. BERNHARDT served on 4/6/2020; FISH AND WILDLIFE SERVICE served on 4/6/2020; AURELIA SKIPWITH served on 4/20/2020; UNITED STATES FOREST SERVICE served on 4/6/2020 (Attachments: # 1 Exhibit Proof of Service)(Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/23/2020)
04/23/2020	10	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 4/6/2020. (Attachments: # 1 Exhibit Proof of Service)(Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/23/2020)
04/23/2020	11	RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 4/17/2020.

12/2/22, 9:30 AM

CM/ECF-LIVE-District of Wyoming

		Answer due for ALL FEDERAL DEFENDANTS by 6/16/2020. (Attachments: # 1 Exhibit Proof of Service)(Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 04/23/2020)
06/04/2020	12	Unopposed MOTION for Extension of Time to <i>File Response or Answer</i> by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE (Attachments: # 1 Text of Proposed Order)(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/04/2020)
06/04/2020		MINUTE ORDER granting 12 Defendants' Unopposed Motion for an Extension of Time to File Their Response or Answer. Defendants shall answer or otherwise respond to Plaintiffs' Complaint on or before July 7, 2020. Signed by Judge Amit P. Mehta on 06/04/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/04/2020)
06/04/2020		Set/Reset Deadlines: Responsive Pleading due by 7/7/2020. (zjd) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/05/2020)
06/11/2020	13	MOTION to Transfer Case <i>to the U.S. District Court for the District of Wyoming</i> by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE (Attachments: # 1 Exhibit A - Declaration of R. Griebel, U.S. Dept. of Agriculture, # 2 Exhibit 2019 USFS Record of Decision, # 3 Exhibit Declaration of C. Hayward, U.S. Dept. of Agriculture, # 4 Exhibit 2019 Fish and Wildlife Service Biological Opinion, # 5 Exhibit E - Declaration of N. Darnall, U.S. Fish and Wildlife Service, # 6 Text of Proposed Order)(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/11/2020)
06/15/2020	14	Unopposed MOTION for Extension of Time to File Response/Reply as to 13 MOTION to Transfer Case <i>to the U.S. District Court for the District of Wyoming</i> by CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB (Attachments: # 1 Text of Proposed Order) (Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/15/2020)
06/15/2020		MINUTE ORDER granting 14 Plaintiffs' Unopposed Motion for an Extension of Time to File Response to Defendants' Motion to Transfer Case. Plaintiffs shall file their Opposition to Defendants' Motion to Transfer on or before July 2, 2020. Signed by Judge Amit P. Mehta on 06/15/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/15/2020)
06/15/2020		Set/Reset Deadlines: Opposition due by 7/2/2020. (zjd) [Transferred from District of Columbia on 12/9/2020.] (Entered: 06/16/2020)
07/02/2020	15	Memorandum in opposition to re 13 MOTION to Transfer Case <i>to the U.S. District Court for the District of Wyoming</i> filed by CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB. (Attachments: # 1 Declaration of Andrea Santarsiere In Support of Plaintiffs' Opposition to Motion to Transfer)(Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/02/2020)
07/07/2020	16	ANSWER to Complaint by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE.(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/07/2020)
07/08/2020	17	MOTION to Intervene by STATE OF WYOMING (Attachments: # 1 Memorandum in Support, # 2 Exhibit Answer, # 3 Text of Proposed Order)(Jerde, Jay) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/08/2020)
07/08/2020	18	NOTICE of Appearance by Jay A. Jerde on behalf of STATE OF WYOMING (Jerde, Jay) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/08/2020)

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07/08/2020	19	NOTICE of Appearance by Elliott Adler on behalf of STATE OF WYOMING (Adler, Elliott) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/08/2020)
07/09/2020	20	REPLY to opposition to motion re 13 MOTION to Transfer Case to the U.S. District Court for the District of Wyoming filed by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE. (Attachments: # 1 Exhibit "A" (Declaration of Lisa Solberg Schwab (FWS))(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/09/2020)
07/09/2020	21	ORDER. Both a Complaint and an Answer are now before the court in this APA case. It is hereby ordered that the parties shall meet and confer and file a Joint Status Report on or before July 28, 2020. See the attached Order for additional details. Signed by Judge Amit P. Mehta on 07/09/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/09/2020)
07/09/2020		Set/Reset Deadlines: Joint Status Report due by 7/28/2020. (zjd) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/09/2020)
07/10/2020	22	NOTICE OF ERRATA by CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB re 15 Memorandum in Opposition, (Attachments: # 1 Declaration of Cybele Knowles) (Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/10/2020)
07/13/2020	23	MOTION to Intervene by UPPER GREEN RIVER CATTLE ASSOCIATION, SOMMERS RANCH, LLC, PRICE CATTLE RANCH, MURDOCK LAND AND LIVESTOCK CO., WYOMING STOCK GROWERS ASSOCIATION (Attachments: # 1 Memorandum in Support of Motion to Intervene, # 2 Exhibit A - Declaration of Albert Sommers, # 3 Exhibit B - Declaration of Charles Price, # 4 Exhibit C - Declaration of Margaret J. Lockwood, # 5 Exhibit D - Declaration of Jim Magagna, # 6 Exhibit Corporate Disclosure Statement, # 7 Exhibit Proposed Answer, # 8 Exhibit Proposed Order)(Brown, Zhonette) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/13/2020)
07/14/2020		NOTICE OF ERROR re 23 Motion to Intervene; emailed to zhonette@mslegal.org, cc'd 12 associated attorneys -- The PDF file you docketed contained errors: 1. Invalid attorney signature, 2. FYI: DO NOT REFILE. Future filings signature must match login/password. (zeg,) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/14/2020)
07/17/2020	24	MOTION to Consolidate Cases by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE (Attachments: # 1 Text of Proposed Order)(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/17/2020)
07/17/2020	25	ORDER granting 24 Federal Defendants' Motion to Consolidate. It is ordered that case numbers 20-cv-860 and 20-cv-855 are consolidated; all filings in these consolidated cases shall be made only in the first-filed case, 20-cv-855; and the Clerk is directed to administratively close case number 20-cv-860. See attached Order for further details. Signed by Judge Amit P. Mehta on 07/17/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/17/2020)
07/17/2020	26	Cases Consolidated. Case 20-860 have been consolidated with 20-855 pursuant to Minute Orders entered 07/17/2020. ALL PLEADINGS MUST BE FILED IN LEAD CASE NO. 20-855. THE PARTIES ARE ADVISED NOT TO ELECT TO SPREAD TEXT WHEN FILING IN ECF. (eg) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/21/2020)
07/24/2020	27	Joint STATUS REPORT and Proposed Briefing Schedule by ALLIANCE FOR THE WILD ROCKIES, WESTERN WATERSHEDS PROJECT, YELLOWSTONE TO

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		UINTAS CONNECTION. (Attachments: # 1 Text of Proposed Order Proposed Order) (Persell, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/24/2020)
07/24/2020	28	ORDER setting the follow briefing schedule in this matter: 1) The index to the administrative record is due August 5, 2020; 2) Federal Defendants shall lodge and serve the administrative record on the parties on or before August 5, 2020; 3) the deadline for amending or supplementing the pleadings without leave of Court shall be September 4, 2020; 4) Plaintiffs or Defendant-Intervenors shall notify Federal Defendants of any objections to the administrative record on or before September 10, 2020; 5) the deadline for Plaintiffs to file any motion to complete or supplement the administrative record shall be September 17, 2020. Any response to such motion shall be due October 1, 2020, and the reply, should Plaintiffs choose to file one, shall be due October 8, 2020; 6) the deadline for Plaintiffs' respective briefs in support of their Motion for Summary Judgment is October 9, 2020; 7) the deadline for Federal Defendants' brief in opposition to Plaintiffs' respective Motions for Summary Judgment and in support of their Cross-Motion for Summary Judgment is December 4, 2020; 8) the deadline for Defendants-Intervenors' respective briefs in opposition to Plaintiffs' respective Motions for Summary Judgment and in support of their Cross-Motions for Summary Judgment is December 15, 2020; 9) the deadline for Plaintiffs' response to Federal Defendants' and Defendant-Intervenors' respective Cross-Motions for Summary Judgment and Reply briefs in support of their Motions for Summary Judgment is January 19, 2021; 10) the deadline for Federal Defendants' Reply brief in support of their Cross-Motion for Summary Judgment is February 15, 2021; 11) the deadline for Defendant-Intervenors' respective Reply briefs in support of their Cross-Motions for Summary Judgment is February 24, 2021; and 12) the deadline to file the appendix with the Court or request leave to file separate appendices is March 8, 2021. See attached Order for further details. Signed by Judge Amit P. Mehta on 07/24/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/24/2020)
07/24/2020	29	PROPOSED BRIEFING SCHEDULE by ALLIANCE FOR THE WILD ROCKIES, WESTERN WATERSHEDS PROJECT, YELLOWSTONE TO UINTAS CONNECTION. (View Docket Entry 27 to view document). (eg) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/27/2020)
07/24/2020		Set/Reset Deadlines: Administrative Record due by 8/5/2020. Amendments of Pleadings due by 9/4/2020. Motion to Complete or Supplement Administrative Record due by 9/17/2020. Response due by 10/1/2020. Reply due 10/8/2020. Plaintiffs' Briefs in Support of Motion for Summary Judgment due by 10/9/2020. Federal Defendants' Opposition and Cross-Motion due by 12/4/2020. Defendant-Intervenors' Opposition and Cross-Motion due by 12/15/2020. Plaintiffs' Opposition and Reply due by 1/19/2021. Federal Defendants' Reply due by 2/15/2021. Defendant-Intervenors' Reply due by 2/24/2021. Appendix or Request to File Separate Appendices due by 3/8/2021. (zjd) Modified on 7/28/2020 (zjd). [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/27/2020)
07/29/2020		MINUTE ORDER granting State of Wyoming's Motion to Intervene, ECF No. 17 , and Green River Cattle Association Plaintiffs' Motion to Intervene, ECF No. 23 . For the same reasons set forth in the court's Order issued on June 1, 2020, in the related case Western Watersheds Project v. Bernhardt, 20-cv-860 (APM), ECF No. 36, and without any opposition filed by Plaintiffs Center for Biological Diversity or Sierra Club in this case, the State of Wyoming's and the Green River Cattle Association Plaintiffs' motions to intervene are granted. Signed by Judge Amit P. Mehta on 07/29/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/29/2020)

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07/29/2020	30	ANSWER to Complaint by STATE OF WYOMING.(eg) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/31/2020)
07/29/2020	31	ANSWER to Complaint by MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, UPPER GREEN RIVER CATTLE ASSOCIATION, WYOMING STOCK GROWERS ASSOCIATION.(eg) [Transferred from District of Columbia on 12/9/2020.] (Entered: 07/31/2020)
08/05/2020	32	NOTICE of Filing Index to Administrative Record by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE (Attachments: # 1 Exhibit "A" (Index to FWS Administrative Record), # 2 Exhibit "B" (Index to U.S. Forest Service Administrative Record), # 3 Exhibit "C" (Certification of FWS's Administrative Record), # 4 Exhibit "D" (Certification of Forest Service's Administrative Record))(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 08/05/2020)
08/24/2020	33	NOTICE of Appearance by Brian Earnshaw Gregg on behalf of MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, UPPER GREEN RIVER CATTLE ASSOCIATION, WYOMING STOCK GROWERS ASSOCIATION (Gregg, Brian) [Transferred from District of Columbia on 12/9/2020.] (Entered: 08/24/2020)
09/15/2020	34	MOTION for Extension of Time to <i>File Motion to Complete or Supplement Administrative Record</i> , MOTION to Vacate 28 Order,,,,,, Summary Judgment Briefing Schedule by ALLIANCE FOR THE WILD ROCKIES, WESTERN WATERSHEDS PROJECT, YELLOWSTONE TO UINTAS CONNECTION (Attachments: # 1 Text of Proposed Order Proposed Order)(Persell, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 09/15/2020)
09/16/2020	35	ORDER granting 34 Motion for Extension of Time. Any motion by Western Watersheds Project, Alliance for the Wild Rockies, and Yellowstone to Uintas Connection to complete or supplement the administrative record will be due by September 24, 2020. Any response to such motion shall be due by October 8, 2020, and any reply, should Plaintiffs choose to file one, shall be due by October 15, 2020. The remaining briefing schedule regarding parties' cross-motions for summary judgment is vacated. The parties shall jointly submit a new proposed briefing schedule within 14 days of the final resolution of any motions regarding the administrative record. See attached Order for details. Signed by Judge Amit P. Mehta on 09/16/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 09/16/2020)
09/16/2020		Set/Reset Deadlines: Motion to Complete or Supplement Administrative Record due by 9/24/2020. Response due by 10/8/2020. Reply due by 10/15/2020. (zjd) [Transferred from District of Columbia on 12/9/2020.] (Entered: 09/17/2020)
09/17/2020	36	REFERRED TO MAGISTRATE JUDGE. MOTION to Compel <i>Completion of the Administrative Record</i> by ALLIANCE FOR THE WILD ROCKIES, CENTER FOR BIOLOGICAL DIVERSITY, SIERRA CLUB, WESTERN WATERSHEDS PROJECT, YELLOWSTONE TO UINTAS CONNECTION (Attachments: # 1 Memorandum in Support, # 2 Text of Proposed Order)(Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] Referred on 12/10/2020 (Court Staff, sal). (Entered: 09/17/2020)
09/24/2020	37	REFERRED TO MAGISTRATE JUDGE. MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> by ALLIANCE FOR THE WILD ROCKIES, WESTERN WATERSHEDS PROJECT, YELLOWSTONE TO UINTAS CONNECTION (Attachments: # 1 Memorandum in Support of Motion to Complete and Supplement Administrative Record, # 2 Text of Proposed Order, # 3 Exhibit Email to DOJ Counsel 9-

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		4-20, # 4 Exhibit Email to DOJ Counsel 9-8-20, # 5 Exhibit Email from DOJ Counsel 9-14-20, # 6 Exhibit Email to DOJ Counsel 9-21-20, # 7 Exhibit WWP FOIA Request 2-7-18, # 8 Exhibit Screenshots of Electronic Record - Comment Attachments, # 9 Exhibit Emails from WWP to USFS with Objection Attachments 1-8-18, # 10 Exhibit Screenshots of Electronic Record - Resource Folder Contents, # 11 Exhibit 60-Day Notice of Intent 1-21-20, # 12 Exhibit Certified Mail Receipts 1-21-20, # 13 Exhibit USPS Tracking Results 1-24-20, # 14 Exhibit FWS Response to NOI 3-20-20, # 15 Exhibit Declaration of Dr. David Mattson 5-7-20, # 16 Exhibit List of Supporting Literature Provided by Flashdrive)(Persell, John) [Transferred from District of Columbia on 12/9/2020.] Referred on 12/10/2020 (Court Staff, sal). (Entered: 09/24/2020)
09/25/2020	38	REFERRED TO MAGISTRATE JUDGE. Unopposed MOTION for Extension of Time to File Response/Reply as to 37 MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> , 36 MOTION to Compel <i>Completion of the Administrative Record</i> by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE (Attachments: # 1 Text of Proposed Order)(Grosko, John). Added MOTION for Leave to File on 9/28/2020 (znmw). [Transferred from District of Columbia on 12/9/2020.] Referred on 12/10/2020 (Court Staff, sal). (Entered: 09/25/2020)
09/25/2020		MINUTE ORDER granting 38 Unopposed Motion for Extension of Time to File Response/Reply. The deadline for Defendants' combined response to both pending Motions to Complete the Administrative Record is October 7, 2020. Signed by Judge Amit P. Mehta on 09/25/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 09/25/2020)
09/25/2020		Set/Reset Deadlines: Combined Response due by 10/7/2020. (zjd) [Transferred from District of Columbia on 12/9/2020.] (Entered: 09/25/2020)
10/06/2020	39	ENTERED IN ERROR.....RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed as to the United States Attorney. Date of Service Upon United States Attorney on 10/2/2020. (Answer due for ALL FEDERAL DEFENDANTS by 12/1/2020.), RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed on United States Attorney General. Date of Service Upon United States Attorney General 10/02/2020., RETURN OF SERVICE/AFFIDAVIT of Summons and Complaint Executed. DAVID L. BERNHARDT served on 10/1/2020; FISH AND WILDLIFE SERVICE served on 10/1/2020 (Attachments: # 1 Exhibit Certified Mail Return Receipts and Delivery Confirmation)(Bennett, Elise) Modified on 10/7/2020 (eg). [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/06/2020)
10/07/2020		NOTICE OF CORRECTED DOCKET ENTRY: re 39 Summons Returned Executed as to US Attorney,,, Summons Returned Executed as to U.S. Attorney General,,, Summons Returned Executed as to Federal Defendant,, was entered in error per counsel request. (eg) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/07/2020)
10/07/2020	40	RESPONSE re 37 MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> , 36 MOTION to Compel <i>Completion of the Administrative Record</i> filed by STATE OF WYOMING. (Jerde, Jay) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/07/2020)
10/07/2020	41	Memorandum in opposition to re 37 MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> , 36 MOTION to Compel <i>Completion of the Administrative Record</i> filed by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE. (Attachments: # 1 Text of Proposed Order, # 2 Declaration R. Griebel (USFS), # 3 Declaration R. Hoelscher (USFS), # 4 Exhibit "B" (Fish and Wildlife Service's April 29,

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		2019 Biological Opinion))(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/07/2020)
10/07/2020	42	RESPONSE re 37 MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> , 36 MOTION to Compel <i>Completion of the Administrative Record</i> filed by MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, UPPER GREEN RIVER CATTLE ASSOCIATION, WYOMING STOCK GROWERS ASSOCIATION. (Gregg, Brian) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/07/2020)
10/13/2020	43	NOTICE of Filing Exh. "A" to Defendants' Response to Plaintiffs' Motions to Complete the Administrative Record by DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, UNITED STATES FOREST SERVICE re 42 Response to motion, (Attachments: # 1 Exhibit Part 1 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record, # 2 Exhibit Part 2 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record, # 3 Exhibit Part 3 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record, # 4 Exhibit Part 4 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record, # 5 Exhibit Part 5 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record, # 6 Exhibit Part 6 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record, # 7 Exhibit Part 7 of 7, Exh. "A" to Defendants' Opposition to Plaintiffs' Motions to Complete the Administrative Record)(Grosko, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/13/2020)
10/14/2020	44	REPLY to opposition to motion re 36 MOTION to Compel <i>Completion of the Administrative Record</i> filed by CENTER FOR BIOLOGICAL DIVERSITY. (Zaccardi, Andrea) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/14/2020)
10/14/2020	45	REPLY to opposition to motion re 37 MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> filed by ALLIANCE FOR THE WILD ROCKIES, WESTERN WATERSHEDS PROJECT, YELLOWSTONE TO Uintas CONNECTION. (Attachments: # 1 Exhibit USPS Tracking Results to DOI, USFS, USDA, # 2 Declaration Kristine Akland)(Persell, John) [Transferred from District of Columbia on 12/9/2020.] (Entered: 10/14/2020)
11/28/2020	46	ORDER granting 13 Motion to Transfer Case to the District of Wyoming. Transfer due by 12/8/2020. See attached Order for additional details. Signed by Judge Amit P. Mehta on 11/28/2020. (lcapm3) [Transferred from District of Columbia on 12/9/2020.] (Entered: 11/28/2020)
12/01/2020		Set/Reset Deadlines: Transfer due by 12/8/2020. (zjd) [Transferred from District of Columbia on 12/9/2020.] (Entered: 12/01/2020)
12/02/2020	47	NOTICE OF WITHDRAWAL OF APPEARANCE as to MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, UPPER GREEN RIVER CATTLE ASSOCIATION, WYOMING STOCK GROWERS ASSOCIATION. Attorney Brian Earnshaw Gregg terminated. (Brown, Zhonette) [Transferred from District of Columbia on 12/9/2020.] (Entered: 12/02/2020)
12/09/2020	48	Case transferred in from District of District of Columbia; Case Number 1:20-cv-00855. (Entered: 12/09/2020)
12/10/2020		37 MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> , 36 MOTION to Compel <i>Completion of the Administrative Record</i> , 38 Unopposed MOTION for Extension of Time to File Response/Reply as to 37 MOTION to Compel <i>Completion</i>

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		<i>and Supplementation of Administrative Record</i> REFERRED to Magistrate Judge (Court Staff, sal) (Entered: 12/10/2020)
12/10/2020	49	(TEXT-ONLY) ORDER by the Honorable Nancy D Freudenthal finding as moot 34 Motion to Vacate. This case was transferred to the District of Wyoming on 12/9/2020 with 34 Motion to Vacate coming through as a pending motion. Upon review of the docket sheet, this motion was already ruled on in the District of Columbia (see docket entry 35) and therefore, said motion is moot.(Court Staff, sal) (Entered: 12/10/2020)
12/10/2020	50	(TEXT-ONLY) ORDER SETTING DEADLINE FOR COMPLIANCE WITH USDCWY LOCAL RULE 84.2. by the Honorable Nancy D. Freudenthal. This matter comes before the Court sua sponte. On December 9, 2020, this action was transferred from the District Court for the District of Columbia. The parties shall comply with USDCWY Local Rule 84.2 by 12/30/2020. The Clerk shall email a courtesy copy of this order to counsels email addresses. Emailed to counsel on this date.(Court Staff, sal) (Entered: 12/10/2020)
12/10/2020	51	NOTICE of Attorney Appearance by John Sterling Persell, III on behalf of Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION (Persell, John) (Entered: 12/10/2020)
12/14/2020	52	NOTICE by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION of <i>Withdrawal of Counsel Kristine M. Akland</i> (Persell, John) (Entered: 12/14/2020)
12/16/2020	53	NOTICE of Attorney Appearance by Timothy Michael Stubson on behalf of MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Stubson, Timothy) (Entered: 12/16/2020)
12/21/2020	54	ORDER RE-SETTING BRIEFING SCHEDULE by the Honorable Nancy D Freudenthal. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 12/21/2020)
12/21/2020	55	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Zhonette M. Brown to appear pro hac vice; Check not tendered; filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Stubson, Timothy) (Entered: 12/21/2020)
12/21/2020	56	ORDER by the Honorable Kelly H Rankin granting (55) Motion to appear pro hac vice in case 0:20-cv-00231-NDF; granting (56) Motion to appear pro hac vice in case 0:20-cv-00234-NDF. Order emailed to Zhonette Brown on this date. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 12/21/2020)
12/22/2020	57	NOTICE of Attorney Appearance by Nicholas Vassallo on behalf of DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, United States Forest Service, DAVID L. BERNHARDT, United States Fish and Wildlife Service Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Vassallo, Nicholas) (Entered: 12/22/2020)
12/22/2020	58	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Robert M. Norway and J. Brett Grosko to appear pro hac vice; Check not tendered; filed by Defendants DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, United States Forest Service. (Attachments: # 1 Affidavit Declaration of Robert M. Norway, # 2 Affidavit Declaration of J. Brett Grosko, # 3 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Vassallo, Nicholas) (Entered: 12/22/2020)

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12/22/2020	59	NOTICE of Attorney Appearance by Andrea L Santarsiere on behalf of Center for Biological Diversity, Sierra Club Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 12/22/2020)
12/22/2020	60	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for William J. Snape, III to appear pro hac vice; Check not tendered; filed by Plaintiffs Center for Biological Diversity, Sierra Club. (Attachments: # 1 Affidavit of William J. Snape in Support of Motion to Appear Pro Hac Vice, # 2 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Santarsiere, Andrea) (Entered: 12/22/2020)
12/23/2020	61	ORDER by the Honorable Kelly H Rankin granting (58) and (59) Motion to appear pro hac vice (Robert M Norway and J Brett Grosko) in case 0:20-cv-00234-NDF. Copy of Order emailed to Pro Hac attorneys on this date. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) Modified text on 3/19/2021 (Court Staff, sjlg). (Entered: 12/23/2020)
12/23/2020	62	ORDER by the Honorable Kelly H Rankin granting (60) Motion to appear in case 0:20-cv-00231-NDF and (61) Motion to appear pro hac vice in case 0:20-cv-00234-NDF (William J Snape III). Copy of Order emailed to PHV attorney on this date.Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) Modified on 3/19/2021 (Court Staff, sjlg). (Entered: 12/23/2020)
12/23/2020	63	Notice of Pro Hac Vice Attorney Appearance by J Brett Grosko on behalf of DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, United States Forest Service Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Grosko, J) Modified filer and text on 12/31/2020 (Court Staff, sjlg). (Entered: 12/23/2020)
12/23/2020		FINANCIAL ENTRY: Payment of \$100 received for pro hac vice fee for Zhonette M Brown. Receipt CHY034063. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, sjk) (Entered: 12/23/2020)
12/24/2020	64	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Order granting motion to amend complaint in consolidated case No. 0:20-cv-234-NDF, Docket No. 1, into proposed petition for review of agency action. filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Amended Petition, # 2 Proposed Order Granting Motion)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 12/24/2020)
12/28/2020	65	ORDER by the Honorable Kelly H Rankin granting (64) Motion for Order in case 0:20-cv-00231-NDF Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF. Plaintiffs have seven (7) days from the filing of this Order to file the amended petition. (Court Staff, sjgc) (Main Document 65 replaced on 12/28/2020) (Court Staff, sjlg). (Entered: 12/28/2020)
12/29/2020	66	AMENDED COMPLAINT / <i>Petition for Review</i> against Defendant DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, United States Forest Service, filed by YELLOWSTONE TO UINTAS CONNECTION, Alliance for the Wild Rockies, Western Watersheds Project. (Persell, John) (Entered: 12/29/2020)
12/29/2020	67	Notice of Pro Hac Vice Attorney Appearance by William John Snape, III on behalf of Center for Biological Diversity, Sierra Club Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Snape, William) (Entered: 12/29/2020)
12/29/2020		FINANCIAL ENTRY: Payment of \$100 received for pro hac vice fee for William J Snape, III. Receipt AWYDC-1867603. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, sjk) (Entered: 12/29/2020)

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12/30/2020	68	Notice of Pro Hac Vice Attorney Appearance by Robert Norway on behalf of DAVID L. BERNHARDT, FISH AND WILDLIFE SERVICE, AURELIA SKIPWITH, United States Forest Service, DAVID L. BERNHARDT, United States Fish and Wildlife Service Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Norway, Robert) (Entered: 12/30/2020)
01/14/2021	69	NOTICE by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION, Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION <i>Of Withdrawal of David A. Bahr</i> Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Bahr, Dave) (Entered: 01/14/2021)
02/03/2021	70	(TEXT-ONLY) NOTICE of Hearing: BY TELEPHONE - All parties shall appear by telephone through the Courts conference call system. Guests call: Toll Free 1-888-398-2342 Access code 3107456. Join as guest Press # Security code 1001#. Status Conference set for 2/8/2021 09:00 AM before Honorable Kelly H Rankin. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, smxb) (Entered: 02/03/2021)
02/03/2021	71	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Order to stay completion portion of pending Motion to Complete and Supplement the Administrative Record (ECF No. 37), MOTION for Leave to File Reply/Brief/Supplement (Non-Dispositive) <i>regarding supplementation portion of pending Motion to Complete and Supplement the Administrative Record (ECF No. 37)</i> filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) Modified on 2/8/2021 (Court Staff, sjlg). (Entered: 02/03/2021)
02/04/2021	72	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Leave to File Reply/Brief/Supplement (Non-Dispositive) <i>Regarding Motion to Complete the Administrative Record</i> filed by Plaintiffs Center for Biological Diversity, Sierra Club. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Santarsiere, Andrea) Modified on 2/8/2021 (Court Staff, sjlg). (Entered: 02/04/2021)
02/08/2021	73	ORDER on February 8, 2021 Status Conference and ORDER granting in party and denying in part 71 and 72 Plaintiffs' Motion to Stay Ruling and Allow Supplementation on Plaintiffs' Motions to complete and supplement the administrative record by the Honorable Kelly H Rankin. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sjgc) Modified on 2/9/2021 (Court Staff, sal). (Entered: 02/08/2021)
02/08/2021	74	MINUTES for proceedings held before Honorable Kelly H Rankin: Magistrate Judge Status Conference held on 2/8/2021. Written Order will be entered. (Court Reporter - none) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, sal) (Entered: 02/08/2021)
02/16/2021	75	NOTICE by Intervenor Defendant State of Wyoming <i>of Withdrawal of Counsel</i> Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Adler, Elliott) (Entered: 02/16/2021)
02/22/2021	76	NOTICE of Attorney Appearance by Jay A Jerde on behalf of State of Wyoming Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Jerde, Jay) (Entered: 02/22/2021)
02/22/2021	77	SUPPLEMENT re (40 in 0:20-cv-00231-NDF) Response to Motion, filed by Intervenor Defendant State of Wyoming. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-

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		NDF (Jerde, Jay) (Entered: 02/22/2021)
02/22/2021	78	NOTICE of Attorney Appearance by Kelly Shaw on behalf of State of Wyoming Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Shaw, Kelly) (Entered: 02/22/2021)
02/22/2021	79	SUPPLEMENT re (37 in 0:20-cv-00231-NDF) Motion to Compel,,,, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 02/22/2021)
02/22/2021	80	SUPPLEMENT re (37 in 0:20-cv-00231-NDF) Motion to Compel,,,, (36 in 0:20-cv-00231-NDF) Motion to Compel, filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Brown, Zhonette) (Entered: 02/22/2021)
02/22/2021	81	SUPPLEMENT re (36 in 0:20-cv-00231-NDF) Motion to Compel, filed by Plaintiffs Center for Biological Diversity, Sierra Club. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 02/22/2021)
02/22/2021	82	SUPPLEMENT re (41 in 0:20-cv-00231-NDF) Response in Opposition to Motion,, filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH. (Attachments: # 1 Exhibit "A" (Respondents' Response to Petitioners, the Western Watersheds Project, et al.'s Motion for a Preliminary Injunction in Case No. 20-cv-860 (DDC)), # 2 Exhibit "B" (Declaration of Lisa Solberg Schwab, Fish and Wildlife Service)) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Grosko, J) (Entered: 02/22/2021)
03/05/2021	83	<i>Respondents'</i> BRIEF <i>on Citations to Administrative Records</i> re (73 in 0:20-cv-00231-NDF, 73 in 0:20-cv-00231-NDF) Order on Motion to File Reply/Brief/Supplement (Non-Dispositive),, Order on Motion for Order, filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Fish and Wildlife Service, United States Forest Service. (Attachments: # 1 Exhibit "A" (Complaint, Western Watersheds Project, et al. v. Bernhardt, et al., No. 20-cv-860 (D.D.C.)), # 2 Proposed Order) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Grosko, J) (Entered: 03/05/2021)
03/05/2021	84	NOTICE by Plaintiffs Center for Biological Diversity, Sierra Club <i>Regarding Supplemental Administrative Record</i> Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 03/05/2021)
03/05/2021	85	BRIEF <i>Regarding Citations to the Administrative Record</i> re (73 in 0:20-cv-00231-NDF, 73 in 0:20-cv-00231-NDF) Order on Motion to File Reply/Brief/Supplement (Non-Dispositive),, Order on Motion for Order, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 03/05/2021)
03/05/2021	86	<i>Defendant-Intervenor State of Wyoming's</i> BRIEF <i>on Citations to the Administrative Record</i> re (73 in 0:20-cv-00231-NDF, 73 in 0:20-cv-00231-NDF) Order on Motion to File Reply/Brief/Supplement (Non-Dispositive),, Order on Motion for Order, filed by Intervenor Defendant State of Wyoming. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Jerde, Jay) (Entered: 03/05/2021)
03/05/2021	87	<i>Rancher Intervenor's</i> BRIEF <i>Regarding Proper Scope of Administrative Record for Administrative Procedure Act Challenges to Final Agency Actions</i> re (37 in 0:20-cv-00231-NDF) Motion to Compel,,,, (36 in 0:20-cv-00231-NDF) Motion to Compel, filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming

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		Stock Growers Association. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Brown, Zhonette) (Entered: 03/05/2021)
03/19/2021	88	REPLY BRIEF re (85 in 0:20-cv-00231-NDF) Brief, (84 in 0:20-cv-00231-NDF) Notice (Other) filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Fish and Wildlife Service, United States Forest Service. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Grosko, J) (Entered: 03/19/2021)
03/19/2021	89	REPLY BRIEF re (87 in 0:20-cv-00231-NDF) Brief,, (86 in 0:20-cv-00231-NDF) Brief, (83 in 0:20-cv-00231-NDF) Brief,, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 03/19/2021)
03/19/2021	90	REPLY BRIEF re (85 in 0:20-cv-00231-NDF) Brief, <i>regarding Proper Scope of Administrative Record for Administrative Procedure Act Challenges to Final Agency Actions</i> filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Brown, Zhonette) (Entered: 03/19/2021)
03/19/2021	91	REPLY BRIEF re (84 in 0:20-cv-00231-NDF) Notice (Other) filed by Plaintiffs Center for Biological Diversity, Sierra Club. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 03/19/2021)
03/25/2021	92	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Leave to File Reply/Brief/Supplement (Non-Dispositive) <i>in Surreply to Rancher Intervenor's Reply Brief</i> filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 03/25/2021)
03/26/2021	93	(TEXT-ONLY) ORDER by the Honorable Kelly H Rankin granting (92) Motion to File Reply/Brief/Supplement (Non-Dispositive) in case 0:20-cv-00231-NDF. Petitioners' Motion for Leave to File a Surreply Regarding Proper Scope of the Administrative Record 92 is granted. After careful consideration of Petitioners' Motion, the Court finds good cause for the request to file additional briefing. Therefore, Petitioners may file a single brief up to two pages addressing the issue on or before April 2, 2021. Additionally, Respondents may file a single brief of up to two pages addressing any issues raised in Petitioners' surreply seven days after Petitioners file a surreply. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sjgc) (Entered: 03/26/2021)
03/26/2021	94	<i>Surreply BRIEF Regarding Proper Scope of Administrative Record</i> re (90 in 0:20-cv-00231-NDF) Reply Brief, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 03/26/2021)
04/27/2021	95	MOTION REFERRED TO Judge Kelly H Rankin. Stipulated MOTION for Extension of Time (Non-Dispositive) requesting extension of Deadline for filing Supplemental Administrative Record for Western Watersheds Project, et al.'s National Forest Management Act Claim filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Fish and Wildlife Service, United States Forest Service. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Grosko, J) (Entered: 04/27/2021)
04/28/2021	96	(TEXT-ONLY) ORDER by the Honorable Kelly H Rankin granting (95) Motion for Extension of Time in case 0:20-cv-00231-NDF. Respondents deadline to respond to serve and lodge the supplemental administrative record 73 is extended to and including May 3,

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		2021. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, smh) (Entered: 04/28/2021)
05/03/2021	97	NOTICE of Filing Administrative Record by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Fish and Wildlife Service, United States Forest Service, DAVID L. BERNHARDT, United States Fish and Wildlife Service, United States Forest Service (Attachments: # 1 Declaration of A. DeLong, # 2 Index) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Norway, Robert) 2 CD's containing the Administrative Record received in the Office of the Clerk on 5/3/2021 - 1 delivered to NDF chambers, 1 kept in Clerk's Office. (Court Staff, sal) (Entered: 05/03/2021)
06/02/2021	98	ORDER LIMITING THE PARTIES CITATIONS TO THE ADMINISTRATIVE RECORD EACH AGENCY COMPILED FOR THE CHALLENGED AGENCY DECISION AND ORDER TERMINATING ALL PENDING MOTIONS AND ORDER SETTING BRIEFING SCHEDULE by the Honorable Kelly H Rankin. See Order for new deadlines.Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 06/02/2021)
06/17/2021	99	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Extension of Time (Non-Dispositive) requesting extension of Record Motion Deadline of Petitioners filed by Plaintiffs Alliance for the Wild Rockies, Center for Biological Diversity, Sierra Club, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 06/17/2021)
06/18/2021	100	(TEXT-ONLY) ORDER by the Honorable Kelly H Rankin granting (99) Motion for Extension of Time in case 0:20-cv-00231-NDF. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF. Petitioners may file motions regarding the administrative record by July 9, 2021. (Court Staff, smh) (Entered: 06/18/2021)
07/02/2021	101	MOTION REFERRED TO Judge Kelly H Rankin. MOTION to Amend/Correct (66 in 0:20-cv-00231-NDF) Amended Complaint, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Supplemented and Amended Petition, # 2 Exhibit 2021 AOIs, # 3 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) Modified to unrefer on 7/2/2021 (Court Staff, scat). (Entered: 07/02/2021)
07/02/2021	102	MOTION REFERRED TO Judge Kelly H Rankin. Second MOTION for Extension of Time (Non-Dispositive) requesting extension of Deadline to File Record Motion filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 07/02/2021)
07/02/2021		Motions No Longer Referred: (101 in 0:20-cv-00231-NDF) MOTION to Amend/Correct (66 in 0:20-cv-00231-NDF) Amended Complaint, Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, scat) (Entered: 07/02/2021)
07/06/2021	103	ORDER by the Honorable Kelly H Rankin granting (102) in 0:20-cv-00231-NDF Motion for Extension of Time. WWP et al may file a motion to complete or supplement the administrative record within two weeks (14 days) of the date that the Court resolves the pending motion to supplement and amend their petition for review. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, smh) Modified text on 7/6/2021 (Court Staff, sbh). (Entered: 07/06/2021)
07/09/2021	104	MOTION REFERRED TO Judge Kelly H Rankin. MOTION to Complete the Record filed by Plaintiffs Alliance for the Wild Rockies, Center for Biological Diversity, Sierra

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		Club, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Santarsiere, Andrea) Modified text on 7/12/2021 (Court Staff, smxb). Modified text on 8/5/2021 (Court Staff, sal). (Entered: 07/09/2021)
07/09/2021	105	MEMORANDUM in Support of (104 in 0:20-cv-00231-NDF) Motion to Amend/Correct, filed by Plaintiffs Alliance for the Wild Rockies, Center for Biological Diversity, Sierra Club, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 07/09/2021)
07/12/2021		Motions No Longer Referred: (104 in 0:20-cv-00231-NDF) MOTION to Amend/Correct (84 in 0:20-cv-00231-NDF) Notice (Other) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, smxb) (Entered: 07/12/2021)
07/16/2021	106	OPPOSITION to (101 in 0:20-cv-00231-NDF) Motion to Amend/Correct, filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, State of Wyoming, Upper Green River Cattle Association, Wyoming Stock Growers Association. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Brown, Zhonette) (Entered: 07/16/2021)
07/22/2021	107	MOTION REFERRED TO Judge Kelly H. Rankin. Status Report and Unopposed MOTION for clarification regarding the parties' merits briefing schedule (98 in 0:20-cv-00231-NDF, 98 in 0:20-cv-00231-NDF) filed by Defendants DAVID L. BERNHARDT, United States Fish and Wildlife Service, United States Forest Service. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Grosko, J) Modified on 7/23/2021 (Court Staff, szf). Text modified on 8/5/2021 (Court Staff, sal). (Entered: 07/22/2021)
07/22/2021		Motions No Longer Referred: (107 in 0:20-cv-00231-NDF) MOTION to Amend/Correct (98 in 0:20-cv-00231-NDF, 98 in 0:20-cv-00231-NDF) Order on Motion to Compel,, Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, szf) (Entered: 07/23/2021)
07/23/2021	108	REPLY to (106 in 0:20-cv-00231-NDF) Opposition, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 07/23/2021)
08/05/2021	109	ORDER SETTING BRIEFING SCHEDULE by the Honorable Nancy D Freudenthal (granting 104 Motion in 0:20-cv-00231-NDF (104 in 0:20-cv-00234-NDF) and granting 107 Motion in 0:20-cv-00231-NDF (107 in 0:20-cv-00234-NDF)). See Order for deadline specifics.Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 08/05/2021)
08/06/2021	110	ORDER by the Honorable Nancy D Freudenthal granting in part and denying in part 101 MOTION to Amend/Correct (101 in 0:20-cv-00234-NDF). WWP shall file the Supplemented and Amended Petition for Review consistent with this Order no later than 8/9/21 and Federal Respondents shall supplement the record consistent with this Order, or provide notice that no additional supplementation is required no later than 8/20/21.Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 08/06/2021)
08/09/2021	111	SUPPLEMENTED AND AMENDED PETITION FOR REVIEW OF AGENCY ACTION filed by YELLOWSTONE TO UINTAS CONNECTION, Alliance for the Wild Rockies, Western Watersheds Project. (Attachments: # 1 Exhibit 2021 AOIs) (Persell, John) Modified text on 8/17/2021 (Court Staff, sjlg). (Entered: 08/09/2021)

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08/13/2021	112	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Leave to File Excess Pages regarding Brief in Support of Forthcoming Record Motion filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 08/13/2021)
08/16/2021	113	ORDER by the Honorable Kelly H Rankin granting (112) Motion to File Excess Pages Non-Dispositive in case 0:20-cv-00231-NDF. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, smh) (Entered: 08/16/2021)
08/19/2021	115	NOTICE by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Department of Interior Secretary, United States Fish and Wildlife Service, United States Forest Service, DAVID L. BERNHARDT, United States Department of Interior Secretary, United States Fish and Wildlife Service, United States Forest Service of <i>Lodging Supplemental Administrative Records</i> (Attachments: # 1 Exhibit A - Declaration Certifying FWS Supplemental Administrative Record, # 2 Exhibit B - FWS Index, # 3 Exhibit C - Declaration Certifying Forest Service Supplemental Records, # 4 Exhibit D - Forest Service ESA Index, # 5 Exhibit E - Forest Service NMFA Index) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Norway, Robert) (Entered: 08/19/2021)
08/20/2021	116	MOTION REFERRED TO Judge Kelly H Rankin. MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Exhibit CBD FOIA Request 10-22-19, # 2 Exhibit USFS FOIA Response Letter 12-5-19, # 3 Exhibit USFS FOIA Response Letter 12-11-19, # 4 Exhibit Persell Declaration 8-20-21, # 5 Exhibit K. Murphy Email 7-15-15, # 6 Exhibit D. DeLong Email 7-16-15, # 7 Exhibit A. DeLong Email 7-17-15, # 8 Exhibit D. DeLong Email 8-7-15, # 9 Exhibit G. Hanvey Email 8-7-15, # 10 Exhibit L. Jacobson Email 8-10-15, # 11 Exhibit K. Murphy Email 8-13-15, # 12 Exhibit K. Murphy Email 8-18-15, # 13 Exhibit K. Labrum Email 8-30-15, # 14 Exhibit D. DeLong Email 9-11-15, # 15 Exhibit D. DeLong Email 4-19-16, # 16 Exhibit D. DeLong Email 6-27-16, # 17 Exhibit K. Murphy Email 6-28-16, # 18 Exhibit D. DeLong Email 6-29-16, # 19 Exhibit K. Murphy Email 8-3-16, # 20 Exhibit D. DeLong Email 8-4-16, # 21 Exhibit P. Bode Email 8-30-16, # 22 Exhibit P. Bode Email 8-31-16, # 23 Exhibit A. Roberts Email 9-1-16, # 24 Exhibit K. Murphy Draft Amphibians Report 2-16-16, # 25 Exhibit Mattson Declaration 5-7-20, # 26 Exhibit Clark et al. 2017, # 27 Exhibit Ebinger et al. 2016, # 28 Exhibit Eklund et al. 2017, # 29 Exhibit Gergel et al. 2017, # 30 Exhibit Haswell et al. 2019, # 31 Exhibit Luce 2018, # 32 Exhibit Lute et al. 2018, # 33 Exhibit MacFarlane et al. 2013, # 34 Exhibit Mattson et al. 1991, # 35 Exhibit Mattson 1997, # 36 Exhibit Mattson 2000, # 37 Exhibit Merrill & Mattson 2003, # 38 Exhibit Miller et al. 2016, # 39 Exhibit Moreira-Arce et al. 2018, # 40 Exhibit Mowat et al. 2013, # 41 Exhibit Murie 1948, # 42 Exhibit Schwartz et al. 2014, # 43 Exhibit Treves & Naughton-Treves 2005, # 44 Exhibit Treves et al. 2016, # 45 Exhibit Wells et al. 2018, # 46 Exhibit Notice of Intent Letter 1-21-20, # 47 Exhibit Akland Declaration 10-14-20, # 48 Exhibit WWP-DOJ Email Conferral 9-4-20 to 9-21-20, # 49 Exhibit WWP-DOJ Email Conferral 5-26-21 to 6-10-21, # 50 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 08/20/2021)
08/20/2021	117	MEMORANDUM in Support of (116 in 0:20-cv-00231-NDF) Motion to Compel,,,,,,,,, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 08/20/2021)
08/20/2021	118	MOTION REFERRED TO Judge Kelly H Rankin. Joint MOTION for Extension of Time (Non-Dispositive) requesting extension of Time to File Responses and Reply re: Record

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		Motion filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 08/20/2021)
08/23/2021	119	ORDER by the Honorable Kelly H Rankin granting (118) Motion for Extension of Time in case 0:20-cv-00231-NDF. Respondents time to file their respective responses to WWP Petitioners record motion is extended through and including September 14, 2021. WWP Petitioners time to file any reply in support of the record motion is extended through and including September 27, 2021. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, smh) Modified text on 8/27/2021 (Court Staff, sjlg). (Entered: 08/23/2021)
08/27/2021	120	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Joseph A. Bingham to appear pro hac vice; Check not tendered; filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Stubson, Timothy) (Entered: 08/27/2021)
08/27/2021	121	ORDER by the Honorable Kelly H Rankin granting 120 MOTION for Joseph A. Bingham to appear pro hac vice on behalf of Intervenor Defendants SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association, Murdock Land and Livestock Co., Price Cattle Ranch. Associated Cases: 0:20-cv-00231-NDF; 0:20-cv-00234-NDF (cc: order emailed to pro hac vice counsel on this date). (Court Staff, stmo) Modified on 8/27/2021 (Court Staff, stmo). (Entered: 08/27/2021)
08/30/2021		FINANCIAL ENTRY: PAYMENT OF \$100 RECEIVED FOR PRO HAC VICE FEE FOR JOSEPH A BINGHAM. RECEIPT CHY035191. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, sjk) (Entered: 08/31/2021)
09/02/2021	122	RESPONSE to (116 in 0:20-cv-00231-NDF) Motion to Compel,,,,,, filed by Intervenor Defendant State of Wyoming. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Jerde, Jay) (Entered: 09/02/2021)
09/14/2021	123	RESPONSE in Opposition re (116 in 0:20-cv-00231-NDF) MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Department of Interior Secretary, United States Fish and Wildlife Service, United States Forest Service. (Attachments: # 1 Affidavit Exh. 1 (Decl. of R. Hoelscher, USFS), # 2 Affidavit Exh. 2 (Decl. of Patricia M. O'Connor, USFS), # 3 Affidavit Exh. 3 (Decl. of Randall Griebel, USFS)) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Grosko, J) (Entered: 09/14/2021)
09/14/2021	124	BRIEF in Opposition to (116 in 0:20-cv-00231-NDF) MOTION to Compel <i>Completion and Supplementation of Administrative Record</i> filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, sjlg) (Entered: 09/15/2021)
09/15/2021	125	MOTION REFERRED TO Judge Kelly H Rankin. Stipulated MOTION for Leave to File Excess Pages regarding Response to Western Watersheds Project, et al.'s Motion to Augment and Supplement the Administrative Record filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Department of Interior Secretary, United States Fish and Wildlife Service, United States Forest Service. (Attachments: # 1

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		Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Grosko, J) (Entered: 09/15/2021)
09/16/2021	126	ORDER by the Honorable Kelly H Rankin granting (125) Motion to File Excess Pages Non-Dispositive in case 0:20-cv-00231-NDF. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sag) (Entered: 09/16/2021)
09/27/2021	127	REPLY BRIEF re (116 in 0:20-cv-00231-NDF) Motion to Compel,,,,,,,,, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 09/27/2021)
10/04/2021	128	MOTION REFERRED TO Judge Kelly H Rankin. MOTION for Order Setting Status Conference filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 10/04/2021)
10/06/2021	129	ORDER by the Honorable Kelly H Rankin denying (128) Motion for Order Setting Status Conference in case 0:20-cv-00231-NDF. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Court Staff, sag) (Entered: 10/06/2021)
10/14/2021	130	ORDER by the Honorable Kelly H Rankin denying (116) Motion to Compel in case 0:20-cv-00231-NDF. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sag) (Entered: 10/14/2021)
11/18/2021	131	MOTION for Leave to File Excess Pages regarding Principal Briefs filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 11/18/2021)
11/23/2021	132	ORDER by the Honorable Nancy D Freudenthal denying (131) Motion to File Excess Pages in case 0:20-cv-00231-NDF; denying (132) Motion to File Excess Pages in case 0:20-cv-00234-NDF Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sjlg) (Entered: 11/23/2021)
11/29/2021	133	Petitioners' OPENING BRIEF re (111 in 0:20-cv-00231-NDF) Amended Complaint, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Exhibit Declaration of Jason Christensen, # 2 Exhibit Declaration of Jonathan B. Ratner) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) Text modified on 11/29/2021 (Court Staff, sal). (Entered: 11/29/2021)
11/29/2021	134	NOTICE OF WITHDRAWL OF COUNSEL by Intervenor Defendant State of Wyoming. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Shaw, Kelly) Modified on 11/29/2021 (Court Staff, sal). (Entered: 11/29/2021)
11/29/2021	135	<i>Petitioners' Opening</i> BRIEF filed by Plaintiffs Center for Biological Diversity, Sierra Club. (Attachments: # 1 Affidavit Decl of Meredith Taylor, # 2 Affidavit Decl of Jim Laybourn) Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 11/29/2021)
11/30/2021	136	NOTICE of Attorney Appearance by Joseph Bingham on behalf of MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Bingham, Joseph) (Entered: 11/30/2021)
12/01/2021	137	MOTION REFERRED TO Judge Kelly H Rankin. MOTION to Amend/Correct (109 in 0:20-cv-00231-NDF, 109 in 0:20-cv-00231-NDF) Order on Motion to Amend/Correct,,

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		<i>Case Management Deadlines</i> filed by Defendants United States Department of Interior Secretary, United States Fish and Wildlife Service, United States Forest Service. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Grosko, J) Modified on 12/2/2021 (Court Staff, smxb). (Entered: 12/01/2021)
12/01/2021	138	Joint OPPOSITION to (137 in 0:20-cv-00231-NDF) Motion to Amend/Correct, filed by Plaintiffs Alliance for the Wild Rockies, Center for Biological Diversity, Sierra Club, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 12/01/2021)
12/02/2021		Motions No Longer Referred: 137 MOTION to Amend/Correct (109 in 0:20-cv-00231-NDF, 109 in 0:20-cv-00231-NDF) Order on Motion to Amend/Correct,, <i>Case Management Deadlines</i> (Court Staff, smxb) (Entered: 12/02/2021)
12/02/2021	139	ORDER by the Honorable Nancy D Freudenthal granting in part (137 in 0:20-cv-00231-NDF, 138 in 0:20-cv-00234-NDF) MOTION to Revise Case Management Deadlines. See Order for deadlines.Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 12/02/2021)
01/19/2022	140	<i>Federal Respondents' Merits</i> BRIEF filed by Defendants DAVID L. BERNHARDT, AURELIA SKIPWITH, United States Department of Interior Secretary, United States Fish and Wildlife Service, United States Forest Service. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Norway, Robert) (Entered: 01/19/2022)
01/26/2022	141	<i>Respondent-Intervenor State of Wyoming's Response</i> BRIEF re (135 in 0:20-cv-00231-NDF) Brief, (133 in 0:20-cv-00231-NDF) Brief, filed by Intervenor Defendant State of Wyoming. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Jerde, Jay) (Entered: 01/26/2022)
01/26/2022	142	BRIEF filed by Intervenor Defendants MURDOCK LAND AND LIVESTOCK CO., PRICE CATTLE RANCH, SOMMERS RANCH, LLC, Upper Green River Cattle Association, Wyoming Stock Growers Association. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Brown, Zhonette) (Entered: 01/26/2022)
02/16/2022	143	MOTION for Leave to File Excess Pages regarding Reply Merits Brief filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Attachments: # 1 Proposed Order)Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Persell, John) (Entered: 02/16/2022)
02/18/2022	144	ORDER by the Honorable Nancy D Freudenthal granting (143) Motion to File Excess Pages in case 0:20-cv-00231-NDF; granting (144) Motion to File Excess Pages in case 0:20-cv-00234-NDF Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF(Court Staff, sal) (Entered: 02/18/2022)
02/23/2022	145	REPLY BRIEF re (142 in 0:20-cv-00231-NDF) Brief, (133 in 0:20-cv-00231-NDF) Brief, (140 in 0:20-cv-00231-NDF) Brief, (141 in 0:20-cv-00231-NDF) Brief, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Persell, John) (Entered: 02/23/2022)
02/23/2022	146	REPLY BRIEF re (135 in 0:20-cv-00231-NDF) Brief, (142 in 0:20-cv-00231-NDF) Brief, (140 in 0:20-cv-00231-NDF) Brief, (141 in 0:20-cv-00231-NDF) Brief, filed by Plaintiffs Center for Biological Diversity, Sierra Club. Associated Cases: 0:20-cv-00231-NDF, 0:20-cv-00234-NDF (Santarsiere, Andrea) (Entered: 02/23/2022)
05/17/2022	147	OPINION AND ORDER by the Honorable Nancy D Freudenthal. CBD's Amended Complaint/Petition for Review and WWP's Supplemented and Amended Petition for

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		Review of Agency Action are dismissed. Associated Cases: 2:20-cv-00231-NDF, 2:20-cv-00234-NDF(Court Staff, sal) (Entered: 05/17/2022)
06/01/2022	148	JUDGMENT in favor of Respondents against Petitioners Associated Cases: 2:20-cv-00231-NDF, 2:20-cv-00234-NDF(Court Staff, sal) (Entered: 06/01/2022)
06/10/2022	149	NOTICE OF APPEAL as to (148 in 2:20-cv-00231-NDF, 147 in 2:20-cv-00231-NDF) Judgment, (149 in 2:20-cv-00234-NDF, 148 in 2:20-cv-00234-NDF) Order dismissing case, filed by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION. (Persell, John) Modified text to reflect correct documents being appealed on 6/13/2022 (Court Staff, stbd). (Entered: 06/10/2022)
06/10/2022	150	Preliminary Record of appeal sent to USCA and counsel re (149 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney), The procedures and appeals forms may be obtained from the U.S. Court of Appeals website: www.ca10.uscourts.gov. (Attachments: # 1 Preliminary Record on Appeal Including Notice of Appeal) (Court Staff, stbd) (Entered: 06/10/2022)
06/10/2022	151	USCA Appeal Fees received \$ 505 receipt number CHY036499 re (149 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney), filed by Western Watersheds Project, Alliance for the Wild Rockies, YELLOWSTONE TO UINTAS CONNECTION (Court Staff, smxb) (Entered: 06/10/2022)
06/10/2022	152	Appeal Number 22-8031 received from USCA for (149 in 2:20-cv-00231-NDF) (150 in 2:20-cv-00234-NDF) Notice of Appeal (Attorney), filed by Western Watersheds Project, Alliance for the Wild Rockies, YELLOWSTONE TO UINTAS CONNECTION. Docketing statement, transcript order form and notice of appearance due 06/24/2022 for Alliance for the Wild Rockies, Western Watersheds Project and Yellowstone to Uintas Connection. Notice of appearance due on 06/24/2022 for Debra A. Haaland, Murdoch Land and Livestock Co., Price Cattle Ranch, Sommers Ranch, LLC, State of Wyoming, United States Fish and Wildlife Service, United States Forest Service, Upper Green River Cattle Association and Wyoming Stock Growers Association. (Court Staff, stbd) Modified to add member case appeal information on 6/13/2022 (Court Staff, stbd). (Entered: 06/13/2022)
06/17/2022	153	TRANSCRIPT REQUEST (No Transcripts Necessary) by Plaintiffs Alliance for the Wild Rockies, Western Watersheds Project, YELLOWSTONE TO UINTAS CONNECTION re (149 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney),. (Persell, John) (Entered: 06/17/2022)
06/17/2022	154	(TEXT-ONLY) APPEAL ORDER from USCA as to (149) in 2:20-cv-00231-NDF Notice of Appeal filed by Western Watersheds Project, Alliance for the Wild Rockies, YELLOWSTONE TO UINTAS CONNECTION. Record on Appeal/Notice due 6/24/2022. (Court Staff, sbh) (Entered: 06/17/2022)
06/21/2022	155	Transcript Letter transmitted to USCA re (149) in 2:20-cv-00231-NDF Notice of Appeal. No transcripts have been ordered for this appeal. For purpose of appeal, the record is now ready. (Court Staff, sbh) (Entered: 06/21/2022)
06/21/2022	156	Appeal Remark re (149 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney); Appellants' brief and appendix due on 08/01/2022 for Alliance for the Wild Rockies, Western Watersheds Project and Yellowstone to Uintas Connection. (Court Staff, stbd) (Entered: 06/21/2022)
07/07/2022	157	NOTICE OF APPEAL as to (147 in 2:20-cv-00231-NDF, 148 in 2:20-cv-00231-NDF) Judgment, (148 in 2:20-cv-00234-NDF, 149 in 2:20-cv-00234-NDF) Order dismissing case filed by Plaintiffs Center for Biological Diversity, Sierra Club. (Santarsiere, Andrea)

		Modified text to identify documents being appealed on 7/7/2022 (Court Staff, stbd). (Entered: 07/07/2022)
07/07/2022	158	USCA Appeal Fees received \$ 505 receipt number CHY036631 re (157 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney), filed by Center for Biological Diversity, Sierra Club (Court Staff, stmo) (Entered: 07/07/2022)
07/07/2022	159	Preliminary Record of appeal sent to USCA and counsel re (157 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney), The procedures and appeals forms may be obtained from the U.S. Court of Appeals website: www.ca10.uscourts.gov. (Attachments: # 1 Preliminary Record on Appeal Including Notice of Appeal) (Court Staff, stbd) (Entered: 07/07/2022)
07/08/2022	160	Appeal Number 22-8043 received from USCA for (157 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney), filed by Center for Biological Diversity, Sierra Club. Docketing statement, transcript order form and entry of appearance due 07/22/2022 for Center for Biological Diversity and Sierra Club. Notice of appearance due on 07/22/2022 for Debra A. Haaland, Murdoch Land and Livestock Co., Price Cattle Ranch, Sommers Ranch, LLC, State of Wyoming, United States Fish and Wildlife Service, United States Forest Service, Upper Green River Cattle Association and Wyoming Stock Growers Association. (Court Staff, stbd) (Entered: 07/08/2022)
07/18/2022	161	TRANSCRIPT REQUEST (No Transcripts Necessary) by Plaintiffs Center for Biological Diversity, Sierra Club re (157 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney),. (Santarsiere, Andrea) (Entered: 07/18/2022)
07/18/2022	162	(TEXT-ONLY) APPEAL ORDER from USCA as to (157 in 2:20-cv-00231-NDF) Notice of Appeal [22-8043], filed by Center for Biological Diversity, Sierra Club (Record on appeal/Notice due 7/25/2022) (Court Staff, stbd) (Entered: 07/18/2022)
07/28/2022	163	Transcript Letter transmitted to USCA re (157 in 2:20-cv-00231-NDF) Notice of Appeal (Attorney). No transcripts have been ordered for this appeal. For purpose of appeal, the record is now ready. (Court Staff, stbd) (Entered: 07/28/2022)

PACER Service Center			
Transaction Receipt			
12/02/2022 09:30:36			
PACER Login:	jbingham	Client Code:	
Description:	Docket Report	Search Criteria:	2:20-cv-00231-NDF
Billable Pages:	26	Cost:	2.60

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

WESTERN WATERSHEDS PROJECT,)	
ALLIANCE FOR THE WILD ROCKIES, and)	
YELLOWSTONE TO UINTAS CONNECTION,)	No. 1:20-cv-00860-APM
)	
<i>Plaintiffs,</i>)	
)	
v.)	DECLARATION OF
)	ALBERT SOMMERS
DAVID BERNHARDT, in his official capacity as)	
Secretary of the United States Department of the)	
Interior; UNITED STATES FISH AND)	
WILDLIFE SERVICE; and UNITED STATES)	
FOREST SERVICE,)	
)	
<i>Defendants,</i>)	
)	
and)	
)	
UPPER GREEN RIVER CATTLE)	
ASSOCIATION; SOMMERS RANCH, LLC)	
PRICE CATTLE RANCH; MURDOCK LAND)	
AND LIVESTOCK CORPORATION; and)	
WYOMING STOCK GROWERS)	
ASSOCIATION,)	
)	
<i>Applicants in Intervention.</i>)	
_____)	

I, Albert Sommers, declare as follows:

1. I am over 18 years of age and I am competent to testify from my first-hand knowledge as to the matters set forth in this Declaration.
2. I am a citizen of the United States and reside in Sublette County, Wyoming.
3. I am the current President of the Upper Green River Cattle Association.
4. I am a managing member of Sommers Ranch, LLC, which is located in the Upper Green River Valley in Sublette County, Wyoming.

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5. I provide this Declaration in support of the intervention of the Upper Green River Cattle Association, Sommers Ranch, LLC, and myself.

6. I have reviewed the Plaintiffs' Complaint in this case. As I understand their claims, Plaintiffs are challenging the Forest Service's authorization of the Upper Green River Area Rangeland Project. As a permittee within the project area, Sommers Ranch, LLC participated in the environmental impact statement process and provided comments throughout.

7. The Forest Service's October 11, 2019 record of decision at issue in this case authorized the renewal of six grazing allotments, covering over 170,000 acres within the Bridger-Teton National Forest of Wyoming. The largest of these allotments is the Upper Green River Cattle Allotment, encompassing over 130,000 acres of the project area.

8. The process leading to the October 11, 2019 decision began by 2003, when the Forest Service first announced its intent to prepare an environmental impact statement to analyze the impacts of renewing the six grazing allotments for 10 years. Over its 16 years of analysis, the Forest Service has prepared (a) a draft and final environmental impact statement, released in 2004; (b) a draft supplemental environmental impact statement, released in 2010; and, finally (c) a final environmental impact statement issued to replace the 2004 analysis, released in 2017. Accordingly, in total, there have been over 16 years of analysis to determine the impacts of renewing six allotments for ten years.

9. Now, Plaintiffs assert that the renewal of these allotments violates provisions of the Endangered Species Act and urge that the record of decision must be set aside and additional analysis must be undertaken.

10. Should Plaintiffs prevail, and the record of decision is set aside, the Sommers Ranch, the Upper Green River Cattle Association and its members, and other non-Association

ranchers will be significantly and negatively impacted. The renewal of these six grazing allotments is vital to the ongoing existence of local ranches, as I detail below.

The Sommers Ranch

11. The Sommers Ranch was established by my grandfather, Albert “Prof” Sommers, and my great-uncle, Pearl Sommers, in 1907. The Ranch was later sold to my father, Albert “Bud” Sommers in 1947. Today, I am a co-owner of Sommers Ranch, LLC along with my sister, Jonita, and our partner, Ty Swain.

12. Sommers Ranch, LLC private lands includes approximately 1,850 acres. We hold grazing permits in two Bureau of Land Management (“BLM”) allotments that are in excess of 55,000 acres. We also hold grazing permits authorizing use within the 130,000-acre Upper Green River Cattle Allotment on the Bridger-Teton National Forest.

13. In 2009, a portion of the Ranch, the original Sommers Ranch Homestead, was listed on the National Register of Historic Places as representative of a modest turn of the century Wyoming family ranch where the rancher relied on the timber from the surrounding mountains to build at least eleven of the vernacular buildings: house, meat house, cellar, garage, outhouse, cow barn, granary, bunkhouse, icehouse, barn, chicken house. The Sommers Ranch Homestead buildings and an easement on the land under the buildings have been donated to the Sublette County Historical Society and comprise the Sommers Homestead Living History Museum.

14. Along with my sister and Mr. Swain, I continue to operate Sommers Ranch, LLC in the same manner that my parents and grandparents did. The Sommers Ranch operates a cow/calf/yearling operation in the Upper Green River Valley, near Pinedale, Wyoming. Our cattle are grass and grass-hay fed year-round on our private lands and on federal grazing leases.

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15. In recognition of the Sommers Ranch's stewardship and conservation of its lands, the Ranch was awarded the Leopold Conservation Award in 2012. The Leopold Conservation Award recognizes agricultural landowners actively committed to a land ethic. It recognizes and celebrates extraordinary achievement in voluntary conservation by private landowners, inspires countless other landowners by example, and provides a prominent platform by which agricultural community leaders are recognized as conservation ambassadors to citizens outside of agriculture. Finally, the program builds bridges between agriculture, government, environmental organizations, industry, and academia to advance the cause of private lands conservation.

16. Sommers Ranch, LLC maintains a commercial herd of over 300 Angus/Hereford-cross mother cows. The Ranch breeds its cows, raising their calves for one to two years before marketing them. The Ranch also maintains and breeds a registered Hereford herd of approximately 45 head of cows.

17. From approximately November until the end of April, our cattle graze on native grass and hay grown on irrigated and sub-irrigated private lands that make up the base property of the Sommers Ranch.

18. In May, our registered Hereford herd is transferred to a federal grazing allotment managed by the BLM and then later to privately leased lands in the Upper Green River Valley. Our commercial herd grazes these BLM allotments until mid-June, when the Green River Drift begins.

19. The Green River Drift is a two-week, 68-mile, cattle drive which begins at the BLM allotments adjacent to the Ranch and heads north to the high reaches of the Upper Green River Valley for summer and fall grazing on the Upper Green River Cattle Allotment of the Bridger-Teton National Forest.

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20. Snowfall beginning in late September or early October triggers the cattle to begin moving from the higher elevation rangelands to lower elevations where they are gathered and returned to the Sommers Ranch, LLC base property.

21. Our cattle move through the valley in a manner very similar to the native ungulate migrations that occur on the same landscape.

22. The Sommers Ranch has utilized the Green River Drift and the Green River Drift Trail since around 1900 and has been a member of the Upper Green River Cattle Association since its inception in 1916.

The Green River Drift and Green River Drift Trail

23. Since at least 1896, the Green River Drift has functioned as the essential connector between seasonal grazing lands for cattle ranches in the Upper Green River Valley. Indeed, use of the Drift began when the grazing of public lands in the Green River Valley region was still free and unregulated.

24. Ranches in the Green River Valley region, including the Sommers Ranch, the Price Cattle Ranch, and the Murdock Land and Livestock Co. Ranch, are dispersed along waterways and valleys that contain irrigable land for producing hay. Grazing land is located further out on the surrounding mesa, desert, foothill, and mountain pastures based on a seasonal feeding pattern.

25. The Green River Drift provides the route for Upper Green River Cattle Association's eleven members and other area ranchers to trail cattle from spring grazing at the southern end of the Drift to summer and fall grazing at the northern end. In the fall, the cattle "drift" back to the south on their own or are trailed along the route of the Drift, then sorted from neighboring herds, and finally trailed to their home ranches.

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26. The Green River Drift Trail extends for 68 miles, from high desert mesas in the southern part of the county to the Bridger-Teton National Forest in the northern part of the county.

27. The path of the Drift made use of natural features such as draws and creeks to funnel the cattle onto a common path and provide a stable supply of water and feed. Overall, the route and use of the Drift today is very similar to its route and use in its early history.

28. The Green River Drift follows the Green and New Fork Rivers for much of its route and has the Wind River Mountains as its backdrop to the north and east, the Wyoming Range in the far distance to the west, and the Gros Ventre Mountains to the north.

29. In the spring, starting from May 1 through May 25, Upper Green River Cattle Association members move their cattle onto BLM allotments in the Little Colorado Desert, Mesa, and other areas. Spring grazing on BLM managed land lasts one to two months, depending upon ranch, typically May through late June.

30. Cowboys start removing cattle from spring BLM pastures and trailing them up to 68 miles north beginning in the middle of June and ending in the middle of July. There is a 3 to 4-week period for trailing the cattle to the mountains from the time they are taken off the spring pasture until they are on the pasture systems on National Forest land. Each ranch's cattle herd is on the trail approximately two weeks.

31. Grazing on the Upper Green River Cattle Allotment is permitted from June 16 to October 15 each year, but actual turn-in and removal dates vary based on weather and forage. The haying season on private lands corresponds with the summer grazing season on public lands.

32. As cold weather arrives in the late fall, the cattle drift back out of the forest on their own, moving south back toward their home pastures. Strategically located fences direct their

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movement down to the sorting grounds where they are sorted by brand, rounded up, and trailed to their respective home ranches, and shipped to market in October and November.

33. In the winter, cattle graze on the hayed pastures and meadows at their respective home ranches. As the pastures become snow-covered, the livestock are fed from the hay supply that grew in the same fields over the spring and summer.

34. This seasonal pattern has been repeated, year after year, since at least the 1890s. Ranchers rely on the Drift to trail their cattle to crucial pasturage and continue to pass this tradition on to the next generations.

35. The pasturage accessed via the Drift is essential to the ranchers' operations because of the feed it provides to growing cattle, and the time it gives private land to grow the next hay crop, which will feed the cattle herds during the next winter.

36. In November 2013, the Green River Drift Trail was listed in the National Register of Historic Places as a Traditional Cultural Property ("TCP"). The Drift is representative of a rural community's land use patterns and reflects the local ranchers' traditional occupational culture, including shared practices, customs, and beliefs. It is the oldest continually used stock drive in Wyoming and is one of the only remaining cattle drift trails still in use in the same manner in which it was originally developed. Moreover, the Drift is the first listed TCP in the nation to recognize a traditional culture rooted in a shared occupation—ranching—rather than in ethnicity or religious belief.

The Upper Green River Cattle Association and Upper Green River Allotment

37. The Upper Green River Cattle Association was established in 1916 and consists of eleven members operating in the Upper Green River Valley and utilizing the Green River Drift.

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38. The Association also utilizes a common allotment, the Upper Green River Cattle Allotment, on the Bridger-Teton National Forest.

39. The Upper Green River Allotment consists of more than 130,000 acres, making it one of the largest allotments in the National Forest System. This allotment is utilized by the Association's members and authorizes grazing of over 6,800 cow/calf pairs or yearlings, through separate livestock grazing permits held by the individual members of the Association.

40. The Upper Green River Allotment is divided into four pasture systems, which consists of 13 individual pastures. Other areas within the Allotment are designated for use as livestock driveways or trailing corridors, which are utilized by cattle as they enter the Allotment and access the pasture systems, and as they "drift" back from the pasture systems in the fall.

41. Association members are responsible for the maintenance and upkeep of common improvements, including fencing and rider cabins.

42. The Association hires five range riders to oversee their cattle in these four pasture systems. In fact, the Association has had range riders with their cattle every day of use of the Upper Green River Cattle Allotment since 1916.

43. Between the cost of installing and maintaining various range improvements, as well as the costs associated with employees, the Association spends between \$100,000 and \$150,000 annually.

44. The Association has participated in a Cooperative Monitoring Program in the Upper Green since 1996. This originated as a cooperative effort between the permittees, Forest Service, and the University of Wyoming. Today, the Sublette County Conservation District is an active partner and leads the program. This monitoring program established range goals and has

monitored both annual use and long-term trends. This program has generated an extensive data set of range conditions over time.

45. In 1993, during a pasture move, the Association found its first grizzly-caused calf depredation in decades, which was recognized by the Association's oldest member who had seen grizzly depredations in his youth. By 1997, the Association had a serious depredation problem from grizzly bears, and that has only got worse over time.

46. The mortality rate on calves of Association members in the early 1990s was around 2%. More recently, some Association members have lost an average of 14% of their calves to depredation in a single grazing season. UGRCA as a whole experienced a calf loss of 13.9% in 2015 and 13.7% in 2017. Since 1995, Association members have lost over 1,000 head of cattle, confirmed by state and federal agency personnel, to either grizzly bears or wolves. However, actual losses far exceed this number as many kills are never found. Most of these depredations have been by grizzly bears.

47. After the 2015 grazing season, the Association worked with an organization to sponsor a number of seminars focused on methods to reduce large carnivore depredation of cattle. Out of these discussions, in an effort to reduce depredations, the Association tried cattle bunching techniques in one pasture system for two consecutive years. The goal was to make cattle less susceptible to predation; however, the Association did not see any reduction in depredation and has discontinued that practice.

48. The Association is in full compliance with all terms and conditions imposed by the U.S. Fish and Wildlife Service and the Forest Service. No Association member or range rider has killed or shot at a grizzly bear in the Upper Green River Cattle Allotment. The Association has never received a citation from the Forest Service for improper food or grain storage. Third party

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organizations and the Forest Service have provided the Association with bear-proof boxes and containers to ensure proper storage of food sources, which the Association uses consistently while on the Allotment.

49. Wyoming Game and Fish Department (“WGFD”) personnel provide training to the Association’s range riders covering best practices to avoid grizzly bear conflicts and to recognize depredations. The Association makes it a priority to have new range riders meet with WGFD specialists for these trainings.

50. The Association, with the support of the Forest Service, has changed rotations in one pasture system in an effort to reduce depredation losses, and this rotation appears to have reduced predation losses. The Forest Service has authorized us to continue that altered rotation.

51. On behalf of the Association and myself, I have participated and continue to participate in seminars and meetings around the Rocky Mountain area that have been conducted to examine methods and techniques to reduce conflict between livestock and large carnivores.

Potential Impacts to the Sommers Ranch and Upper Green River Cattle Association Members Should Plaintiffs Prevail

52. Lethal removals of grizzly bear are only utilized as a last resort, after other, non-lethal means have failed to change a nuisance bear’s behavior. However, once a grizzly bear’s behavior reaches the level where lethal removal is authorized, that bear presents a significant risk to livestock. Therefore, the loss of the ability to conduct lethal removals of nuisance grizzly bears on the Upper Green River Cattle Allotment could result in Association members being unable to utilize their grazing permits due to the increased risk of bear depredation.

53. Without the Upper Green River Cattle Allotment, members of the Upper Green River Cattle Association would not have economically viable ranching operations. The Upper Green River Cattle Allotment accounts for all of the forage needed for the members’ herds during

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an exceedingly critical time, when calves are raised to market weight. No alternative pasture is available to rent or purchase within a reasonable distance from Association members' base ranches. Accordingly, it is impossible for Association members to secure alternative forage, and these members would be forced to reduce their herd size to an uneconomically viable level, likely at a significantly reduced price. These resulting economic losses would force many of the Association's member's ranches to go out of business.

54. These ranches have stayed viable for over 100 years only by following green grass to the mountains, which allows the ranches to grow pasture and hay for the brutal winters of the Green River Valley.

55. It is my opinion that, without the Upper Green River Cattle Allotment, many of these ranches would be sold, and, undoubtedly, some would be subdivided. Ranches that did not go out of business would likely have to reduce their herd sizes to one-half or one-third of their current numbers.

56. Should the members' ranching operations and historic grazing practices be diminished or eliminated, large ungulate migration routes and other important wildlife habitats would be affected. It is the ability to maintain large ranches in the West that has kept regional landscapes like the Green River Valley intact. Without these ranches, these large tracts of open lands likely would be lost to other development.

57. Moreover, without these ranches, adjacent communities would lose a valuable source of year-round commerce. Members of the Association conservatively sell a combined 2,300 feeder cattle and another 650 cull cattle. These are cattle sales in excess of \$3 million to \$5 million dollars, much of which goes back into the local economies. Indeed, ranching serves as the

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backbone for the local economy in the Green River Valley, including the small, rural towns of Pinedale, Daniel, Boulder, and Cora, Wyoming.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 18 day of May 2020.

A handwritten signature in cursive script, appearing to read "Albert Sommers", is written above a horizontal line.

Albert Sommers

Upper Green River Area Rangeland Project

Social and Economic Resource Report

Prepared by:

David Booth

Natural Resource Specialist

Pinedale Ranger District

March 3, 2016

NFMA-FS-SAR-042769

R-Supp-App-041

This alternative is not expected to cause changes in the local economy that will result in losses that render that economy unable to recover, due to the small relative contribution to the total economy, and to a lesser degree the potential interplay of enhancement of amenity values and those positive effects on recreational uses. In turn, the traditional uses, custom, and culture of Sublette County may be affected by implementing this alternative, but the effect would not be expected to result in the complete loss of those values because this project area encompasses only a small portion of Sublette County.

Compliance with Forest Plan and Other Relevant Laws, Regulations, Policies and Plans

Forest Plan direction that is relevant to the socio-economic effects of each alternative is limited. The Forest Plan articulates a goal for community prosperity with one objective of providing forage Forest-wide for approximately 260,000 AUM's of livestock grazing annually. Because alternative 1 does not authorize any domestic livestock grazing, this alternative does not contribute to that goal and objective. Because it is a Forest-wide goal and objective, however, it is possible that the goal and objective would still be met, however that is unlikely since the Forest currently authorizes approximately 180,000 AUM's.

Other Relevant Mandatory Disclosures

The relationship of short-term uses and long-term productivity in the context of the social and economic effects of this alternative can be described in the following way. The short term annual use of the allotments by livestock is not authorized and thus does not contribute to the stability of local ranches and the local economy. There is little productivity loss, however, for this alternative because any area that does not meet desired conditions for the environmental effects parameters described in other resource reports of this grazing project, due to livestock grazing, is likely to rapidly recover under this alternative. In other words, while the sector of the economy associated with livestock production may decline, the sector of the economy associated with amenity values of the area may benefit due to the fact that isolated areas of resource concern would improve most rapidly under this alternative. These resource areas of concern are discussed in other resource reports such as wildlife, fisheries, and rangeland vegetation.

While isolated areas may remain in less than desired condition for the very short term, there are no irreversible or irretrievable effects.

Alternative 2

Direct and Indirect Effects

Implementation of Alternative 2 would not change livestock grazing as currently authorized (see alternative descriptions in FSEIS, Chapter 2). Under Alternative 2, livestock grazing would continue to be authorized on the six allotments as currently

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FS-PAR-008384

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Issue Indicators

- Whether livestock grazing is authorized
- Feasibility of implementing design features
- Employment and income information at the county level
- Traditional uses of the project area

B. Affected Environment

Existing Condition (for additional historic information see the Heritage Specialist's report)

Human uses within the project area play a role in the economic vitality of the surrounding communities. About 48 percent of the State of Wyoming is under Federal land ownership. This analysis is going to focus on Sublette County because approximately 88% of the project area is located within this county, while 9% is in Teton County and 3% in Fremont County. In Sublette County, approximately 17.7% of land area is under private ownership, about 78.3% is federal and 3.9% is state ownership. Of the 21 permittees that graze livestock on allotments in the project area, all 21 of them have base property associated with their grazing permit in Sublette County. The high proportion of federal ownership and rural nature of the area reduces the opportunity for industry as well as reducing the tax base for local governments. This, in turn, increases the dependence on products and services derived from National Forest System (NFS) lands. The Forest Plan and Final EIS (USFS, 1990) provide a discussion of the social and economic environment for the Bridger-Teton National Forest.

Domestic livestock grazing within and adjacent to the project area has played a key role in maintaining the vitality of Pinedale, Big Piney, and the surrounding communities since the early 1900s when the first significant numbers of non-native people in the county were associated with the cattle and sheep industry. Federal land grazing has been an integral part of many ranching operations in Wyoming (Taylor, 2003).

The petroleum industry has added to the primary economic base of Sublette County. Oil and gas have played a significant role in the regional economy since the 1920's. For the past 50 years, the oil and gas industry has provided a majority of the tax base and has been a principal industry affecting the economy of Sublette County. The County has experienced several boom and bust cycles and has realized an increased population tied to this industry. Currently, the industry has developed a balance of exploration, development and production and is no longer associated with the heavy influx of new people common to early exploration (Sublette County, 2005). Historically, most of the oil and gas activity has occurred in southwestern Sublette County and neighboring Lincoln County. There is currently no energy development taking place within the project area, although the analysis area (the County) is experiencing development.

Upper Green River Area Rangeland Project

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was part of the Battle Mountain Fire which occurred in 2007 and the sale was sold later that year. It consisted of 248 acres and included the salvaging of burnt and dying spruce and lodgepole pine for sawtimber. The total volume of this sale was a total of 7100 ccf.

Also in the Green River Lake Campground cutting activities have occurred since 2004 using timber sales, personal service contracts and force account crews to rid the campground of beetle infested lodgepole pine trees. Other harvesting activities have been limited to personal use products, predominantly firewood.

Livestock Grazing

During the early 1900's, the Forest Service developed a grazing allotment system in the project area. The probable purpose of this allotment system was to fairly allocate forage between the local users, to derive a financial return to the public for use of this public land, and to limit overuse of the forage resource. The allotment system set geographic boundaries for various users or groups of users (livestock grazing associations) and limited the season of use for livestock grazing.

Livestock grazing is a traditional use in the assessment area. Historically, the number of animals grazed in this area was higher than current numbers. What follows is a brief summary that highlights historic and current domestic livestock grazing on each of the six grazing allotments that are within the assessment area.

Upper Green River Allotment – historic use

The Yellowstone Park Timber Land Reserve was created in 1891; after the creation of the Yellowstone Forest Reserve in 1902 the Upper Green River Allotment became part of the Wind River Division, then part of the Wyoming National Forest in 1908. In 1910, it became part of the Wind River and Bonneville National Forests and that year the current northern and western boundaries of the allotment were fenced. In addition to livestock use originating from livestock operations in the Upper Green River Valley, cattle from Dubois trailed through the allotment to graze the Elk Ridge area. Prior to and including the 1924 season, 10,977 head of cattle and horses were permitted to graze on this allotment, which included what is now the Elk Ridge Grazing Allotment Complex. In 1924 the Upper Green River Allotment was reduced to an approved use of 10,000 head.

Beginning in 1930, the approved season of use was from June 16 through October 15. Approved use for the allotment was reduced to 8,000 head of cattle and permitted sheep grazing (after the conversion of the Teepee Creek area to sheep grazing) and permitted numbers were held within this authorization by 1935. From 1930 through approximately 1956 sheep were grazed in the Teepee Creek area of the allotment. In 1957 the Upper Green River Cattle Association agreed to exchange their permitted use on Klondike Creek for the permitted sheep grazing use in the Teepee Creek area.

Upper Green River Allotment – current use

The Upper Green River Allotment is primarily within the Green River drainage of the Colorado River System. The allotment area covers 130,100 acres. The Noble Pastures

United States
Department of
Agriculture

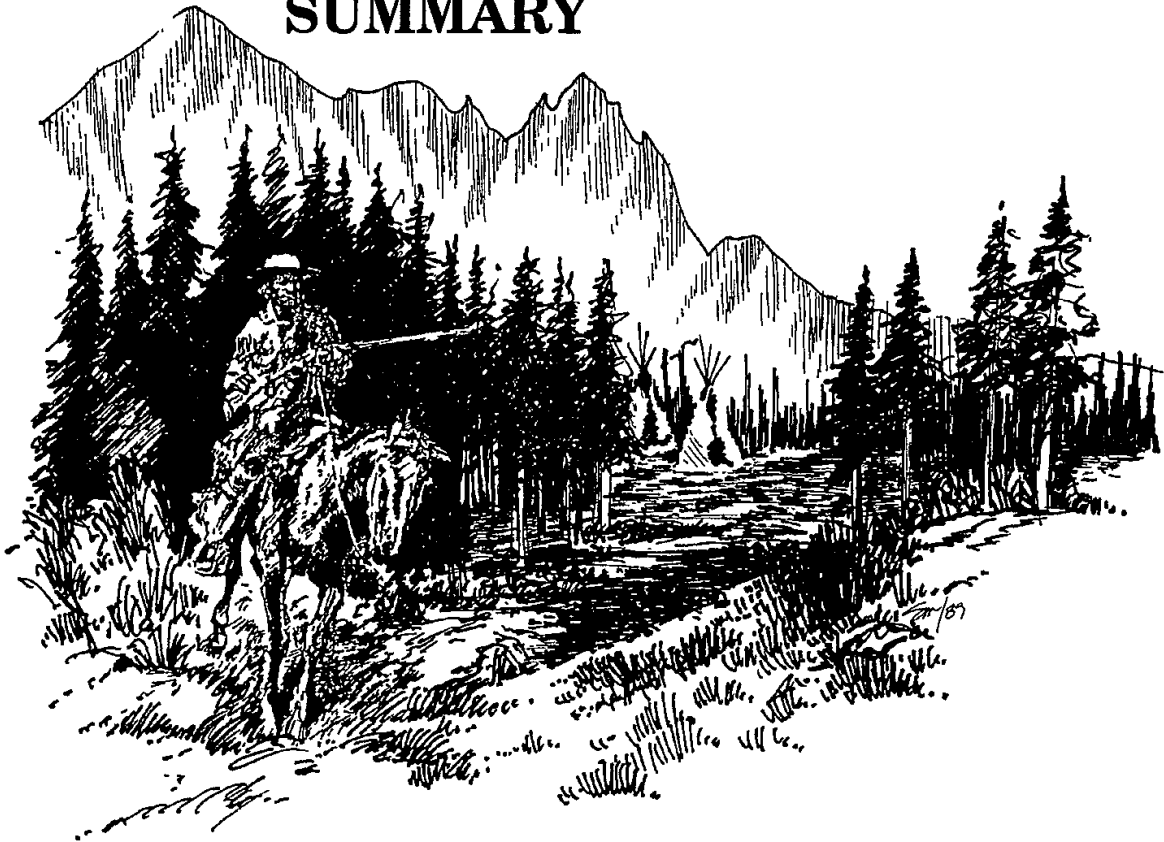


Forest Service



BRIDGER-TETON NATIONAL FOREST FINAL ENVIRONMENTAL IMPACT STATEMENT

SUMMARY



NFMA-FS-SAR-000388

R-Supp-App-047

Livestock grazing is managed through allotment management plans. In allotment management planning, an Interdisciplinary Team reviews range conditions on the ground and helps set objectives for the allotment. The rancher is a key participant in the process. One of the main objectives in the allotment management plan is to improve range conditions. On the Bridger-Teton, 81 sheep allotments and 95 cattle allotments exist today. Plans have been prepared for 166 allotments.

170 allotments are considered to be under satisfactory management. Six allotments are considered to be without satisfactory management.

Stocking rates across the forest are about within the capacity of the range. However, management will have to change on some allotments if ecological status objectives are expected to be met, especially on the riparian areas. If improved management is not adequate, some reductions in livestock use may be needed. Cancellation of existing grazing permits due to excessive nonuse may help to alleviate management problems on some allotments.

Ranchers on the forest have been very cooperative in working with the Forest Service to improve range conditions on their allotments. As a result some allotments have the potential for increased livestock use.

Range conditions on areas not grazed by livestock and used only by wildlife have not been evaluated to the same intensity as the livestock ranges. General observations of these ranges indicates that they are in satisfactory condition. However, some seasonal over-use by wildlife has been observed. For instance, some plant communities close to winter feed grounds have been changed to lower seral stages. Some aspen communities in these areas cannot reproduce and mature trees are dying out. Some shrub communities have been converted to grassland. Some unsatisfactory range conditions have been noted in some high alpine areas due to wildlife concentration during critical plant phenological periods for a number of years.

Demand

Present economic conditions within the the livestock industry has decreased the demand for summer grazing. Permitted use for 1987, including temporary permits, was 258,000 AUMs while actual use was 206,000 AUMs. Nonuse has averaged about 15% annually from 1983 to 1987. Demand for wildlife use of the range is dependent upon Wyoming State Game and Fish objectives.

**Vegetation --
Timber**

Of the 3.4 million acres contained in the Bridger-Teton National Forest, 2.1 million acres are nonforest or land withdrawn from timber production. The remaining 1.3 million acres have been analyzed to determine suitability for timber production. Of these lands, 452,700 acres are physically not suited. The remaining 880,400 acres are classified as tentatively suited.

Commercial tree species include Douglas-fir, lodgepole pine, whitebark pine, subalpine fir, and Engelmann spruce.

CERTIFICATE OF SERVICE

I hereby certify that on December 2, 2022, I electronically filed the foregoing Supplemental Appendix for Rancher Intervenor-Respondents/Appellees using the court's CM/ECF system, which will send notification of such filing to counsel. Parties who are not registered with CM/ECF system were served via U.S. Mail.

/s/ Joseph A. Bingham
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