

This International Society for the Protection of Mustangs and Burros (ISPMB), an interested and affected party in public lands grazing, appreciates the opportunity to respond to these new grazing regulations on public lands. After reading the more than one-hundred-page regulations document, we have several concerns which we will address after we review the history of the grazing program since the passage of the Taylor Grazing Act in 1934.

Understanding the history is so important in creating the best outcome for the health of the lands, animals, and all that is within. These regulations actually do the opposite.

HISTORY OF GRAZING:

The Taylor Grazing Act (TGA) of 1934 helped powerful ranchers with the express intent of eliminating nomadic herding and stopping indiscriminate settlement and grazing, stabilizing the grazing industry, restoring damaged lands, and other goals.

The TGA created the Division of Grazing under the Department of the Interior thus creating grazing allotments, charging nominal fees for grazing. Leases were issued to the privileged few, generally the most powerful and wealthy cattlemen, especially those who helped create the TGA. "In a classic example of western control of federal land, the TGA retained elite stock raisers' dominance using a permit system, a small fee, and a weak agency to manage the program."¹

The TGA established grazing boards. These grazing boards assured powerful stockmen continued dominance. The 1935 report by the Grazing Director referred to the grazing boards as follows, "the local governing agency as to all matters of a range of regulatory nature."

In 1939 this Division of Grazing became the Grazing Service, the forerunner of the BLM.

During the 1930s, this agency ordered the extermination of thousands of wild horses to allow more grazing land for ranchers. The unregulated exploitation of the wild herds constituted the Grazing Service's policy for nearly thirty years.

In 1946, the Grazing Service and the General Land Office combined to form the Bureau of Land Management (BLM). Soon this Agency would be placed in charge of protecting and preserving wild horses and burros in 1971 that they so successfully nearly exterminated in the 1930s.

"Carrying capacity was determined in 1964 by calculating the production level (how many acres to produce an AUM [animal unit month] using dry weight measure formula) multiplying by the number of acres in the allotment. It takes, on an average, 12-16 acres to produce one AUM."

"The carrying capacity formula was the basis of forage allocation made on the 1964 ten-year permits. It was carried over in 1974 to be adjusted for the implementation of the National Environmental Policy Act (NEPA) which requires reserving a portion of the annual growth to protect watershed, habitat, soils, and plant renewal and also forage for wild horses. When

¹ Shanks 1984

'suitability criteria' was applied in 1979 to determine the number of AUMS actually available to livestock, BLM discovered the 1964 allocations needed to be reduced some 60-70 and, in some cases, up to 90 percent. There was no way the permittees would allow BLM to make those kinds of reductions. So, this 'initial adjustment period' (between 1979 survey results and the issuance of new ten-year permits in 1984) included initial adjustments to wild horse numbers – there was no statutory authority for this. The reason permittees could not accept reductions of the AUMS on their permits was because they used AUMS as private property to secure loans from farm credit banks. This violated Taylor Grazing's prohibiting turning the grazing privilege into property rights or estate." Despite this violation and the Agencies' acceptance of such violation, the permittees interpret AUMS ascribed on the permits issued in 1964 as being permanently attached to their base property. The ranchers called the allocation 'preference.'²

"The Taylor Grazing Act refers to preference in a completely different manner. It is criteria for granting the privilege to graze. The privilege is attached to the base property as long as the permit holder uses the grazing permit. The privilege and the permit are two separate things even though they go together. The privilege says who and the permit says how. The Federal Land Policy Management Act (FLPMA) adds to the Secretaries' duty by also controlling the type of livestock in addition to number and seasons of use. This is "permitted use" – it is NOT preference."³

Although in 1964, there were too many AUMS allocated for the actual amount of land, the Agencies just simply divided the allocations as "active" and "inactive" giving the ranchers the ability to hold on to these AUMS that never existed to benefit their base property financial standing. These AUMS that never existed were called "inactive."

In essence the wild horses were given the "inactive" AUMs to eat (land that does not exist) which would allow the ranchers more AUMS by keeping the horses at token numbers. This allows the ranchers illegal monetary use of AUMS.

Most importantly, the above shows the Agencies complete disregard for the 1971 Act and their complete support and collaboration with the livestock industry which continues throughout history and today. This has led and continues to lead to habitat destruction caused by livestock grazing on public lands that the Agencies so fervently blame on wild horses and burros.

Elimination of suitability criteria in monitoring created a much greater advantage for cattle grazing and reduced wild horse forage allocations. The reason this critical monitoring information was eliminated was because the forage allocation of permits for grazing would have had to be reduced by 60%-70% and in some cases up to 90%. The reason is that cattle tend to

² August 1996 letter to Tom Zwettler, Office of Inspector General, Central Region by Animal Protection Institute

³ August 1996 letter to Tom Zwettler, Office of Inspector General, Central Region by Animal Protection Institute

camp in one place while horses and burros graze further from water, on steeper slopes, and higher elevations, and on more rugged terrain than pregnant or lactating cows.

The following URL is from Public Employees for Environmental Responsibility (PEER) who has completed a map of BLM's permittees. It must be noted the condition of the rangelands due to cattle grazing is deteriorating. They further show that this is not from wild horses and burros.

[BLM Rangeland Health Status \(2020\) - The Significance of Livestock Grazing on Public Lands - Interactive Web Map \(mangomap.com\)](https://mangomap.com/)

- BLM administers 245 million acres of land.
- Of that land, 155 million acres is leased grazing allotments in 13 western states.
- More than 50% of BLM acres assessed fail the Agency's own land health standards with livestock grazing as a significant cause.
- This equates to 54 million acres, roughly the size of Wisconsin, which fail to meet BLM's minimum standards for soil and water quality, vegetation, and functional wildlife habitat due to overgrazing.
- Much of the land identified as priority habitat for the threatened and endangered Sage Grouse lies in ecoregions where more than 40% of assessed lands fail to achieve land health standards due to livestock grazing.
- BLM has yet to assess 27% of leased grazing allotments, or nearly 41 million acres, an area the size of Arizona, and many of these unassessed areas are surrounded by allotments not meeting land health standards due to overgrazing.

Finally, PEER states, "In short, BLM's own data document that it is presiding over an unfolding ecological disaster – massive deterioration of the increasingly arid Sagebrush West. This management breakdown belies the BLM mission to 'sustain the health, diversity, and productivity of public lands for the use and enjoyment of present and future generations.'"

PEER sent the previous Secretary of the Interior, Deb Haaland, showing that the majority of lands where the Agency identified wild horses as the causal factor in habitat decline actually shows livestock grazing as the significant cause of degradation – not wild horses.

PEER further found that the U.S. Geological Survey (USGS) study released in September 2021 stated that wild horses were adversely affecting Sage Grouse habitat. This false reporting is what the BLM uses to remove wild horses. USGS stated: "Our analysis did not explicitly model livestock (e.g., cattle) Primarily because of challenges associated with compiling quality spatial data." The USGS had access to PEER's mapping since 2011.

PEER Special Project Manager, Kirsten Stade stated, "USGS and BLM have put on scientific blinders when it comes to public lands grazing, noting that cows outnumber wild horses on BLM lands by a ratio of 30 to 1."

“PEER, which has obtained the BLM’s rangeland health data via the Freedom of Information Act, charges that BLM’s deliberate obfuscation of livestock eco-impacts is a function of political pressure from the ranching industry; and that

- While the Agency scapegoats wild horses for habitat degradation, its data reveal that most of the allotments within Wild Horse Management Areas (HMA) that fail its standards for rangeland health – approximately 11.5 million acres of the 21.5 million acres of allotments within HMA assessed by BLM to date – identify livestock as a significant cause of that failure; Livestock are by far the most frequently identified cause of allotment failure to meet standards for quality of water, vegetation, and soils, as well as the ability to support wildlife nationwide, including for allotments within HMA.”

ISPMB’S CONCERN FOR THESE PROPOSED REGULATIONS:

ISPMB has great concern for reducing regulations for cattle grazing just based on the history of unrestrained cattle grazing on public lands for nearly one-hundred years since the passage of TGA. While the document is extensive, we have simplified our concerns by addressing the following:

1. That public participation is going to be limited in responding to grazing decisions and challenging the Agencies actions and decisions. This is especially important when we citizens understand that these public lands belong to all of us.
2. That these regulations weaken accountability by allowing cattle grazing to continue even when it is determined that the cattle are the cause of failing land health standards, as long as the permittees are complying with the terms of their permits.
3. That it will be easier to expand and keep livestock on public lands by cutting safeguards that now ensure grazing is compatible with healthy wildlife habitat, clean water, and functioning ecosystems.
4. While water is the sustenance of life on this earth, these regulations remove protections for water quality by eliminating water quality from the fundamentals of rangeland health and rescinding existing grazing water quality standards.
5. That these regulations delay action when public lands are being damaged by allowing the Agency years to determine a response, knowing that livestock grazing is contributing to degraded conditions.
6. With degradation of public lands by livestock as noted in our above history, even more concerning now is the proposed rule emphasizing expanding grazing on public lands, even to areas that haven’t been grazed for decades. The proposed rule directs the Agency to shortcut environmental reviews which puts decades of conservation gains at risk which can harm these vital areas of public lands.
7. Finally, the proposed rules redefine grazing permits to only allow ‘production-oriented’ livestock and removes longstanding references to conservation and stewardship from the grazing regulations. This promotes public land use for maximum livestock grazing at a benefit to private ranchers who pay \$1.69 per AUM feeding a cow and calf monthly. It is unlikely that one can feed a mouse per month at that price. We must remember that public lands supply approximately 2% of feed and do not contribute much to our nation’s food supply. Public lands grazing is now

monopolized by large corporations. The top 10% of permittees control up to two-thirds of livestock grazing on BLM land over 50% on FS lands.

Yes, these regulations will allow the lands to continue in such a fashion that they may never be restored to healthy lands – ever.