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# 95-170 PUBLIC RANGELANDS IMPROVEMENT ACT OF 1978

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## HEARING

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BEFORE THE  
SUBCOMMITTEE ON  
PUBLIC LANDS AND RESOURCES  
OF THE  
COMMITTEE ON  
ENERGY AND NATURAL RESOURCES  
UNITED STATES SENATE

NINETY-FIFTH CONGRESS

SECOND SESSION

ON

**S. 2475**

A BILL TO IMPROVE THE RANGE CONDITIONS OF THE PUBLIC  
GRAZING LANDS

**H.R. 10587**

AN ACT TO IMPROVE THE RANGE CONDITIONS OF THE PUBLIC  
GRAZING LANDS

AUGUST 9, 1978

Publication No. 95-170



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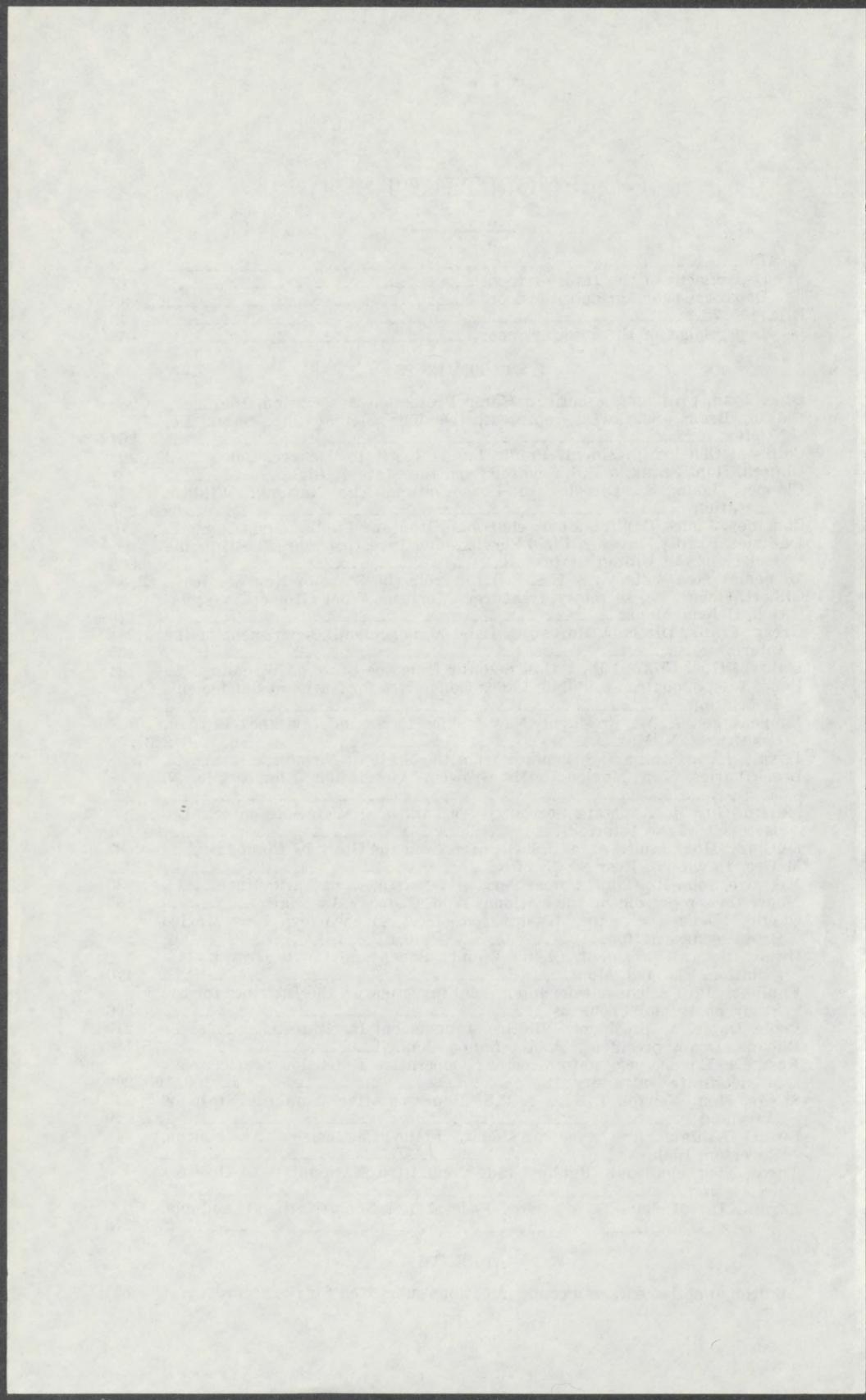
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# PUBLIC RANGELANDS IMPROVEMENT ACT OF 1978

WEDNESDAY, AUGUST 9, 1978

U.S. SENATE,  
SUBCOMMITTEE ON PUBLIC LANDS AND RESOURCES,  
OF THE COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, D.C.*

The subcommittee met, pursuant to notice at 10:08 a.m., in room 3110, Dirksen Office Building, Hon. Frank Church, presiding.

Present: Senators Church, Bumpers, Melcher, McClure, Domenici, and Laxalt.

Also present: R. D. Folsom, counsel.

## OPENING STATEMENT OF HON. FRANK CHURCH, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator CHURCH. The hearing will please come to order.

The Subcommittee on Public Lands and Resources of the Energy and Natural Resources Committee is convened this morning for the purpose of receiving testimony on legislation relating to the management of public grazing land.

When Congress enacted the Federal Lands Management and Policy Act of 1976, the so-called BLM Organic Act, we reiterated and affirmed the national policy of retaining Federal ownership of the land and resources on the public domain.

In the Organic Act, we asserted our intentions to be good landlords and shoulder the responsibility of putting the Federal real estate in order.

The legislation now before this subcommittee follows up on commitments which we made to the American people in the BLM Organic Act.

As my friend from Idaho, who will be one of our witnesses today, Bill Swan has put it, as landlords the time has come for us to shore up the foundation, to repair the leaky roof, and clean up the backyard. It is time to begin a serious program to revitalize the national grazing land.

That goal is the centerpiece of S. 2475, the Public Grazing Land Improvement Act of 1978, which I introduced in February with Senator Laxalt of Nevada, and which is a companion bill to Congressman Roncalio's proposal that has been approved by the House of Representatives on June 29.

Both S. 2475 and the House passed bill are the primary proposals under consideration today.

As I am sure many witnesses will point out this morning, a great need exists to improve the condition of the public range. Not only are our national grazing lands not delivering their full potential for livestock grazing, or fish and wildlife habitat, for recreation and soil and water conservation, but these lands are deteriorating at an alarming rate.

The Public Grazing Lands Improvement Act, like its predecessor, the National Range Land Policy Act, which was proposed by Senator Haskell, attempts to put in place a serious program to improve the range conditions.

In 1975, the Bureau of Land Management compiled, at the request of the Senate Appropriations Committee, a report on range conditions. That report showed that only 2 percent, 3.2 million acres of the public range, could be considered in excellent condition. Only 28 percent, some 45.6 million acres, was found to be in poor condition, while 5 percent, 8.2 million acres, in bad condition.

The report projected that if present management policies continue, in 25 years production capability of these lands would fall off as much as 25 percent.

The erosion figures contained in the report were just as bleak. Of the 144.5 million acres of rangeland surveyed during the 5-year period prior to the report, 91 percent was found to be sustaining some soil loss and 10 percent of the rangelands inventoried had either a critical or severe erosion problem.

So the main thrust of these bills is to protect the soil and water of the public domain, grazing lands, and to see that these lands are managed intensively so that they are able to produce more forage. However, other severe problems stand in the way of improving the conditions on the range.

Certain areas have been overpopulated by wild and free-roaming horses and burros, and excess numbers of these animals must be removed in order to prevent further damage to the range.

In addition, current law and the effect of court decisions have slowed or halted many range improvements. The bills before us also address these and other serious problems, including the issue of an equitable grazing fee.

I look forward this morning to listening to witnesses and to the suggestions I know that will be made for meeting and solving these problems.

At this point I will insert in the record S. 2475, H.R. 10587, and department reports.

[The bills and reports follow:]

**S. 2475**

---

**IN THE SENATE OF THE UNITED STATES**

FEBRUARY 2 (legislative day, JANUARY 30), 1978

MR. CHURCH (for himself and Mr. LAXALT) introduced the following bill;  
which was read twice and referred to the Committee on Energy and Natural  
Resources

---

**A BILL**

To improve the range conditions of the public grazing lands.

- 1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Public Grazing Lands  
4       Improvement Act of 1978".

## 5               FINDINGS AND DECLARATION OF POLICY

- 6       SECTION 1. (a) The Congress finds and declares that—  
7               (1) vast segments of the public grazing lands (and  
8               especially the public rangelands) are producing less than  
9               their potential for livestock, wildlife habitat, recreation,  
10              forage, and water and soil conservation benefits, and  
11              for that reason are in an unsatisfactory condition;

1           (2) such grazing lands will remain in an unsat-  
2 isfactory condition and some areas may decline fur-  
3 ther under present levels of, and funding for, manage-  
4 ment;

5           (3) unsatisfactory conditions on public grazing lands  
6 present a high risk of soil loss, desertification, and a result-  
7 ant underproductivity for large acreages of the public  
8 lands; contribute significantly to unacceptable levels of  
9 siltation and salinity in major western watersheds includ-  
10 ing the Colorado River; negatively impact the quality and  
11 availability of scarce western water supplies; threaten  
12 important and frequently critical fish and wildlife habitat;  
13 prevent expansion of the forage resource and resulting  
14 benefits to livestock production and wildlife; increase sur-  
15 face runoff and flood danger; reduce the value of such lands  
16 for recreational and esthetic purposes; and may ultimately  
17 lead to unpredictable and undesirable long-term local and  
18 regional climatic changes;

19           (4) the above-mentioned conditions can only be  
20 addressed and corrected by an intensive public rangelands  
21 maintenance management, and improvement program  
22 involving significant increases in levels of rangeland man-  
23 agement and improvement funding;

24           (5) the Act of December 15, 1971 (85 Stat. 649,

1 16 U.S.C. 1331 et seq.), continues to be successful in its  
2 goal of protecting wild free-roaming horses and burros  
3 from capture, branding, harassment, and death, but that  
4 certain amendments are necessary thereto to avoid exces-  
5 sive costs in the administration of the Act, and to facilitate  
6 the humane adoption or disposal of excess wild free-roam-  
7 ing horses and burros which because they exceed the  
8 carrying capacity of the range, pose a threat to their own  
9 habitat, fish, wildlife, recreation, water and soil conserva-  
10 tion, domestic livestock grazing, and other rangeland  
11 values;

12 (6) an equitable fee should be charged for livestock  
13 grazing permits and leases on the public lands.

14 (b) The Congress therefore hereby establishes a  
15 national policy and commitment to—

16 (1) inventory and identify current public grazing  
17 lands conditions and trends as a part of the inventory  
18 process required by section 201 (a) of the Federal Land  
19 Policy and Management Act of 1976 (43 U.S.C.  
20 1711);

21 (2) manage, maintain, and improve the condition  
22 of the public rangelands so that they become as pro-  
23 ductive as feasible for all rangeland values in accord-  
24 ance with management objectives and the land use

1 planning process established pursuant to section 202  
2 of the Federal Land Policy and Management Act (43  
3 U.S.C. 1712) ;

4 (3) continue the policy of protecting wild free-  
5 roaming horses and burros from capture, branding,  
6 harassment, or death, while at the same time facilitat-  
7 ing the removal and disposal of excess wild free-roam-  
8 ing horses and burros which pose a threat to them-  
9 selves and their habitat and to other rangeland values;

10 (4) charge a fee for public grazing use which is  
11 equitable;

12 (5) reaffirm section 402(a) of the Federal Land  
13 Policy and Management Act which provides for a ten-  
14 year grazing permit and lease term with certain  
15 exceptions.

16 (c) The policies of this Act shall become effective only  
17 as specific statutory authority for their implementation is  
18 enacted by this Act or by subsequent legislation, and shall  
19 be construed as supplemental to and not in derogation of the  
20 purposes for which public lands are administered under other  
21 provisions of law.

22 SEC. 2. As used in this Act:

23 (a) The term "public grazing lands" means lands ad-  
24 ministered by the Secretary of the Interior through the Bu-

1 reau of Land Management or the Secretary of Agriculture in  
2 the eleven contiguous Western States and Nebraska, North  
3 Dakota, and South Dakota (except for the National Grass-  
4 lands) on which there is domestic livestock grazing or which  
5 the Secretary concerned determines may be suitable for  
6 domestic livestock grazing.

7 (b) The term "public rangelands" means lands admin-  
8 istered by the Secretary of the Interior through the Bureau  
9 of Land Management in the eleven contiguous Western  
10 States on which there is domestic livestock grazing or which  
11 the Secretary determines may be suitable for domestic live-  
12 stock grazing.

13 (c) The term "allotment management plan" means a  
14 document prepared in consultation with the lessees or per-  
15 mittees involved, which applies to livestock operations on the  
16 public lands or on lands within national forests in the eleven  
17 contiguous Western States and which—

18 (1) prescribes the manner in, and extent to, which  
19 livestock operations will be conducted in order to meet  
20 the multiple-use, sustained yield, economic and other  
21 needs and objectives as determined for the lands by the  
22 Secretary concerned;

23 (2) describes the type, location, ownership, and  
24 general specifications for the range improvements to be

1 installed and maintained on the lands to meet the live-  
2 stock grazing and other objectives of land management;  
3 and

4 (3) contains such other provisions relating to live-  
5 stock grazing and other objectives found by the Secre-  
6 tary concerned to be consistent with the provisions of  
7 this Act and other applicable law.

8 (d) The term "grazing permit and lease" means any  
9 document authorizing use of public lands or lands in national  
10 forests in the eleven contiguous Western States and Nebraska,  
11 North Dakota, and South Dakota for the purpose of grazing  
12 domestic livestock.

13 (e) The term "range condition" means the quality of  
14 the land reflected in its ability in specific vegetative areas to  
15 support various levels of productivity in accordance with  
16 range management objectives and the land use planning  
17 process, and relates to soil quality, forage values (whether  
18 seasonal or year round), wildlife habitat, watershed and  
19 plant communities, the present state of vegetation of a range  
20 site in relation to the potential plant community for that site,  
21 and the relative degree to which the kinds, proportions, and  
22 amounts of vegetation in a plant community resemble that  
23 of the climax community for that site.

24 (f) The term "native vegetation" means those plant  
25 species, communities, or vegetative associations which are

1 endemic to a given area and which would normally be  
2 identified with a healthy and productive range condition  
3 occurring as a result of the natural vegetative process of the  
4 area.

5 (g) The term "environment impact improvements"  
6 means range improvements which involve manipulation of  
7 the environment so as to artificially alter the natural vegeta-  
8 tive and ecologic process and produce range conditions for  
9 livestock grazing which could not be attained naturally or by  
10 using nonenvironment impact improvements and methods.  
11 Such improvements include, but are not limited to: chaining,  
12 chemical treatment (including the use of herbicides), water  
13 developments with a storage capacity in excess of 25 acre-  
14 feet, stream modification projects, and seeding activities to  
15 introduce nonnative species or increase forage above the  
16 optimum conditions which could occur naturally, or through  
17 the use of nonenvironment impact improvements.

18 (h) The term "nonenvironment impact improvements"  
19 means range improvements designed to augment, restore, or  
20 prevent deterioration of naturally occurring range conditions  
21 or facilitate the environmentally sound management of the  
22 range through intensive grazing management. Such improve-  
23 ments include, but are not limited to:

24 (1) fence construction and maintenance, vegeta-  
25 tive manipulation through grazing management, in-

1 stallation and maintenance of cattle guards, water  
2 developments with a storage capacity of 25 acre-feet or  
3 less, stock ponds, water lines, springs, wells;

4 (2) fish and wildlife enhancement projects, soil  
5 stabilization projects, watershed management projects,  
6 stream erosion control and restoration projects, and other  
7 nonlivestock projects, subject to the limitations set forth  
8 in subsection 4 (h) of this Act;

9 (3) the restoration of native vegetation which does  
10 not involve chaining or chemical treatment (except for  
11 the use of organic fertilizers) where scientific evidence  
12 or prior experience shows the likelihood of success is  
13 high.

14 (i) The term "court ordered environmental impact  
15 statement" means any environmental statements which are  
16 required to be prepared by the Secretary of the Interior pur-  
17 suant to the final judgment or subsequent modification thereof  
18 as set forth on June 18, 1975, in the matter of Natural  
19 Resources Defense Council against Andrus.

20 (j) The term "Secretary", unless specifically desig-  
21 nated otherwise, means the Secretary of Interior.

22 RANGELANDS INVENTORY AND MANAGEMENT

23 SEC. 3. (a) Following enactment of this Act, the Sec-  
24 retary of the Interior and the Secretary of Agriculture shall  
25 update, develop (where necessary) and maintain on a con-

1 timing basis thereafter, an inventory of range conditions and  
2 record of trends of range conditions on the public grazing  
3 lands, and shall categorize or identify such lands on the basis  
4 of the range condition and trends thereof as they deem appro-  
5 priate. Such inventories shall be conducted and maintained  
6 as a part of the inventory process required by section 201 (a)  
7 of the Federal Land Policy and Management Act (43  
8 U.S.C. 1711), shall be kept current on a regular basis so  
9 as to reflect changes in range conditions, and shall be avail-  
10 able to the public.

11 (b) The Secretary shall manage the public rangelands  
12 in accordance with the Taylor Grazing Act (48 Stat. 1269,  
13 as amended; 43 U.S.C. 315), the Federal Land Policy and  
14 Management Act of 1976 (90 Stat. 2473; 43 U.S.C. 1701),  
15 and other applicable law consistent with the public grazing  
16 lands improvement program pursuant to this Act. Except  
17 where the land use planning process required pursuant to  
18 section 202 of the Federal Land Policy and Management  
19 Act (43 U.S.C. 1712) determines otherwise or the Secre-  
20 tary determines, and sets forth his reasons for this determina-  
21 tion, that grazing uses should be discontinued (either tem-  
22 porarily or permanently) on certain lands, the goal of such  
23 management shall be to improve the range conditions of the  
24 public rangelands so that they become as productive as fea-  
25 sible in accordance with the rangeland management objectives

1 established through the land use planning process, and con-  
2 sistent with the values and objectives listed in section 1 (a)  
3 and (b) (2) of this Act.

4 RANGE IMPROVEMENT FUNDING

5 SEC. 4. (a) In order to accomplish the purposes of this  
6 Act, there are hereby authorized to be appropriated the sum  
7 of an additional \$15,000,000 annually in fiscal year 1979-  
8 1982. Such funds shall be in addition to any range, wildlife,  
9 and soil and water management moneys which have been re-  
10 quested by the Secretary under the provisions of section 318  
11 of the Federal Land Policy and Management Act, and in  
12 addition to the moneys which are available for range im-  
13 provements under section 401 of the Federal Land Policy  
14 and Management Act (43 U.S.C. 1751 (b) ).

15 (b) In addition, annual authorization requests made by  
16 the Secretary under the provisions of section 318 of the Fed-  
17 eral Land Policy and Management Act for fiscal years 1983  
18 through 1986 for range, wildlife, and soil and water manage-  
19 ment shall be no less than the amount authorized under the  
20 provisions of subsection (a) of this section for fiscal year  
21 1982. Furthermore, requests for authorization for fiscal years  
22 1987 through 1998 shall be not less than the amount author-  
23 ized for fiscal year 1982 as increased by \$5,000,000.

24 (c) The funds authorized by subsections (a) and (b)  
25 of this section shall be fully requested by the President. In

1 the event such funds requested in any fiscal year are of a  
2 lesser amount, the Secretary shall specifically set forth the  
3 detailed reason or reasons for requesting Congress to approve  
4 a lesser level of funding, and shall indicate whether the lesser  
5 level of requested funding results from his determination that  
6 the full authorized funds cannot be effectively and efficiently  
7 utilized to accomplish the purposes of this Act, or whether a  
8 lesser level has been requested for other reasons, including  
9 any cuts dictated or suggested by the Office of Management  
10 and Budget.

11 (d) Any amounts authorized by this subsection not  
12 appropriated in one or more fiscal years shall be authorized  
13 for appropriation in any subsequent years.

14 (e) No less than 80 per centum of such funds provided  
15 herein shall be used for on-the-ground rangeland mainte-  
16 nance and improvements (including project layout, design,  
17 and supervision). No more than 15 per centum of such funds  
18 provided herein shall be used to hire and train such experi-  
19 enced and qualified personnel as are necessary to implement  
20 on-the-ground supervision and enforcement of the land use  
21 plans required pursuant to section 202 of the Federal Land  
22 Policy and Management Act (43 U.S.C. 1712) and such  
23 allotment management plans as may be developed. Such funds  
24 shall be distributed as the Secretary deems advisable after  
25 careful and considered consultation and coordination, includ-

1 ing public hearings and meetings where appropriate, with the  
2 district grazing advisory boards established pursuant to sec-  
3 tion 403 of the Federal Land Policy and Management Act  
4 (43 U.S.C. 1753), range user representatives, and other  
5 interested parties. To the maximum extent practicable, and  
6 where economically sound, the Secretary shall give priority  
7 to entering into cooperative agreements with range users (or  
8 user groups) for the installation and maintenance of on-the-  
9 ground range improvements.

10 (f) None of the funds authorized for on-the-ground range  
11 improvements by this Act or by section 401 (b) (1) of the  
12 Federal Land Policy and Management Act (43 U.S.C. 1751)  
13 shall be used for environment impact improvements until  
14 such time as—

15 (1) the land use plans required by section 202 of  
16 the Federal Land Policy and Management Act have  
17 been completed and such environment impact improve-  
18 ments are consistent with such plans;

19 (2) an allotment management plan for the area  
20 (unless the Secretary determines that an allotment  
21 management plan is not necessary for management of  
22 livestock operations and will not be prepared), has been  
23 completed and such environment impact improvements  
24 are consistent with the allotment management plan;

1           (3) any court ordered environmental impact state-  
2           ment has been satisfactorily completed;

3           (4) any other environmental statement which may  
4           be required for such environment impact improvements  
5           pursuant to section 4332 (c) of title 42 of the United  
6           States Code has been satisfactorily completed.

7           (g) For the purpose of increased efficiency and coordi-  
8           nated planning, the Secretary shall, to the maximum extent  
9           practicable, incorporate the documents to be prepared under  
10          (1) through (3) of subsection (f) of this section, and any  
11          other program documents for the area involved, into one  
12          consolidated unit plan and environmental statement.

13          (h) Until the requirements of subsection (f) of the  
14          section have been met, the funds authorized by this section  
15          shall be used as provided only for nonenvironment impact  
16          improvements, and for the supervision and enforcement of  
17          existing and future rangeland use and allotment management  
18          plans as provided in subsection (e) of this section. Such non-  
19          environment impact improvements shall not be considered a  
20          major Federal action requiring a detailed statement pursuant  
21          to section 4332 (c) of title 42 of the United States Code:  
22          *Provided*, That any additional forage which may be produced  
23          by the nonlivestock projects described in section 2 (h) (2)  
24          of this Act shall not be allocated for livestock use until the

1 documents which may be required under subsection (f) of  
2 this section have been satisfactorily completed and the alloca-  
3 tion of such forage for livestock use is consistent with such  
4 documents: *Provided further*, That any other environmental  
5 statements (other than court ordered environmental state-  
6 ments) which may be required for such nonlivestock projects  
7 pursuant to section 4332 (c) of title 42 of the United States  
8 Code shall be satisfactorily completed prior to the initiation  
9 of such nonlivestock projects.

10 (i) Except as specified in subsection (f) above, nothing  
11 in this section shall affect the distribution or use of grazing  
12 fee receipts as set forth in section 401 (b) (1) (2) of the  
13 Federal Land Policy and Management Act or the Taylor  
14 Grazing Act, as amended (43 U.S.C. 315 et seq.).

#### 15 GRAZING FEES

16 SEC. 5. The Secretaries of Agriculture and Interior shall  
17 charge the fee for domestic livestock grazing on the public  
18 grazing lands which was recommended by the Technical  
19 Committee to Review Public Lands Grazing Fees Grazing  
20 Livestock on Federal Land, a report from the Secretary of  
21 the Interior and the Secretary of Agriculture dated Octo-  
22 ber 21, 1977, and under which fair market value for public  
23 grazing equals the \$1.23 base established by the 1966 West-  
24 ern Livestock Grazing Survey multiplied by the result of the  
25 Forage Value Index (computed annually from data supplied

1 by the Economic Research Service) added to the Combined  
2 Index (Beef Cattle Price Index minus the Price Paid In-  
3 dex) and divided by 100: *Provided*, That the annual increase  
4 or decrease in such fee for any given year shall be limited to  
5 not more than plus or minus 25 per centum of the previous  
6 year's fee.

7                   GRAZING LEASES AND PERMITS

8       SEC. 6. Section 402 (b) (3) of the Federal Land Policy  
9 and Management Act (43 U.S.C. 1752) is amended by  
10 striking the period at the end of the proviso and adding  
11 “: *Provided further*, That the absence of completed land use  
12 plans or court ordered environmental statements shall not be  
13 the sole basis for establishing a term shorter than ten years  
14 unless the Secretary determines on a case-by-case basis that  
15 the information to be contained in such land use plan or court  
16 ordered environmental impact statement is necessary to  
17 determine whether a shorter term should be established for  
18 any of the reasons set forth in items (1) through (3) of this  
19 subsection.”.

20                   WILD HORSES AND BURROS

21       SEC. 7. Subsections 3 (b) and (c) of the Act of Decem-  
22 ber 15, 1971 (85 Stat. 649; 16 U.S.C. 1333 (b) (3) ), are  
23 hereby amended to read as follows:

24       “(b) Where the Secretary of the Interior or Agricul-  
25 ture determines on the basis of a current inventory of lands

1 within his jurisdiction, that an area is overpopulated with  
2 wild free-roaming horses or burros, he shall immediately  
3 cause such number of excess wild free-roaming horses and  
4 burros to be captured and removed for which he determines  
5 a demand exists for private adoption and maintenance by  
6 qualified individuals under humane conditions. Additional  
7 excess wild free-roaming horses and burros for which an  
8 adoption demand by qualified individuals does not exist shall  
9 be disposed of by the Secretary concerned in the most  
10 humane manner possible, so as to restore a thriving natural  
11 ecological balance on the public lands and protect the range  
12 from the deterioration associated with overpopulation.

13 “(c) Where excess wild free-roaming horses or burros  
14 have been transferred to a qualified individual for adoption  
15 and private maintenance, and such individual has provided  
16 humane conditions and care for such animal or animals for a  
17 period of one year, the Secretary is authorized to donate such  
18 animal or animals, to such individual at the end of the one-  
19 year period. Upon disposal, or donation as provided in sub-  
20 sections (b) and (c) of this section, animals shall lose their  
21 status as wild free-roaming horses and burros and shall no  
22 longer be considered as falling within the purview of this  
23 Act.”.

## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

AUG 8 - 1978

Honorable Henry M. Jackson  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for our views on S. 2475, a bill "To improve the range conditions of the public grazing lands."

We recommend enactment of S. 2475 if it is amended as suggested herein.

S. 2475 would establish a national policy of, and commitment to, improvement of the public rangelands and maintenance of range productivity. The bill would, in addition: (a) authorize \$15 million annually for 1979-82 in addition to amounts requested under section 318 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S. 1701 ("FLPMA") and amounts available for range improvements under section 401 of FLPMA, and require that, the President each year request funding of the entire amounts authorized or he explain the reason for requesting lesser amounts; (b) prohibit use of funds authorized for on-the-ground improvements under the bill or section 401(b) (1) of FLPMA for certain improvements, identified as "environment impact" improvements, until land use plans, allotment management plans ("AMPs") and environmental statements ("ESs") have been completed; (c) declare that certain improvements, defined as "nonenvironment impact improvements," shall not be considered actions requiring ESs; (d) establish as a statutory grazing fee the fee recommended by the Technical Committee Report of November 15, 1976 (the formula is described in detail); (e) amend Section 402(b) (3) of FLPMA, apparently to require examination and determination on a case-by-case basis of whether permits should be issued for a term of less than 10 years; (f) amend the Wild Free-Roaming Horse and Burro Act to require capture and removal of excess animals for which an adoption demand exists and disposal of those for which there is no demand, to provide for transfer of title to the holders of adopted animals after one year, and to provide that upon disposal or donation the animals lose their wild free-roaming status and are no longer within the purview of the Act.

We acknowledge that the full productive potential of the western rangelands is not being realized, and we are anxious to improve the conditions on the public grazing lands. An adequately funded and economically sound program to reverse rangeland deterioration, improve forage production, and protect basic soil and water resources is, we believe, vitally important to the full utilization of the rangelands under principles of multiple use, including the public land livestock industry, wildlife populations, watershed and water quality. Failure to reverse rangeland deterioration will hinder livestock grazing, one of the principal uses of our public lands under the multiple use scheme mandated by FLPMA. Rangeland deterioration is also inconsistent with the sustained yield principle of public resource management legislated by FLPMA. We, therefore, endorse increased authorizations for range improvements, as proposed in S. 2475.

We offer the following additional comments on the provisions of S. 2475 concerning funding of range improvements, grazing fees, ten year permits, "environment impact improvements" and "non-environment impact improvements," and wild horses and burros.

#### 1. Range Improvement Funding

Section 4(a) of S. 2475 authorizes \$15 million for each fiscal year from 1979 through 1982, in addition to other range, wildlife, and soil and water management money requested by the Secretary under Section 318 of FLPMA, and in addition to the monies available for range improvement from grazing fee receipts under Section 401 of FLPMA. For fiscal years 1983 through 1986, the Secretary is directed, by Section 4(b) of the bill, to request, pursuant to Section 318 of FLPMA, no less than the amounts authorized under Section 4(a) for fiscal year 1982, for range, wildlife, and soil and water management. For each fiscal year from 1987 through 1998, the Secretary is directed to request authorizations in an amount no less than \$5 million more than the amount authorized for fiscal year 1982 under Section 4(a). Section 4(c) of S. 2475 directs the President to request the full amount authorized under sections 4(a) and (b), or to have the Secretary specify the reason that lesser amounts are requested.

The program established by Section 4 of S. 2475 would authorize approximately \$2.2 billion over the next 20-year period from a combination of earmarked grazing fee receipts and appropriations from general funds. Authorizations for range, soil and moisture, and wildlife programs would be increased by approximately \$937 million above the level which would be authorized if the President's fiscal year 1979 budget level of \$53.2 million were continued at that level.

The President's 1979 budget provided funds for on-the-ground range improvements, in addition to range management and inventory activities. The 1979 budget request before the Congress asks for \$5 million in additional funding to support a \$13.8 million intensive soil, vegetative and wildlife habitat inventory of public rangelands. Data from this inventory will be used to write the site-specific ESSs required by the NRDC v. Andrus court settlement. These ESSs are required in connection with allotment management plans which must be prepared before certain on-the-ground improvements are made.

The President's 1979 budget calls for: \$30.3 million for range management, \$22.9 million for soil, water, air, and wildlife and \$10.9 million from the range improvement fund, for a total of \$64.1 million.

It is our judgment that the Bureau of Land Management cannot effectively and efficiently use the full amount of the authorization proposed by S. 2475 in the initial year under existing constraints pursuant to NRDC v. Andrus, or under provisions of S. 2475 with respect to the destruction between environment impact and nonenvironment impact improvements. A more realistic schedule for increasing on-the-ground improvements might be to add \$5.0 million for 1980, leaving FY 1979 at the President's budget level. After 1980, the rate of completion of ESSs and related plans, in addition to work which can be done without conflict with ES processes, offer a realistic prospect that the additional \$15.0 million could be efficiently and effectively used. Of course the amounts appropriated each year will depend upon the annual appropriations process, in which other program demands will have to be considered as well. We enclose a revision of section 4 which incorporates our comments on funding and on several other issues addressed in this report.

There are two provisions in section 4 of S. 2475 which we find particularly objectionable. Section 4(b) directs the Secretary to request authorizations under section 318 of FIPMA at certain specified levels. Section 4(c) tells the President what his minimum annual appropriation request from fiscal year 1979 through 1998 shall be and requires that the Secretary explain his reasons for requesting less than the amounts authorized or requested to be authorized pursuant to sections 4(a) and (b). We object to section 4(c), and recommend that it be deleted, since it interferes with the President's ability to accommodate changing economic and social conditions and to exercise his judgment in the budget process to achieve an appropriate balance among all worthy public programs. The section writes into law a claim on future budgets before either the Congress or the President is able to consider fully the requirements of all other program areas.

We believe that the normal appropriations process provides ample opportunities for Congressional and public questioning of the President's fiscal priorities. In addition, the Congressional Budget and Impoundment Control Act of 1974 enables the Congress to develop spending priorities for individual programs within an overall budget context.

We also object to the provision in section 4(c) which requires the President to give reasons for requesting appropriations of less than the full amount authorized. The President noted, when he vetoed a provision, similar to that contained in section 4(c), in H.R. 10882, the Sikes Act Amendments of 1978, that such provisions limit the President's ability to make his annual budget recommendations a positive, comprehensive statement of the Administration's policies and budget priorities.

We believe, in addition that section 4(b) should be amended to authorize appropriations, rather than directing the Secretary to request authorizations of a certain amount.

## 2. Grazing Fees

Section 5 of S. 2475 directs the Secretaries of the Interior and Agriculture to charge the grazing fee which was recommended by the Technical Committee to Review Public Land Grazing Fees. The formula is included in the bill and would be subject to a 25 percent limitation on increase or decrease from year to year.

We oppose the grazing fee provisions in section 5 of S. 2475, and we recommend that they be deleted. Deletion of these provisions would leave FLPMA as the governing statute on grazing fees.

Section 102(a) (9) of FLPMA makes it the policy of Congress that the United States shall receive fair market value for use of the public lands and their resources unless otherwise provided for by statute. Exceptions generally relate to situations where equities or public policy and benefit would warrant a lesser payment. We believe that any specific abandonment of the fair market value standard requires a most compelling justification, for it would create an important and unprecedented exception to a sound rule that has taken years to develop. We find no such justification in the case of fees for livestock grazing permits and leases.

We believe that a grazing fee formula which provides a return of fair market value is in the public's interest: when industry pays its own way, there is justification for substantial public investment in maintaining and improving the resources which industry utilizes. The public benefits from such an investment.

We disagree with the recommendation of the Technical Committee because the fee which it recommended does not collect fair market value. The "prices received less prices paid" portion of the Committee's formula introduces factors relating to "ability to pay" which deviate from the fair market value concept.

When he recently signed legislation which places a one-year moratorium on increases in grazing fees on public lands, the President stated, "While I am signing H.R. 9757 to allow the Congress more time to review the Administration's grazing fee recommendations, I expect that Congress and its committees will honor the principle of a fair return from the use of natural resources by commercial interests. I remain opposed to legislation which does not provide a fair return to the United States for the use of public resources. I believe it is unfair to provide a special subsidy at the public's expense to those 5 percent of all livestock operators who use public lands, while the vast majority of operators use private lands at much greater expense."

As the Committee knows, on October 21, 1977, the Secretaries of the Interior and Agriculture transmitted to the Congress their Study of Fees for Grazing Livestock on Public Lands, together with their recommendations on the fee issue. In computing the fees which would provide a return of fair market value, the Secretaries selected conservative values where uncertainties occurred in supporting data and analyses.

We recognize that the data used to make the annual fair market value adjustments need to be further refined. In cooperation with the Economics, Statistics, and Cooperative Service of the Department of Agriculture, we are at present refining the data which we use to make annual fair market value adjustments. Already we have improved our method of evaluating the charges for grazing cattle in the private sector.

### 3. Ten Year Permits

Section 6 of S. 2475 would add to FLPMA a provision that the absence of completed land-use plans or court-ordered ESs shall not be the

sole basis for establishing a term of less than 10 years for a grazing permit or lease. It would also further qualify the existing provision that authorizes issuance of permits for terms of less than 10 years. It would require that determinations by the Secretary of whether specification of a shorter term is in the best interest of sound land use management be made only on a case-by-case basis.

Section 402(a) of FLPMA requires that, as a general rule, we offer grazing permits and leases for terms of ten years. We are authorized to make exceptions to this rule only where there is strong evidence that issuance of a 10-year permit would be detrimental to sound public land management, as provided in section 402(b) of FLPMA. Our grazing regulations which became effective on August 4, 1978 reflect this policy.

We believe that section 6 of S. 2475 is not necessary. It would serve only to complicate further an already complex and confusing provision. However, if the Committee believes that it is necessary to clarify section 402(b) of FLPMA, we suggest the following amendment in lieu of that contained in section 6 of S. 2475:

"(b) (1) Permits or leases may be issued for a period shorter than ten years only where the Secretary concerned determined that:

- (i) the land is pending disposal; or
- (ii) the land will be devoted to a public purpose prior to expiration of a ten-year period; or
- (iii) it will be in the best interest of sound land use management to specify a shorter term.

(2) Neither the absence from an allotment management plan of details which the Secretary concerned would like to include but which are undeveloped nor the absence of a completed land use plan or court ordered environmental statement shall be the sole basis for reaching a determination to issue a lease or a permit for a term shorter than 10 years. However, when the Secretary determines on a case-by-case basis that one of the situations set forth in (i) through (iii) of this subsection exist, he may issue a lease or a permit for a shorter term."

Of course, the 10-year permits that we issue will have to contain conditions to assure that if a problem in grazing capacity is later identified, through the ES process or completion of an AMP, for example, then the Secretary can and must make appropriate adjustments in grazing use. Thus, a 10-year permit will not constitute an immutable right for a decade. However, as the condition of the public rangelands is improved, range users will enjoy even greater security in their grazing allotments.

#### 4. "Environmental Impact" and "Nonenvironment Impact" Improvements

Section 4(f) of S. 2475 provides that none of the funds authorized for on the ground improvements by the bill or by section 401(b)(1) of FLPMA shall be used for "environment impact" improvements until: (1) land use plans required by section 202 of FLPMA and allotment management plans ("AMPs") have been completed for the area, and the improvement is consistent with the plans; and (2) court-ordered and other ESs have been satisfactorily completed. These documents are to be consolidated to the maximum extent practicable. Until these conditions are met, section 4(h) of the bill provides that range improvement funds can be used only for "nonenvironment impact" improvements. Nonenvironment impact improvements would not be considered major Federal actions pursuant to NEPA, and thus no ESs would have to be prepared with respect to them.

The terms "environment impact improvement" and "nonenvironment impact improvement" are defined in section 2 of the bill and are intended to differentiate between projects involving a commitment to irreversible decisions on the one hand and those improvements that are clearly of a desirable nature and do not artificially alter the environment or pose a threat of pollution.

While we appreciate the desire of the sponsors of S. 2475 to clarify a complex issue and facilitate the work of the Bureau of Land Management, we believe that the distinction between "environment" and "nonenvironment" impact improvements and the related provisions in the bill would undermine NEPA, would splinter the land use planning and NEPA processes and would interfere with the land use planning process by authorizing nonenvironment impact improvements without reference to a land-use plan.

It appears that the effect of section 4(h) of S. 2475 is to circumvent the court order in NRDC v. Andrus. If we read this section correctly, it excludes from the ESs being prepared by the Bureau of Land Management the bulk of the management actions and range improvement presently being addressed in those statements. In any event, the Bureau of Land Management would still do an environmental assessment (not a detailed "statement" under section 102(2)(C) of NEPA) on range improvements, pursuant to NEPA. Moreover, many laws other than NEPA, such as the Endangered Species Act and laws providing for protection of cultural resources, relate to environmental values and require analyses and studies. There is therefore no assurance that elimination of the requirement for an ES would substantially expedite construction of range improvements.

We believe that section 4(h), which, in effect, creates a special NEPA exemption for certain range improvements, is unwise and should be deleted. We would prefer to work toward more timely rangeland improvements through actions which, under NEPA, are not "major Federal actions." We will continue to work with field Staff to clarify what kinds of actions may be taken within the context of NEPA and NRDC v. Andrus

#### 5. Wild Horses and Burros

Section 7 of S. 2475 would amend section 3 of the Wild Free-Roaming Horse and Burro Act, 85 Stat. 649. These changes would eliminate provisions of subsections (b) and (c) that refer to "destruction" of animals either because they are excess animals or as an act of mercy and would incorporate language on "disposal." The new provisions would also provide for passage of title to an animal after an individual has provided humane conditions under a private maintenance program for one year. Upon disposal or donation as provided in these provisions, the animals would lose their status under the Act and thus would not be subject to restrictions in the Act.

We support the objectives of section 7. However, we believe that in amending sections 3(b) and (c) some vital provisions have, perhaps inadvertently, been left out, such as the authority to destroy excess animals and old or sick animals. In addition, we believe that other provisions are needed concerning adoption and disposal of remains. We would also recommend amendment of the reporting date provisions in section 11.

Our suggested amendments to section 7 follow:

--Re-number proposed section 3(b) as (b) (2) and insert the following subsection (b) (1):

" (b) (1) The Secretary may order wild free-roaming horses and burros to be captured, removed, or destroyed in a humane manner when in his judgment (i) they are old, sick, or lame; (ii) it is an act of mercy; or (iii) they are excess animals for which there is no adoption demand by qualified individuals under subsection (b) (2) of this section and destruction is, in the judgment of the Secretary, the only practical way to dispose of the animals."

--Delete the last sentence of proposed section (c), page 16, beginning with "Upon" in line 18.

--Substitute a new subsection (d) for the existing subsection (d) in section 3 of the Act as follows:

"(d) Wild free-roaming horses and burrows or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act:

(i) upon passage of title pursuant to subsection (c) of this section; or

(ii) if they have been transferred for private maintenance or domestic use pursuant to this Act and die of natural causes before passage of title; or

(iii) upon destruction by the Secretary of his designee pursuant to subsection (b) of this section; or

(iv) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4, and disposal is authorized by the Secretary or his designee.

—Amend the first paragraph of section 11 of the Wild Free-Roaming Horse and Burro Act to add the following sentence:

"Starting in 1981, such report shall be made in February and every twenty-four months thereafter in subsequent years."

Our suggestions concerning sections 3(b), (c), and (d) are clarifying amendments. Our suggested amendments to section 11 is intended to produce a report near the beginning of legislative sessions covering the preceding fiscal year.

We also propose that section 7 of S. 2475 be amended to include an amendment to section 4 of the Wild Free-Roaming Horse and Burro Act, so that the first sentence of section 4 reads as follows:

"If wild free-roaming horses or burros stray from public lands onto privately owned land which is enclosed by a fence meeting State standards and specifications, the owners of such land may make a written request for removal to the nearest Federal Marshall or agent of the Secretary, who shall, as soon as he can make the necessary arrangements, remove the wild free roaming horses and burros from the private lands."

We believe that this amendment is necessary because section 4 was recently interpreted to require the Bureau of Land Management to remove wild animals which have strayed onto private lands that are unfenced and intermingled with public lands. There are few areas in the West where public lands are not intermingled with private lands. The proposed amendment to section 4 would limit the responsibility of the Bureau of Land Management for removing stray animals to situations where the private land is fenced in accordance with 43 CFR 4750.3 and where written request is made for removal.

We have the following additional comments and suggestions for amendments to S. 2475:

1. Section 3(a) of the bill mandates an inventory and record of "range condition" trends as part of the inventory conducted under FLPMA. Although we believe we have authority to conduct a similar survey and make note of these conditions and trends without this bill, we do not object to this provision.

We do not, however, see additional advantage in categorizing or identifying lands systematically according to their range condition. Therefore, we recommend amendment of line 4 on page 9 by substituting the word "may" for "shall." The clause "as they deem appropriate" appears to render this provision voluntary in any case.

We point out that while FLPMA is an appropriate mechanism for BIM lands (see lines 8-11, page 9), section 3(a) seems to apply to the Forest Service, too. Section 201 of FLPMA does not cover the Forest Service.

Since section 3(b), which requires that the goal of management be to improve range conditions to achieve the highest productivity, is subject to certain overriding considerations such as the land use planning process and the Secretary's determinations, we would have no objections to it.

2. We believe that section 1(b) (2) should be modified to recognize economic considerations in reaching the greatest feasible productivity. This could be done by inserting the phrase "in a cost effective manner" on page 4, line 1, after the word "feasible" and before the word "for". Many range improvements may be technologically possible but are not "feasible" when their cost effectiveness is considered.
3. We understand that the Forest Service is recommending that the definition of range conditions in section 2(e)

should be deleted. The Secretaries of the Interior and Agriculture will cooperate with other Federal, State and local agencies and organizations to standardize terminology and to develop a common process to reflect range conditions and productivity. We agree with this recommendation. If a definition is to be retained in the bill, we recommend, consistent with the Forest Service, that there be two separate definitions, one for range condition and one for relative productivity.

4. Section 4(g) requires the Secretary, where practical, to combine the Unit Resource Analysis-Management Framework Plan, Allotment Management Plan, and any required ESs into one consolidated unit plan/ES. This approach has attractive features. However, we believe that it would be extremely difficult to produce one document which meets the requirements of both a good plan and a good environmental statement. In addition, it might be impossible to proceed in this manner and also to comply with the proposed regulations of the Council on Environmental Quality which limit the size of ESs.

Enclosed is a series of technical amendments which we believe should be made if S. 2475 is enacted and our suggested revision of section 4.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program and that unless amended (1) to remove the objectionable encroachment on the President's authority to make budget proposals to the Congress and (2) to delete provisions establishing grazing fees on public lands at less than fair market value based on rates charged on comparable private grazing lands, H.R. 10587 would not be in accord with the program of the President.

Sincerely,

  
 Assistant SECRETARY

Guy R. Martin

Enclosure

Technical Amendments to S. 2475  
Suggested by Department of the  
Interior

1. The emphasis on cause and effect in section 1(a) (1) is wrong. In addition, the word "segment" is not descriptive of an expanse of land. Correct the subsection by substitution of the following language: "Vast areas of the public grazing lands (especially the public rangelands) are in an unsatisfactory condition and, for this reason, are producing less than their potential of forage for livestock, wildlife habitat, recreation, and soil and water conservation benefits."
2. Section 1(a) (3), page 2, lines 6 and 7: Insert "increased" before "desertification" on line 6; substitute "reduced vegetative productivity" for "resultant underproductivity" on lines 6-7.
3. Section 1(a) (3): Climate affects grazing lands but it has not been established scientifically that grazing land deterioration causes long-term local and regional climatic changes. We recommend deletion of the last phrase in the section beginning with "and may ultimately" on page 2, line 16.
4. Section 1(a) (4), page 2, lines 19-23: This subsection implies that range improvements are the only way to increase productivity of the rangelands. Obviously, proper management of livestock numbers, seasons of use, and classes of livestock can greatly contribute to improvement of range conditions. We suggest that the term "only" on page 2, line 19, be deleted.

We also recommend that the word "maintenance" on line 21 be deleted, so that the goal is an "intensive public rangelands management and improvement program."

5. Section 1(b) (1): We recommend that this section be deleted. Another law to restate Congressional support of the inventory required by section 201(a) of FLPMA is not needed.
6. Section 1(b) (5): We recommend that this section be deleted. FLPMA does not have to be reaffirmed in this bill.

7. Sections 2(a) and (b): It is difficult to distinguish between the terms "public grazing lands" and "public rangelands" as they are defined and used in the bill. We would recommend use of the terms "rangelands administered by the Secretary of the Interior through the Bureau of Land Management" and "rangelands administered by the Secretary of Agriculture through the Forest Service," with the term "rangelands," without more, referring to both.
8. Section 2(c)(2): After "range improvements" add: "and grazing systems." After "objectives" add: "(including but not limited to improvement of soil, vegetation, and water conditions)."

Suggested Revision of Section  
4 of S. 2475

Range Improvement Funding

"Sec. 4 (a) In addition to any range, wildlife, and soil and water management money requested by the Secretary for fiscal year 1979 under the provisions of section 318 of the Federal Land Policy and Management Act (43 U.S.C. 1748) and in addition to the moneys available for range improvement under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751), there are hereby authorized to be appropriated an additional \$5,000,000 in fiscal year 1980; an additional \$15,000,000 annually in fiscal years 1981 and 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for fiscal 1982, and for fiscal years 1987 through 1998 an amount not less than \$5,000, annually more than the amount authorized for fiscal year 1986.

"(b) No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including but not limited to project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after consultation and coordination with affected interests. To the maximum extent practicable, and where economically sound, the Secretary shall enter into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

"(c) Prior to the use of any funds authorized by section 4(a) of this Act the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of the human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act prior to the expenditure of funds.



DEPARTMENT OF AGRICULTURE  
 OFFICE OF THE SECRETARY  
 WASHINGTON, D. C. 20250

AUG 11 1978

Honorable Henry M. Jackson  
 Chairman, Committee on Energy  
 and Natural Resources  
 United States Senate  
 Washington, D.C. 20510

Dear Mr. Chairman:

As you requested, here is our report on S. 2475, a bill "To improve the range conditions of the public grazing lands." The bill, if enacted, would be cited as the "Public Grazing Lands Improvement Act of 1978."

The Department of Agriculture has no objection to the enactment of this bill if it is amended to delete section 5 on grazing fees and to incorporate the technical recommendations contained herein. We defer to the Department of the Interior for recommendations on provisions of the bill applicable to that Department's responsibilities.

Basically, S. 2475 would: (1) direct the Secretaries of the Interior and Agriculture to update, develop, and maintain an inventory of range conditions, including a record of trends; (2) authorize and define the use of appropriations for range improvements involving the Department of the Interior; (3) amend the Federal Land Policy and Management Act to clarify the issuance of 10-year grazing permits; (4) establish a statutory grazing fee formula--commonly referred to as the Technical Committee's Recommendation--on public lands in designated western States and; (5) amend the Wild Horses and Burros Protection Act of 1971 to provide for the transfer of title to holders of adopted excess animals, following a one-year probationary period.

Three major provisions of the bill would directly impact the Department of Agriculture. These include the development and maintenance of range condition inventories and trend records, the grazing fee formula, and the amendment to the Wild Horses and Burros Protection Act. Our discussion and recommendations are confined primarily to these provisions, although, we do have some comments on the overall scope of the legislation and the definitions.

We fully support the concept that our public lands should be effectively developed and managed in an economically sound manner, and maintained in a high level of productivity and condition to sustain current and long-term needs of society for grazing and other resources. The Multiple-Use Sustained-Yield Act of 1960, the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended, and the Federal Land Policy and Management Act of 1976 provide strong and sound direction to the Department of Agriculture toward development of balanced resource

programs. S. 2475 addresses one important resource activity, range management. We view S. 2475 as supplementing and complementing our broad multi-resource authorities.

Section 3 would require that the Secretaries of the Interior and Agriculture update, develop, and maintain an inventory of range conditions and a record of trends in accordance with section 201(a) of the Federal Land Policy and Management Act (FLPMA). Section 201(a) does not apply to the Department of Agriculture or specifically the Forest Service; we have other authorities which require such inventories. The Forest and Rangeland Renewable Resources Planning Act of 1974, as amended, provides specific direction for inventories and planning. This direction requires the conducting of comprehensive and appropriately detailed inventories for all renewable resources. This includes specific data on range conditions and trends. Because section 201(a) of FLPMA does not pertain to the Department of Agriculture, and in order to avoid any confusion or conflicts with other existing authorities, we recommend that the Department of Agriculture be excluded from section 3.

Section 4 concerning range improvement funding appears to apply only to the Department of the Interior. We note, however, that in subsections 4(a), 4(f), and 4(i) reference is made to section 401 of the Federal Land Policy and Management Act (FLPMA). Section 401 of FLPMA involves both the Department of the Interior and Department of Agriculture. Reference to section 401 of FLPMA in subsections 4(a) and 4(f) could be interpreted to suggest applicability to both Departments with respect to the use of range betterment funds authorized under section 401(b)(1). To avoid any confusion, we recommend that subsections 4(a) and 4(f) be amended so it is clear that these subsections would apply only to those funds available to the Secretary of the Interior.

We are opposed to section 5 of the bill which legislatively mandates the use of the Technical Committee's formula as a basis for charging grazing fees. The Secretaries of the Interior and Agriculture have studied a number of grazing fee alternatives, including the Technical Committee's formula outlined in section 5. After evaluating a wide range of alternatives, the Secretaries recommended a fair market value approach as an equitable fee structure. This study is documented in our report submitted to Congress, October 20, 1977, entitled, "Study of Fees for Grazing Livestock on Federal Lands." The Technical Committee's formula has many of the same attributes as the Administration's proposal; however, it would not achieve fair market value for the reasons noted in the above mentioned report and further discussed in the supplemental statement of this report. We strongly recommend that section 5 be deleted from the bill.

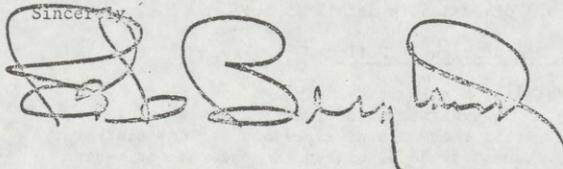
Section 7 provides additional authority to transfer title of excess wild horses and burros pursuant to the Wild Horses and Burros Protection Act of 1971. We believe that this new authority is necessary to properly manage these animals. However, we are concerned with the provision of a one-year probationary period. This probationary period would be exceedingly difficult to administer, and expensive. For the Forest Service, alone, it is estimated that it would cost in excess of \$400,000 annually to main-

tain such a probationary program. We suggest that the Committee carefully evaluate the need for the probationary provision in view of the costs associated with administration.

We also have some serious concerns regarding the statutory definitions of range condition and the distinction between environmental and non-environmental impacts contained in section 2 of the bill. These concerns are discussed in detail in the attached supplemental statement.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

A handwritten signature in dark ink, appearing to read "Bob Bergland". The signature is written in a cursive style with a large, prominent initial "B".

Bob Bergland  
Secretary

SUPPLEMENTAL STATEMENT TO U.S. DEPARTMENT OF AGRICULTURE  
REPORT ON S. 2475

The Department of Agriculture supports the premise of this proposed legislation "To improve the range conditions of the public grazing lands." We also concur with the objectives of the bill to: (1) inventory and identify current grazing land conditions and trends; (2) manage the public rangelands in such a manner as to maintain and improve their conditions; (3) continue the policy of protecting and managing wild free roaming horses and burros and providing for disposal of excess animals; (4) charge an equitable fee for public grazing and; (5) reaffirm section 402(a) of the Federal Land Policy and Management Act relating to grazing permit tenure. Although we are supportive of these underlying objectives, we have some serious concerns with S. 2475 that are discussed in detail as follows:

1. Section 1--Findings and Declaration of Policy

The expressed title of the bill is "To improve the range conditions of the public grazing lands." An examination of the findings of fact (section 1) strongly suggests that the concerns expressed for unsatisfactory range conditions could more accurately be described as concerns for range forage productivity. This interpretation is further illustrated in the proposed definition of "range condition" which reflects "the ability of specific vegetative areas to support various levels of productivity in accordance with range management objectives and the land use planning process." The use of the term "range condition" as an expression of range productivity with reference to management objectives becomes misleading and confusing when it is compared to the range condition definition accepted by the range management profession, which denotes ecological condition. (See discussion of definitions section 2(e) which follows.)

In reviewing the apparent intent of the bill and the statement of findings, we would suggest that term "condition" could be more appropriately referred to as a level of productivity. For example, unsatisfactory condition as used in portions of the bill appears to more clearly denote a level of forage productivity which is less than satisfactory. We offer the following substitute language to make the title of the bill and the intent of the findings in subsections 1(a)(1), 1(a)(2), and 1(a)(3) more consistent with the definitions accepted in the range science profession:

The title of the bill "To improve the range conditions of the public grazing lands" could be amended to read "To improve the range forage productivity and condition of the public grazing lands."

Section 1(a)(1), line 11, page 1, to read:

"for that reason are producing forage at less than their potential."

Section 1(a)(2), page 2, by substituting:

"such grazing lands will remain at low levels of production and some areas may remain at, or fall below, present levels of production with current funding and management."

Section 1(a)(3), lines 5 and 6, page 2, to read:

"lands that are producing forage at less than potential and are in low ecological condition present a high risk of soil loss, desertification, and a result--"

Other suggested technical amendments in section 1 are:

Section 1(a)(4) would imply that all rangelands in unsatisfactory condition can be corrected through intensive management and an increased range improvement program. We concur that in a great many cases these measures would substantially alleviate unsatisfactory range conditions; however, in some cases it is necessary to adjust livestock numbers and seasons along with improved management to satisfactorily resolve the problems associated with deteriorated range conditions. We recommend that lines 19, 20 and 21 of page 2 be revised to read as follows:

"the above-mentioned conditions can be addressed and corrected largely by an intensive range management and improvement program"

We are in full agreement with the intent of sections 1(a)(6) and 1(b)(4), that an equitable grazing fee should be charged on all public lands; however, we do not believe the Technical Committee's formula, as proposed in section 5 of the bill, accomplishes this objective. This is discussed further in our comments on section 5.

Section 1(b)(1) should be clarified to apply to "public rangelands" or lands administered by the Secretary of the Interior in conformance with section 201(a) of the Federal Land Policy and Management Act which pertains only to the Department of the Interior.

## 2. Section 2--Definitions

Section 2(a) defines the term "public grazing lands." As worded, the National Grasslands exception could be interpreted as applying only to South Dakota. To clarify this aspect we would propose a separate sentence that clearly exempts all National Grasslands to read: "All National Grasslands are exempted from the provisions of this Act."

Section 2(c) in defining "allotment management plan" should incorporate the three additional States of Nebraska, North Dakota, and South Dakota with a clear exclusion of all National Grasslands as worded above in section 2(a). It is our understanding that the Department of the Interior is also recommending the addition of two other States, Oklahoma and Kansas, thus bringing the total number of States affected by this bill to sixteen. The Forest Service has only National Grasslands in the States of North Dakota, Oklahoma, and Kansas.

Section 2(e) defines the term "range condition." This definition attempts to incorporate range management and land management planning objectives into the generally accepted definition which relates to ecological condition. This would cause confusion. Section 2(e) would legislatively redefine a term that already has a definition accepted by the range management profession and

used by all resource management agencies. We believe that it is undesirable to legislatively redefine a term that is so critical to the understanding and application of the science of range management.

The Forest Service has gathered many years of data on range conditions and trends on an ecological basis. We are concerned, as are other agencies and the range management profession, that data collected from different sources be compatible and that there be a common understanding of terminology.

As a result of this common concern, a major effort is presently underway by an interagency study group, located at the Rocky Mountain Forest and Range Experiment Station, to develop and field test a resource classification system which would be used by all involved agencies. The group is developing common approaches for multi-resource inventory techniques and range evaluation for both forest and rangelands. Consideration of technological problems such as concepts and definitions for estimation of range condition and trend is included in this effort. Cooperating agencies include the Forest Service, the Soil Conservation Service, the Bureau of Land Management, the Economics, Statistics, and Cooperatives Service, and the Fish and Wildlife Service. We believe that this interagency effort will produce solutions to Federal land inventory problems caused by a lack of consistency in concept, definitions, and methodology among the various Federal agencies. Furthermore, a newly established "Range Inventory Standardization Committee," sponsored by the Society for Range Management, is beginning work toward the goal of bringing definitions, concepts, and methodology for range procedures into a common mode. We plan to work closely with the appropriate agencies and organizations toward developing a common set of universally defined definitions and methodology to reflect range conditions and productivity.

Because of the problems associated with attempting to legislatively define this term, we suggest that the definition in section 2(e) be deleted.

Two differing objectives are interrelated in the proposed definition in section 2(e). They should be separated if the definition of "range condition" is to be retained in the bill. One objective should be to define range condition in the context of relative departure from an ecological climax. The second objective should be to establish management goals. These goals may be expressed in relation to the ecologically-based range condition scale. We believe that the basic definition of "range condition" should be kept simple and follow the definition accepted and published by the Society for Range Management. That definition is as follows:

"Range Condition-The current productivity of a range relative to what that range is naturally capable of producing."

Once the condition of the range is determined in regard to its ecological potential, then it can be further related to the management goals. The end result may be, in fact, to maintain the range at a particular ecological level of succession in order to achieve specific management goals. This aspect could be further clarified by defining "relative productivity" in terms of range and land management objectives. This could read similarly to the following:

"The term relative productivity means the capability of the soils and other environmental attributes of specific areas of land to produce certain kinds and amounts of vegetation and other resources in relation to the amounts needed to meet management goals."

Sections 2(g) and (h) define the terms "environmental" and "non-environmental impact improvements." We do not recommend this separation which attempts to delineate between projects involving an irreversible commitment and those that appear to be clearly desirable for management of the range resource that would not artificially alter the environment or create pollution. We can fully appreciate the intent of the sponsors to simplify the process; however, we do not believe this can be done legislatively as proposed without circumventing the intent of the National Environmental Policy Act of 1969. It is quite possible that, under certain circumstances, projects which would normally be considered non-environmental in nature could have severe impacts on a portion of the environment. For example, projects that would facilitate intensive range management practices could significantly affect certain endangered wildlife and plant species. In this example, it would also be necessary that we evaluate such projects closely in light of the direction contained in the Endangered Species Act of 1973, which directs all Federal agencies to insure their actions do not jeopardize endangered species or their habitat.

As the result of an executive order accompanying the President's Environmental Message, the Council on Environmental Quality has recently drafted proposed new regulations which are intended to simplify, shorten, and clarify the environmental analysis process. Streamlining the existing process may provide some relief to the problem of delays caused by the need for detailed environmental analysis statements.

The application of these environmental definitions will directly affect the management and range improvement program of the Department of the Interior as outlined in section 4. It is our understanding that their report will address this concern in more detail.

### 3. Section 3--Rangelands Inventory and Management

Section 3(a) of the bill provides that the Secretary of the Interior and the Secretary of Agriculture shall update, develop, and maintain an inventory of range conditions in accordance with procedures outlined by section 201(a) of the Federal Land Policy and Management Act (FLPMA). Section 201(a) is not applicable to the Forest Service. Other authorities contained in the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA), as amended by the National Forest Management Act of 1976, provide specific direction to the Forest Service for inventorying and planning of all resources, including range. For many years the Forest Service has gathered this type of information on range conditions and trends through allotment analysis planning. This information is utilized primarily in the development of allotment management plans and has been incorporated into the land management planning and the Resources Planning Act (RPA) process. Since we have adequate direction to gather this type of information, and since section 201(a) of FLPMA does not apply to the Forest Service, we recommend that the Secretary of Agriculture be deleted from section 3 of this bill. Specifically, this entails deleting the words "and the Secretary of Agriculture", line 24, page 8, and changing the term "public grazing lands" (lines 2 and 3, page 9),

to "public rangelands" or "lands administered by the Secretary of the Interior."

If it is the desire of the Committee that section 3(a) should apply to the Department of Agriculture, then appropriate reference should be made to our planning authorities contained in the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended.

#### 4. Section 4--Range Improvement Funding

Section 4 authorizes and provides direction for range improvement funding on lands administered by the Department of the Interior. However, subsections 4(a), 4(f), and 4(i) make reference to section 401 of the Federal Land Policy and Management Act which also involves the Department of Agriculture. For clarification purposes, we would suggest that subsections 4(a) and 4(f) clearly exempt the Department of Agriculture. This can be accomplished by limiting the applicability of these subsections to the Secretary of the Interior as follows:

Amend subsection 4(a), line 12, page 10 to read "addition to the moneys which are available to the Secretary of the Interior for range im--"

Amend subsection 4(f), line 10, page 12, to read "None of the funds authorized to the Secretary of the Interior for on-the-ground range"

#### 5. Section 5--Grazing Fees

Section 5 would require that the Secretaries of Agriculture and the Interior charge grazing fees on the basis of the formula developed by the Technical Committee to Review Public Land Grazing Fees. That alternative was carefully examined by the Secretaries of the Interior and Agriculture in the grazing fee study entitled "Study of Fees for Grazing Livestock on Federal Lands," which was transmitted to Congress on October 20, 1977. As noted in that grazing fee study, the Technical Committee's alternative was not selected by the Administration because it would not result in fair market value for grazing on Federal lands. For example, during the 1966 to 1977 period, the grazing value under the Technical Committee procedure would have increased from a base value of \$1.23 to an adjusted value of \$1.53, or an increase of 24 percent. Alternatively, the measurement of increased fees charged for grazing cattle on private grazing lands increased by 95 percent; the average per acre land value of grazing lands in the 11 western States increased by 132 percent; competitive bids for grazing on Department of Defense's McGregor Range, administered by the Bureau of Land Management, increase by 255 percent; fees for grazing State-owned lands in Arizona, Montana, and Wyoming increased 102, 113, and 87 percent, respectively. Thus, the validity of the increase of 24 percent is not substantiated by other reasonable measures of changes in grazing value.

The Technical Committee's formula includes the identical elements as the Administration's proposal with the exception that it adds a combination index comprised of an index of beef cattle prices received less an index of prices paid for items used in production. This combined index is, in theory, designed to account for short-term deviations from basic grazing values as measured by the index of private land grazing lease rates. In actuality, it does not accomplish this objective because it reflects many factors other than grazing in the cost of production. It, in fact, measures changes in the general economic welfare of the total livestock operation and the industry. Grazing on public lands is only one small factor, of many, in the total cost of livestock production. An analysis of the prices received less prices paid indices indicates that they would (1) have an independent trend, and (2) be very unpredictable. In addition, a prices paid index would not be a precise index. It could be anticipated that there would be a continual debate concerning the factors used to represent prices paid and arithmetic weights that should be assigned to these factors.

Further, if the Technical Committee's formula were adopted it would result in some duplicate consideration of costs--once in the determination of the base index of \$1.23 which has been adjusted by 13 grazing cost factors, and again in the total cost of production reflected by the prices received less prices paid indices. The costs of production are also reflected in the lease rates that individuals are willing to pay in the private sector.

One important consideration is that the Technical Committee's formula could result in fluctuations in grazing fees on public lands which would be inconsistent with fluctuations of grazing charges on private lands.

The details associated with a particular fee procedure and specifications of data sources make writing a fee formula into law very difficult. Normally, fees for other uses of public lands are determined under principles defined by law, with the specific procedures left to the administering agency.

For the aforementioned reasons and those specifically outlined in the grazing study report, we believe the approach defined in section 5 is not appropriate as a method for equitably determining grazing fees; therefore, we recommend its deletion.

Based on a simple linear projection of 14 years of historical data, it is estimated that the difference in Federal receipts for the Forest Service over a ten-year period would be as follows:

Secretaries recommended fee structure (October 21, 1977)	Estimated receipts for a 10 year period, 1979-1988 (million dollars)
	149
Technical Committee's Formula as contained in S. 2475	123
	—
Difference for 10 year period	26

6. Section 7--Wild Horses and Burros

Section 7 would require the appropriate Secretary to determine, based on a current inventory, that an area is over-populated with wild free-roaming horses and/or burros, and would direct that excess numbers of these animals be removed. The captured excess animals would be available for private adoption and maintenance. Where there was no demand for adoption by qualified individuals, the animals would be disposed of in the most humane manner possible. The section further provides that after a one-year trial adoption the Secretary could donate the animal or animals to the individual(s). Once this was accomplished, the animals would lose their status as wild free-roaming horses or burros.

The adoption of this amendment to the Wild Horses and Burros Protection Act would have beneficial effects on our ability to manage wild free-roaming horses and burros on the National Forest System. We agree with the need for good inventory information and concur with the proposed direction. However, we believe S. 2475 is more restrictive than necessary to accomplish the policy of the Congress as stated in the act. We are concerned with the proposed direction in section 7 which provides for the United States to retain ownership for a one-year period of any animals placed under private maintenance agreement. We do not think the probation period is necessary and it would result in unnecessary costs. We conservatively estimate that it would cost the Forest Service \$300,000 to initially set up such a program and in excess of \$400,000 annually for maintenance. This would involve the establishment of a marking or branding program and followup for proper administration. The impact on the Forest Service would be rather small as compared to the Bureau of Land Management. Funds could be better spent in improving conditions on the ranges where these wild horses and burros make their home. We suggest that careful consideration be given by the Committee to excluding this one-year provision.

In addition, we recommend that the following technical amendments be included:

1. Sec. 7, page 16, line 5, following the word adoption, insert the word ",ownership,".
2. Amend the first paragraph of Section 11 of the Wild Horses and Burros Protection Act as amended by adding:

"Starting in 1981, such report shall be made in February and subsequently every twenty-four months thereafter."

By making this change in Section 11, reporting would be more compatible with fiscal year reporting procedures and would result in providing more useful information to Congress near the beginning of the legislative session.

95TH CONGRESS  
2D SESSION

# H. R. 10587

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## IN THE SENATE OF THE UNITED STATES

JULY 10 (legislative day, MAY 17), 1978

Read twice and referred to the Committee on Energy and Natural Resources

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## AN ACT

To improve the range conditions of the public grazing lands.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Public Range Lands  
4       Improvement Act of 1978".

5                   FINDINGS AND DECLARATION OF POLICY

6       SEC. 1. (a) The Congress finds and declares that—

7               (1) vast segments of the public grazing lands (and  
8       especially the public rangelands) are producing less than  
9       their potential for livestock, wildlife habitat, recreation,  
10      forage, and water and soil conservation benefits, and  
11      for that reason are in an unsatisfactory condition;

1           (2) such grazing lands will remain in an unsat-  
2           isfactory condition and some areas may decline further  
3           under present levels of, and funding for, management;

4           (3) unsatisfactory conditions on public grazing  
5           lands present a high risk of soil loss, desertification,  
6           and a resultant underproductivity for large acreages  
7           of the public lands; contribute significantly to unac-  
8           ceptable levels of siltation and salinity in major western  
9           watersheds including the Colorado River; negatively  
10          impact the quality and availability of scarce western  
11          water supplies; threaten important and frequently  
12          critical fish and wildlife habitat; prevent expansion of  
13          the forage resource and resulting benefits to livestock  
14          production and wildlife; increase surface runoff and  
15          flood danger; reduce the value of such lands for rec-  
16          reational and esthetic purposes; and may ultimately  
17          lead to unpredictable and undesirable long-term local  
18          and regional climatic changes;

19          (4) the above-mentioned conditions can only be  
20          addressed and corrected by an intensive public range-  
21          lands maintenance management, and improvement pro-  
22          gram involving significant increases in levels of range-  
23          land management and improvement funding;

24          (5) the Act of December 15, 1971 (85 Stat. 649,  
25          16 U.S.C. 1331 et seq.), continues to be successful

1       in its goal of protecting wild free-roaming horses and  
2       burros from capture, branding, harassment, and death,  
3       but that certain amendments are necessary thereto  
4       to avoid excessive costs in the administration of the  
5       Act, and to facilitate the humane adoption or disposal  
6       of excess wild free-roaming horses and burros which  
7       because they exceed the carrying capacity of the range,  
8       pose a threat to their own habitat, fish, wildlife, recrea-  
9       tion, water and soil conservation, domestic livestock  
10      grazing, and other rangeland values;

11             (6) to prevent economic disruption and harm to  
12      the western livestock industry, it is in the public inter-  
13      est to charge a fee for livestock grazing permits and  
14      leases on the public lands which is based on a formula  
15      reflecting annual changes in the costs of production;

16      (b) The Congress therefore hereby establishes a  
17      national policy and commitment to:

18             (1) inventory and identify current public grazing  
19      lands conditions and trends as a part of the inventory  
20      process required by section 201 (a) of the Federal Land  
21      Policy and Management Act of 1976 (43 U.S.C.  
22      1711);

23             (2) manage, maintain and improve the condition  
24      of the public rangelands so that they become as pro-  
25      ductive as feasible for all rangeland values in accord-

1       ance with management objectives and the land use  
2       planning process established pursuant to section 202  
3       of the Federal Land Policy and Management Act (43  
4       U.S.C. 1712) ;

5           (3) continue the policy of protecting wild free-  
6       roaming horses and burros from capture, branding,  
7       harassment, or death, while at the same time facilitat-  
8       ing the removal and disposal of excess wild free-roam-  
9       ing horses and burros which pose a threat to them-  
10      selves and their habitat and to other rangeland values;

11          (4) charge a fee for public grazing use which is  
12      equitable and reflects the concerns addressed in section  
13      (a) (6) above;

14          (5) reaffirm section 402 (a) of the Federal Land  
15      Policy and Management Act which provides for a ten-  
16      year grazing permit and lease term with certain  
17      exceptions.

18      (c) The policies of this Act shall become effective only  
19      as specific statutory authority for their implementation is  
20      enacted by this Act or by subsequent legislation, and shall  
21      be construed as supplemental to and not in derogation of the  
22      purposes for which public lands are administered under other  
23      provisions of law.

24      SEC. 2. As used in this Act—

25      (a) The term "public grazing lands" means lands ad-

1 ministered by the Secretary of the Interior through the Bu-  
2 reau of Land Management or the Secretary of Agriculture in  
3 the eleven contiguous Western States and Nebraska, and  
4 South Dakota on which there is domestic livestock grazing  
5 or which the Secretary concerned determines may be suitable  
6 for domestic livestock grazing.

7 (b) The term "public rangelands" means lands admin-  
8 istered by the Secretary of the Interior through the Bureau  
9 of Land Management in the eleven contiguous Western  
10 States on which there is domestic livestock grazing or which  
11 the Secretary determines may be suitable for domestic live-  
12 stock grazing.

13 (c) The term "allotment management plan" means a  
14 document prepared in consultation with the lessees or per-  
15 mittees involved, which applies to livestock operations on the  
16 public lands or on lands within national forests in the eleven  
17 contiguous Western States and which—

18 (1) prescribes the manner in, and extent to, which  
19 livestock operations will be conducted in order to meet  
20 the multiple-use, sustained yield, economic and other  
21 needs and objectives as determined for the lands by the  
22 Secretary concerned;

23 (2) describes the type, location, ownership, and  
24 general specifications for the range improvements to be  
25 installed and maintained on the lands to meet the live-

1 stock grazing and other objectives of land management;  
2 and

3 (3) contains such other provisions relating to live-  
4 stock grazing and other objectives found by the Secre-  
5 tary concerned to be consistent with the provisions of  
6 this Act and other applicable law.

7 (d) The term "grazing permit and lease" means any  
8 document authorizing use of public lands or lands in national  
9 forests in the eleven contiguous Western States and Ne-  
10 braska, and South Dakota for the purpose of grazing domes-  
11 tic livestock.

12 (e) The term "range condition" means the quality of  
13 the land reflected in its ability in specific vegetative areas to  
14 support various levels of productivity in accordance with  
15 range management objectives and the land use planning  
16 process, and relates to soil quality, forage values (whether  
17 seasonal or year round), wildlife habitat, watershed and  
18 plant communities, the present state of vegetation of a range  
19 site in relation to the potential plant community for that site,  
20 and the relative degree to which the kinds, proportions, and  
21 amounts of vegetation in a plant community resemble that  
22 of the desired community for that site.

23 (f) The term "native vegetation" means those plant  
24 species, communities, or vegetative associations which are  
25 endemic to a given area and which would normally be

1 identified with a healthy and productive range condition  
2 occurring as a result of the natural vegetative process of the  
3 area.

4 (g) The term "environment impact improvements"  
5 means range improvements which involve manipulation of  
6 the environment so as to artificially alter the natural vegeta-  
7 tive and ecologic process and produce range conditions for  
8 livestock grazing which could not be attained naturally or by  
9 using nonenvironment impact improvements and methods.  
10 Such improvements include, but are not limited to: activities  
11 to implement allotment management plans (including fence  
12 construction for the purpose of implementing allotment man-  
13 agement plans), chaining, chemical treatment (including the  
14 use of herbicides), water developments with a storage capac-  
15 ity in excess of 25 acre-feet, stream modification projects, and  
16 seeding activities to introduce nonnative vegetation or in-  
17 crease forage above the optimum conditions which could  
18 occur naturally, or through the use of nonenvironment impact  
19 improvements.

20 (h) The term "nonenvironment impact improvements"  
21 means range improvements designed to augment, restore, or  
22 prevent deterioration of naturally occurring range conditions  
23 or facilitate the environmentally sound management of the  
24 range. Such improvements include, but are not limited to:

25 (1) fence construction and maintenance, vegetative

1 manipulation through grazing management, installation  
2 and maintenance of cattle guards, water developments  
3 with a storage capacity of 25 acre-feet or less, stock  
4 ponds, water lines, springs, wells;

5 (2) fish and wildlife enhancement projects, soil  
6 stabilization projects, watershed management projects,  
7 stream erosion control and restoration projects, and other  
8 nonlivestock projects, subject to the limitations set forth  
9 in subsection 4 (h) of this Act;

10 (3) the restoration of native vegetation which does  
11 not involve chaining or chemical treatment (except for  
12 the use of organic fertilizers) where scientific evidence  
13 or prior experience shows the likelihood of success is  
14 high.

15 (i) The term "court ordered environmental impact  
16 statement" means any environmental statements which are  
17 required to be prepared by the Secretary of the Interior pur-  
18 suant to the final judgment or subsequent modification thereof  
19 as set forth on June 18, 1975, in the matter of Natural Re-  
20 sources Defense Council against Andrus.

21 (j) The term "Secretary", unless specifically desig-  
22 nated otherwise, means the Secretary of the Interior.

23 RANGELANDS INVENTORY AND MANAGEMENT

24 SEC. 3. (a) Following enactment of this Act, the Sec-  
25 retary of the Interior and the Secretary of Agriculture shall

1 update, develop (where necessary) and maintain on a con-  
2 tinuing basis thereafter, an inventory of range conditions and  
3 record of trends of range conditions on the public grazing  
4 lands, and shall categorize or identify such lands on the basis  
5 of the range condition and trends thereof as they deem appro-  
6 priate. Such inventories shall be conducted and maintained  
7 by the Secretary as a part of the inventory process required  
8 by section 201 (a) of the Federal Land Policy and Manage-  
9 ment Act (43 U.S.C. 1711), and by the Secretary of  
10 Agriculture in accordance with section 1603 of title 16 of  
11 the United States Code, shall be kept current on a regular  
12 basis so as to reflect changes in range conditions, and shall  
13 be available to the public.

14 (b) The Secretary shall manage the public rangelands  
15 in accordance with the Taylor Grazing Act (48 Stat. 1269,  
16 as amended; 43 U.S.C. 315), the Federal Land Policy and  
17 Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701),  
18 and other applicable law consistent with the public grazing  
19 lands improvement program pursuant to this Act. Except  
20 where the land use planning process required pursuant to  
21 section 202 of the Federal Land Policy and Management  
22 Act (43 U.S.C. 1712) determines otherwise or the Secre-  
23 tary determines, and sets forth his reasons for this determina-  
24 tion, that grazing uses should be discontinued (either tem-  
25 porarily or permanently) on certain lands, the goal of such

1 management shall be to improve the range conditions of the  
2 public rangelands so that they become as productive as fea-  
3 sible in accordance with the rangeland management objec-  
4 tives established through the land use planning process, and  
5 consistent with the values and objectives listed in section  
6 1 (a) and (b) (2) of this Act.

7 RANGE IMPROVEMENT FUNDING

8 SEC. 4. (a) In order to accomplish the purposes of this  
9 Act, there are hereby authorized to be appropriated the sum  
10 of an additional \$15,000,000 annually in fiscal years 1979-  
11 1982. Such funds shall be in addition to any range, wildlife,  
12 and soil and water management moneys which have been re-  
13 quested by the Secretary under the provisions of section 318  
14 of the Federal Land Policy and Management Act, and in  
15 addition to the moneys which are available for range im-  
16 provements under section 401 of the Federal Land Policy  
17 and Management Act (43 U.S.C. 1751 (b) ).

18 (b) In addition, annual authorization requests made by  
19 the Secretary under the provisions of section 318 of the Fed-  
20 eral Land Policy and Management Act for fiscal years 1983  
21 through 1986 for range, wildlife, and soil and water manage-  
22 ment shall be no less than the amount authorized under the  
23 provisions of subsection (a) of this section for fiscal year  
24 1982. Furthermore, requests for authorization for fiscal years

1 1987 through 1998 shall be not less than the amount author-  
2 ized for fiscal year 1982 as increased by \$5,000,000.

3 (c) In the event such funds requested in any fiscal year  
4 are of a lesser amount, the Secretary shall specifically set  
5 forth the detailed reason or reasons for requesting Congress  
6 to approve a lesser level of funding, and shall indicate  
7 whether the lesser level of requested funding results from his  
8 determination that the full authorized funds cannot be effec-  
9 tively and efficiently utilized to accomplish the purposes of  
10 this Act, or whether a lesser level has been requested for  
11 other reasons, including any cuts dictated or suggested by  
12 the Office of Management and Budget.

13 (d) Any amounts authorized by this section not appro-  
14 priated in one or more fiscal years shall be authorized for  
15 appropriation in any subsequent years.

16 (e) No less than 80 per centum of such funds provided  
17 herein shall be used for on-the-ground range rehabilitation,  
18 maintenance and the construction of range improvements  
19 (including project layout, project design, and project super-  
20 vision). No more than 15 per centum of such funds provided  
21 herein shall be used to hire and train such experienced  
22 and qualified personnel as are necessary to implement on-  
23 the-ground supervision and enforcement of the land use  
24 plans required pursuant to section 202 of the Federal Land

1 Policy and Management Act (43 U.S.C. 1712) and such  
2 allotment management plans as may be developed. Such  
3 funds shall be distributed as the Secretary deems advisable  
4 after careful and considered consultation and coordination,  
5 including public hearings and meetings where appropriate,  
6 with the district grazing advisory boards established pursu-  
7 ant to section 403 of the Federal Land Policy and Manage-  
8 ment Act (43 U.S.C. 1753), range user representatives, and  
9 other interested parties. To the maximum extent practicable,  
10 and where economically sound, the Secretary shall give  
11 priority to entering into cooperative agreements with range  
12 users (or user groups) for the installation and maintenance  
13 of on-the-ground range improvements.

14 (f) None of the funds authorized for on-the-ground  
15 range improvements by this Act or by section 401 (b) (1)  
16 of the Federal Land Policy and Management Act (43 U.S.C.  
17 1751) shall be used for environment impact improvements  
18 until such time as—

19 (1) the land use plans required by section 202 of  
20 the Federal Land Policy and Management Act have  
21 been developed and such environment impact improve-  
22 ments are consistent with such plans;

23 (2) an allotment management plan for the area  
24 (unless the Secretary determines that an allotment

1 management plan is not necessary for management of  
2 livestock operations and will not be prepared), has been  
3 completed and such environment impact improvements  
4 are consistent with the allotment management plan;

5 (3) any court ordered environmental impact state-  
6 ment has been satisfactorily completed;

7 (4) any other environmental statement which may  
8 be required for such environment impact improvements  
9 pursuant to section 4332 (c) of title 42 of the United  
10 States Code has been satisfactorily completed: *Provided,*  
11 *however,* That such environment impact improvements  
12 shall not require completion of the documents required  
13 by (1) through (4) of this subsection if the Secretary  
14 determines through the environmental analysis review  
15 (EAR) process that they will have an insignificant  
16 environmental impact, or are of such a minor nature as  
17 to not require an environmental analysis review (EAR).

18 (g) For the purpose of increased efficiency and coordi-  
19 nated planning, the Secretary shall, to the maximum extent  
20 practicable, incorporate the documents to be prepared under  
21 (1) through (3) of subsection (f) of this section, and any  
22 other program documents for the area involved, into one  
23 consolidated unit plan and environmental statement.

24 (h) Until the requirements of subsection (f) of the sec-

1 tion have been met, the funds authorized by this section  
2 shall be used as provided only for nonenvironment impact  
3 improvements, and for the supervision and enforcement of  
4 existing and future rangeland use and allotment management  
5 plans as provided in subsection (e) of this section. Such  
6 nonenvironment impact improvements shall not require com-  
7 pletion of the documents required by subparts (1) through  
8 (4) of subsection (f) of this section, unless the Secretary  
9 determines through the environmental analysis review (EAR)  
10 process that they will have a significant environmental im-  
11 pact. Such documents shall also not be required if the Secre-  
12 tary determines such improvements are of such a minor na-  
13 ture as to not require an environmental analysis review  
14 (EAR): *Provided*, That any additional forage which may  
15 be produced by the nonlivestock projects described in sec-  
16 tion 2 (h) (2) of this Act shall not be allocated for livestock  
17 use until the documents which may be required under sub-  
18 section (f) of this section have been satisfactorily completed  
19 and the allocation of such forage for livestock use is con-  
20 sistent with such documents: *Provided further*, That any  
21 other environmental statements (other than court ordered  
22 environmental statements) which may be required for such  
23 nonlivestock projects pursuant to section 4332 (c) of title 42  
24 of the United States Code, shall be satisfactorily completed  
25 prior to the initiation of such nonlivestock projects.

## 1                   GRAZING FEES AND INCENTIVE PROGRAM

2           SEC. 5. (a) For the grazing years 1979 through 1985,  
3 the Secretaries of Agriculture and Interior shall charge the  
4 fee for domestic livestock grazing on the public grazing lands  
5 which Congress finds represents the economic value of the  
6 use of the land to the user, and under which Congress finds  
7 fair market value for public grazing equals the \$1.23 base  
8 established by the 1966 Western Livestock Grazing Survey  
9 multiplied by the result of the Forage Value Index (com-  
10 puted annually from data supplied by the Economic Research  
11 Service) added to the Combined Index (Beef Cattle Price  
12 Index minus the Price Paid Index) and divided by 100:  
13 *Provided*, That the annual increase or decrease in such  
14 fee for any given year shall be limited to not more than  
15 plus or minus 25 per centum of the previous year's fee.

16           (b) The second sentence of section 401 (b) (1) of the  
17 Federal Land Policy and Management Act of 1976 (90  
18 Stat. 2743, 2772; 43 U.S.C. 1751 (b) (1)) is hereby  
19 amended by adding the words "or \$10,000,000 per annum,  
20 whichever is greater" after the words "50 per centum", and  
21 by adding the words ", Nebraska and South Dakota" after  
22 the words "Western States".

23           (c) The Secretaries of Interior and Agriculture are  
24 hereby authorized and directed to develop and implement,  
25 on an experimental basis on selected areas of the public

1 grazing lands which are representative of the broad spectrum  
2 of range conditions, trends, and forage values, a program  
3 which provides incentives to, or rewards for, the holders  
4 of grazing permits and leases whose stewardship results in  
5 an improvement of the range condition of lands under  
6 permit or lease. Such program shall explore innovative graz-  
7 ing management policies and systems which might provide  
8 incentives to improve range conditions, including the imple-  
9 mentation of grazing fees which are lower than the fair  
10 market value fee established in subsection (a) of this sec-  
11 tion. To carry out such experimental program, the Secre-  
12 tary is authorized to charge grazing fees which are lower  
13 than the fee established in subsection (a) of this section, and  
14 offer such other incentives as he may deem necessary.

15 (d) No later than December 31, 1985, the Secretaries  
16 shall report to the Congress the results of such experimental  
17 program, their evaluation of the fee established in subsection  
18 (a) of this section and other grazing fee options, and their  
19 recommendations to implement a grazing fee schedule for the  
20 1986 and subsequent grazing years.

21 GRAZING LEASES AND PERMITS

22 SEC. 6. (a) Section 402 (b) (3) of the Federal Land  
23 Policy and Management Act (90 Stat. 2743, 2774; 43  
24 U.S.C. 1752) is amended by striking the period at the end  
25 of the proviso and adding “: *Provided further*, That the

1 absence of completed land use plans or court ordered en-  
2 vironmental statements shall not be the sole basis for estab-  
3 lishing a term shorter than ten years unless the Secretary  
4 determines on a case-by-case basis that the information to  
5 be contained in such land use plan or court ordered environ-  
6 mental impact statement is necessary to determine whether  
7 a shorter term should be established for any of the reasons  
8 set forth in items (1) through (3) of this subsection.”.

9 (b) Section 402(a) of the Federal Land Policy and  
10 Management Act is hereby amended by adding the words “,  
11 Nebraska and South Dakota,” after the words “Western  
12 States”.

13

#### WILD HORSES AND BURROS

14 SEC. 7. Subsections 3 (b) and (c) of the Act of Decem-  
15 ber 15, 1971 (85 Stat. 649; 16 U.S.C. 1333 (b) (3) ) are  
16 hereby amended to read as follows :

17 “(b) (1) The Secretary shall maintain a current and  
18 scientific inventory of wild free-roaming horses and burros  
19 on the public lands. The purpose of such inventory shall be  
20 to: Make annual determinations as to whether an overpopu-  
21 lation exists and whether action should be taken to remove  
22 excess animals; determine appropriate management levels of  
23 wild free-roaming horses and burros on these public lands;  
24 and determine whether appropriate management levels should  
25 be achieved by the removal or destruction of excess animals,

1 or other options (such as sterilization, or natural controls on  
2 population levels). In making such determinations the Sec-  
3 retary shall consult with the United States Fish and Wildlife  
4 Service, wildlife agencies of the State or States wherein wild  
5 free-roaming horses and burros are located, and independent  
6 individuals having scientific expertise and special knowledge  
7 of wild horse and burro protection, wildlife management and  
8 animal husbandry as related to rangeland management.

9       “(2) Where the Secretary determines on the basis of the  
10 inventory of lands within his jurisdiction that an overpopu-  
11 lation exists, and that action is necessary to remove excess  
12 animals, he shall immediately remove excess animals from  
13 the range so as to achieve appropriate management levels.  
14 Such action shall be taken, in the following order and prior-  
15 ity, until all excess animals have been removed so as to  
16 restore a thriving natural ecological balance to the range,  
17 and protect the range from the deterioration associated with  
18 overpopulation:

19       “(A) The Secretary shall order old, sick, or lame  
20 animals to be destroyed in the most humane manner  
21 possible;

22       “(B) The Secretary shall cause such number of  
23 additional excess wild free-roaming horses and burros  
24 to be humanely captured and removed for private main-

1 tenance and care for which he determines an adoption  
2 demand exists by qualified individuals, and for which  
3 he determines he can assure humane treatment and care  
4 (including proper transportation, feeding, and handling)  
5 by the adopting party; and

6 “(C) The Secretary shall cause additional excess  
7 wild free-roaming horses and burros for which an adop-  
8 tion demand by qualified individuals does not exist to  
9 be destroyed in the most humane and cost efficient man-  
10 ner possible.

11 To facilitate the implementation and enforcement of the  
12 provisions of this subsection and subsection (c), the Secre-  
13 tary is hereby authorized to contract with animal protec-  
14 tive organizations (such as humane societies) to screen ap-  
15 plicants for adoption and to conduct inspections after adop-  
16 tion to insure that adopted animals are receiving humane  
17 treatment and care. However, this authority shall in no way  
18 be construed as relieving the Secretary of his primary respon-  
19 sibility for assuring that adopted animals receive humane  
20 treatment and care.

21 “(c) Where excess wild free-roaming horses or burros  
22 have been transferred to a qualified individual for adoption  
23 and private maintenance, and the Secretary determines that  
24 such individual has provided humane conditions, treatment

1 and care for such animal or animals for a period of one  
2 year, the Secretary is authorized to donate no more than five  
3 animals to such individual at the end of the one-year period.  
4 Upon donation, or destruction, as provided in subsections  
5 (b) and (c) of this section, animals shall lose their status  
6 as wild free-roaming horses and burros and shall no longer  
7 be considered as falling within the purview of this Act.”.

8 ALLOTMENT MANAGEMENT PLANS

9 SEC. 8. Sections 402 (d) and (e) (90 Stat. 2743,  
10 2774; 43 U.S.C. 1752 (d) and (e) ) are hereby amended—

11 (a) by changing subsection (d) to read as follows:

12 “(d) All permits and leases for domestic livestock graz-  
13 ing issued pursuant to this section may, upon satisfactory  
14 completion of any court ordered environmental impact state-  
15 ments which may be required for the area involved, incorpo-  
16 rate an allotment management plan developed by the Secre-  
17 tary concerned. If the Secretary concerned elects to develop  
18 an allotment management plan for a given area, he shall do  
19 so in careful and considered consultation, cooperation and  
20 coordination with the lessees, permittees, and landowners  
21 involved, the district grazing advisory boards established pur-  
22 suant to section 403 of the Federal Land Policy and Man-  
23 agement Act (43 U.S.C. 1753), and any State or States  
24 having lands within the area to be covered by such allotment

1 management plan. Allotment management plans shall be  
2 tailored to the specific range condition of the area to be  
3 covered by such plan, and shall be reviewed on a periodic  
4 basis to determine whether they have been effective in im-  
5 proving the range condition of the lands involved or whether  
6 such lands can be better managed under the provisions of  
7 subsection (e) of this section. The Secretary concerned may  
8 revise or terminate such plans or develop new plans from  
9 time to time after such review and careful and considered  
10 consultation, cooperation and coordination with the parties  
11 involved. As used in this subsection, the terms 'court ordered  
12 environmental impact statement' and 'range condition'  
13 shall be defined as in the 'Public Range Improvement Act of  
14 1978.' ”.

15 (b) by deleting in subsection (e) the words “Prior  
16 to October 1, 1988, or thereafter, in” and by inserting  
17 “In”.

#### 18 APPROPRIATIONS

19 SEC. 9. Notwithstanding any other provision of this  
20 Act, authority to enter into cooperative agreements and to  
21 make payments under this Act shall be effective only to the  
22 extent or in such amounts as are provided in advance in  
23 appropriation Acts.





## United States Department of the Interior

OFFICE OF THE SECRETARY  
WASHINGTON, D.C. 20240

AUG 8 - 1978

Honorable Henry M. Jackson  
Chairman, Committee on Energy  
and Natural Resources  
United States Senate  
Washington, D. C. 20510

Dear Mr. Chairman:

This responds to your request for our views on H.R. 10587 in the Senate, an Act "To improve the range conditions of the public grazing lands."

We recommend enactment of H.R. 10587 if it is amended as suggested herein.

H.R. 10587 as passed by the House of Representatives would establish a national policy of, and commitment to, improvement of the public rangelands and maintenance of range productivity. The bill would, in addition: (a) authorize \$15 million annually for 1979-82 in addition to amounts requested under section 318 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2743, 43 U.S.C. 1701 ("FLPMA") and amounts available for range improvements under Section 401 of FLPMA, and require that, if the Secretary in any year requests funding of less than the entire amount authorized, he explain the reason for requesting lesser amounts; (b) prohibit use of funds authorized for on-the-ground improvements under the bill or section 401(b)(1) of FLPMA for certain improvements, identified as "environment impact" improvements, until land use plans, allotment management plans ("AMPs") and environmental statements ("ESs") have been completed, unless the Secretary determines through the environmental analysis review (EAR) process that the improvements will have an insignificant environmental impact; (c) declare that certain improvements, defined as "nonenvironment impact improvements," shall not require completion of land-use plans and ESs unless the Secretary determines through the EAR process that the improvements will have a significant environmental effect; (d) establish as a statutory grazing fee for grazing years 1979 through 1985 the fee recommended by the Technical Committee Report of November 15, 1976 (the formula is described in detail); (e) amend Section 402(b)(3) of FLPMA, apparently to require examination and determination on a case-by-case basis of whether permits should be issued for a term of less than 10 years; (f) amend the Wild Free-Roaming Horse and Burro Act to require capture and removal of excess animals for which an

adoption demand exists and destruction of those for which there is no demand, to provide for transfer of title to the holders of adopted animals after one year, and to provide that upon destruction or donation the animals lose their wild free-roaming status and are no longer within the purview of the Act.

We acknowledge that the full productive potential of the western rangelands is not being realized, and we are anxious to improve the conditions on the public grazing lands. An adequately funded and economically sound program to reverse rangeland deterioration, improve forage production, and protect basic soil and water resources is, we believe, vitally important to the full utilization of the rangelands under principles of multiple use, including the public land livestock industry, wildlife populations, watershed and water quality. Failure to reverse rangeland deterioration will hinder livestock grazing, one of the principal uses of our public lands under the multiple use scheme mandated by FLPMA. Rangeland deterioration is also inconsistent with the sustained yield principle of public resource management legislated by FLPMA. We, therefore, endorse increased authorizations for range improvements, as proposed in H.R. 10587.

We offer the following additional comments on the provisions of H.R. 10587 concerning funding of range improvements, grazing fees, ten year permits, "environment impact improvements" and "non-environment impact improvements," and wild horses and burros.

#### 1. Range Improvement Funding

Section 4 (a) of H.R. 10587 authorizes \$15 million for each fiscal year from 1979 through 1982, in addition to other range, wildlife, and soil and water management money requested by the Secretary under Section 318 of FLPMA, and in addition to the monies available for range improvement from grazing fee receipts under Section 401 of FLPMA. For fiscal years 1983 through 1986, the Secretary is directed, by Section 4 (b) of the bill, to request, pursuant to Section 318 of FLPMA, no less than the amounts authorized under Section 4 (a) for fiscal year 1982, for range, wildlife, and soil and water management. For each fiscal year from 1987 through 1998, the Secretary is directed to request authorizations in an amount no less than \$5 million more than the amount authorized for fiscal year 1982 under Section 4 (a). Section 4 (c) of H.R. 10587 requires that, if the Secretary requests appropriations of less than the amounts specified under sections 4 (a) and (b), he shall specify the reason that lesser amounts are requested.

The program established by Section 4 of H.R. 10587 would authorize approximately \$2.2 billion over the next 20-year period from a combination of earmarked grazing fee receipts and appropriations

from general funds. Authorizations for range, soil and moisture, and wildlife programs would be increased by approximately \$937 million above the level which would be authorized if the President's fiscal year 1979 budget level of \$53.2 million were continued at that level.

The President's 1979 budget provided funds for on-the-ground range improvements, in addition to range management and inventory activities. The 1979 budget request before the Congress asks for \$5 million in additional funding to support a \$13.8 million intensive soil, vegetative and wildlife habitat inventory of public rangelands. Data from this inventory will be used to write the site-specific ESs required by the NRDC v. Andrus court settlement. These ESs are required in connection with allotment management plans which must be prepared before certain on-the-ground improvements are made.

The President's 1979 budget calls for: \$30.3 million for range management, \$22.9 million for soil, water, air, and wildlife and \$10.9 million from the range improvement fund, for a total of \$64.1 million.

It is our judgment that the Bureau of Land Management cannot effectively and efficiently use the full amount of the authorization proposed by H.R. 10587 in the initial year under existing constraints pursuant to NRDC v. Andrus. A more realistic schedule for increasing on-the-ground improvements might be to add \$5.0 million for 1980, leaving FY 1979 at the President's budget level. After 1980, the rate of completion of ESs and related plans, in addition to work which can be done without conflict with ES processes, offer a realistic prospect that the additional \$15.0 million could be efficiently and effectively used. Of course the amounts appropriated each year will depend upon the annual appropriations process, in which other program demands will have to be considered as well. We enclose a revision of section 4 which incorporates our comments on funding and on several other issues addressed in this report.

There are two provisions in section 4 of H.R. 10587 which we find particularly objectionable. Section 4(b) directs the Secretary to request authorizations under section 318 of FLEPA at certain specified levels. Section 4(c) requires that the Secretary explain his reasons for requesting less than the amounts authorized or requested to be authorized pursuant to sections 4(a) and (b). We recommend that section 4(c) be deleted from H.R. 10587. The President noted, when he vetoed a provision, similar to that contained in section 4(c), in H.R. 10882, the Sikes Act Amendments of 1978, that such provisions limit the President's ability to make his annual budget recommendation a positive, comprehensive statement of the Administration's policies and budget priorities.

We note, in addition, that the normal appropriations process provides ample opportunity for Congressional and public questioning of the President's fiscal priorities.

We believe, in addition that section 4(b) should be amended to authorize appropriations, rather than directing the Secretary to request authorizations of a certain amount.

## 2. Grazing Fees

Section 1(a) (6) of H.R. 10587 declares that it is in the public interest to charge a public rangeland grazing fee which is based on a formula reflecting annual changes in costs of production. Section 5 directs the Secretaries of the Interior and Agriculture to charge for grazing years 1979 through 1985 the grazing fee which Congress finds represents the economic value of the use of the land to the user. The formula, which was recommended by the Technical Committee to Review Public Land Grazing Fees, is included in the bill and would be subject to a 25 percent limitation on increase or decrease from year to year.

We oppose the grazing fee provisions in sections 1(a) (6) and 5 of H.R. 10587, and we recommend that they be deleted. Deletion of these provisions would leave FLPMA as the governing statute on grazing fees.

Section 102(a) (9) of FLPMA makes it the policy of Congress that the United States shall receive fair market value for use of the public lands and their resources unless otherwise provided for by statute. Exceptions generally relate to situations where equities or public policy and benefit would warrant a lesser payment. We believe that any specific abandonment of the fair market value standard requires a most compelling justification, for it would create an important and unprecedented exception to a sound rule that has taken years to develop. We find no such justification in the case of fees for livestock grazing permits and leases.

We believe that a grazing fee formula which provides a return of fair market value is in the public's interest: when industry pays its own way, there is justification for substantial public investment in maintaining and improving the resources which industry utilizes. The public benefits from such an investment.

We disagree with the recommendation of the Technical Committee because the fee which it recommended does not collect fair market value. The "prices received less prices paid" portion of the Committee's formula introduces factors relating to "ability to pay" which deviate from the fair market value concept.

When he recently signed legislation which places a one-year moratorium on increases in grazing fees on public lands, the President stated, "While I am signing H.R. 9757 to allow the Congress more time to review the Administration's grazing fee recommendations, I expect that Congress and its Committees will honor the principle of a fair return from the use of natural resources by commercial interests. I remain opposed to legislation which does not provide a fair return to the United States for the use of public resources. I believe it is unfair to provide a special subsidy at the public's expense to those 5 percent of all livestock operators who use public lands, while the vast majority of operators use private lands at much greater expense."

As the Committee knows, on October 21, 1977, the Secretaries of the Interior and Agriculture transmitted to the Congress their Study of Fees for Grazing Livestock on Public Lands, together with their recommendations on the fee issue. In computing the fees which would provide a return of fair market value, the Secretaries selected conservative values where uncertainties occurred in supporting data and analyses.

We recognize that the data used to make the annual fair market value adjustments need to be further refined. In cooperation with the Economics, Statistics, and Cooperative Service of the Department of Agriculture, we are at present refining the data which we use to make annual fair market value adjustments. Already we have improved our method of evaluating the charges for grazing cattle in the private sector.

We note, in addition, that section 5 of H.R. 10587 as passed by the House contains a provision which directs the Secretaries of the Interior and Agriculture to develop a program of incentives for holders of grazing permits who improve the condition of the public rangelands. We object to this provision since it ties incentives in with a reduction in fees, mentioning that as the only specific incentive to be explored. In any event, the Secretary of the Interior already has sufficient authority to explore and implement innovative grazing systems, including incentives. Authority to reduce fees, if the Secretaries decide to try that alternative, can be granted by more general language.

### 3. Ten Year Permits

Section 6 of H.R. 10587 would add to FLPMA a provision that the absence of completed land-use plans or court-ordered ESSs shall not be the sole basis for establishing a term of less than 10 years for a grazing permit or lease. It would also further qualify the existing provision that authorizes issuance of permits for terms of less than 10 years. It would require that determinations by the

Secretary of whether specification of a shorter term is in the best interest of sound land use management be made only on a case-by-case basis.

Section 402(a) of FLPMA requires that, as a general rule, we offer grazing permits and leases for terms of ten years. We are authorized to make exceptions to this rule only where there is strong evidence that issuance of a 10-year permit would be detrimental to sound public land management, as provided in section 402(b) of FLPMA. Our grazing regulations which became effective on August 4, 1978 reflect this policy.

We believe that section 6 of H.R. 10587 is not necessary. It would serve only to complicate further an already complex and confusing provision. However, if the Committee believes that it is necessary to clarify section 402(b) of FLPMA, we suggest the following amendment in lieu of that contained in section 6 of H.R. 10587:

"(b) (1) Permits or leases may be issued for a period shorter than ten years only where the Secretary concerned determines that:

- (i) the land is pending disposal; or
- (ii) the land will be devoted to a public purpose prior to expiration of a ten-year period; or
- (iii) it will be in the best interest of sound land use management to specify a shorter term.

(2) Neither the absence from an allotment management plan of details which the Secretary concerned would like to include but which are undeveloped nor the absence of a completed land use plan or court ordered environmental statement shall be the sole basis for reaching a determination to issue a lease or a permit for a term shorter than 10 years. However, when the Secretary determines on a case-by-case basis that one of the situations set forth in (i) through (iii) of this subsection exist, he may issue a lease or a permit for a shorter term."

Of course, the 10-year permits that we issue will have to contain conditions to assure that if a problem in grazing capacity is later identified, through the ES process or completion of an AMP, for example, then the Secretary can and must make appropriate adjustments in grazing use. Thus, a 10-year permit will not constitute an immutable right for a decade. However, as the condition of the public rangelands is improved, range users will enjoy even greater security in their grazing allotments.

#### 4. "Environmental Impact" and "Nonenvironment Impact" Improvements

Section 4(f) of H.R. 10587 as passed by the House of Representatives provides that none of the funds authorized for on the ground improvements by the bill or by section 401(b)(1) of FIPMA shall be used for "environment impact" improvements until: (1) land use plans required by section 202 of FIPMA and allotment management plans ("AMPs") have been completed for the area, and the improvement is consistent with the plans; and (2) court-ordered and other ESS have been satisfactorily completed. However, the documents just described need not be completed before environmental impact improvements are performed if the Secretary of the Interior determines through the environmental review process that they will have an insignificant environmental impact or are such a nature as not to require an EAR. Until these conditions are met, section 4(h) of the bill provides that range improvement funds can be used only for "nonenvironment impact" improvements. Nonenvironment improvements would not require land use plans, ESS and AMPs unless the Secretary determines that an improvement requires an ES.

The terms "environment impact improvement" and "nonenvironment impact improvement" are defined in section 2 of the bill and are intended to differentiate between projects involving a commitment to irreversible decisions on the one hand and those improvements that are clearly of a desirable nature and do not artificially alter the environment or pose a threat of pollution.

While we appreciate the desire of the sponsors of H.R. 10587 to clarify a complex issue and facilitate the work of the Bureau of Land Management, we do not believe that the distinction between "environment" and "nonenvironment" impact improvements relieves us of any responsibilities under NEPA or the court settlement in *NRDC v. Andrus*. We would probably still have to do ESS on our grazing programs in much the same manner as we are proceeding now. Perhaps the documents could be made shorter and less detailed with respect to improvements. Possibly ES areas could be consolidated so that fewer ESS would need to be written.

#### 5. Wild Horses and Burros

Section 7 of H.R. 10587 would amend section 3 of the Wild Free-Roaming Horse and Burro Act, 85 Stat. 649, by directing the Secretary to maintain an inventory of wild horses and burros on the public lands in order to make annual determinations as to whether an overpopulation exists and whether action should be taken to remove excess animals; and by providing for passage of title to an animal after an individual

has provided humane conditions and care for the animal for a period of one year. We enclose a suggested alternative to section 7 of H.R. 10587 which incorporates the provisions which were omitted from the Act in the revised language contained in H.R. 10587 and also specifically authorizes a research program to study biological aspects of wild horse and burro management and which provides more comprehensive disposal authority. Our suggested revision reestablishes the Secretary's authority, which was removed by the House when it passed H.R. 10587, to destroy old, sick and lame animals in circumstances other than when an overpopulation exists.

We have the following additional comments and suggestions for amendments to H.R. 10587:

1. Section 3(a) of the bill mandates an inventory and record of "range condition" trends as part of the inventory conducted under FIPMA. Although we believe we have authority to conduct a similar survey and make note of these conditions and trends without this bill, we do not object to this provision.

We do not, however, see additional advantage in categorizing or identifying lands systematically according to their range condition. Therefore, we recommend amendment of line 4 on page 9 by substituting the word "may" for "shall." The clause "as they deem appropriate" appears to render this provision voluntary in any case.

We point out that while FIPMA is an appropriate mechanism for BLM lands (see lines 8-11, page 9), section 3(a) seems to apply to the Forest Service, too. Section 201 of FIPMA does not cover the Forest Service.

Since section 3(b), which requires that the goal of management be to improve range conditions to achieve the highest productivity, is subject to certain overriding considerations such as the land use planning process and the Secretary's determinations, we would have no objections to it.

2. We believe that section 1(b) (2) should be modified to recognize economic considerations in reaching the greatest feasible productivity. This could be done by inserting the phrase "in a cost effective manner" on page 3, line 25, after the word "feasible" and before the word "for". Many range improvements may be technologically possible but are not "feasible" when their cost effectiveness is considered.

3. We understand that the Forest Service is recommending that the definition of range conditions in section 2(e) should be deleted. The Secretaries of the Interior and Agriculture will cooperate with other Federal, State, and local agencies and organizations to standardize terminology and to develop a common process to reflect range conditions and productivity. We agree with this recommendation. If a definition is to be retained in the bill, we recommend, consistent with the Forest Service, that there be two separate definitions, one for range condition and one for relative productivity.
4. Section 4(g) requires the Secretary, where practical, to combine the Unit Resource Analysis-Management Framework Plan, Allotment Management Plan, and any required ESs into one consolidated unit plan/ES. This approach has attractive features. However, we believe that it would be extremely difficult to produce one document which meets the requirements of both a good plan and a good environmental statement. In addition, it might be impossible to proceed in this manner and also to comply with the proposed regulations of the Council on Environmental Quality which limit the size of ESs.

Enclosed is a series of technical amendments which we believe should be made if H.R. 10587 is enacted and our suggested revisions of sections 4 and 7.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program and that unless amended (1) to remove the objectionable encroachment on the President's authority to make budget proposals to the Congress and (2) to delete provisions establishing grazing fees on public lands at less than fair market value based on rates charged on comparable private grazing lands, H.R. 10587 would not be in accord with the program of the President.

Sincerely,

  
 Assistant SECRETARY Guy R. Martin

Enclosure

Technical Amendments to H.R. 10587  
Suggested by Department of the  
Interior

1. The emphasis on cause and effect in section 1(a)(1) is wrong. In addition, the word "segment" is not descriptive of an expanse of land. Correct the subsection by substitution of the following language: "Vast areas of the public grazing lands (especially the public rangelands) are in an unsatisfactory condition and, for this reason, are producing less than their potential of forage for livestock, wildlife habitat, recreation, and soil and water conservation benefits."
2. Section 1(a)(3), page 2, lines 5 and 6: Insert "increased" before "desertification" on line 5; substitute "reduced vegetative productivity" for "resultant underproductivity" on line 6.
3. Section 1(a)(3): Climate affects grazing lands but it has not been established scientifically that grazing land deterioration causes long-term local and regional climatic changes. We recommend deletion of the last phrase in the section beginning with "and may ultimately" on page 2, line 16.
4. Section 1(a)(4), page 2, lines 19-23: This subsection implies that range improvements are the only way to increase productivity of the rangelands. Obviously, proper management of livestock numbers, seasons of use, and classes of livestock can greatly contribute to improvement of range conditions. We suggest that the term "only" on page 2, line 19, be deleted.

We also recommend that the word "maintenance" on line 21 be deleted, so that the goal is an "intensive public rangelands management and improvement program."

5. Section 1(b)(1): We recommend that this section be deleted. Another law to restate Congressional support of the inventory required by section 201(a) of FLEMA is not needed.
6. Section 1(b)(5): We recommend that this section be deleted. FLEMA does not have to be reaffirmed in this bill.

7. Sections 2(a) and (b): It is difficult to distinguish between the terms "public grazing lands" and "public rangelands" as they are defined and used in the bill. We would recommend use of the terms "rangelands administered by the Secretary of the Interior through the Bureau of Land Management" and "rangelands administered by the Secretary of Agriculture through the Forest Service," with the term "rangelands," without more, referring to both.
8. Section 2(c) (2): After "range improvements" add: "and grazing systems." After "objectives" add: "(including but not limited to improvement of soil, vegetation, and water conditions)."

Suggested Revision of Section  
4 of H.R. 10587

Range Improvement Funding

"Sec. 4(a) In addition to any range, wildlife, and soil and water management money requested by the Secretary for fiscal year 1979 under the provisions of section 318 of the Federal Land Policy and Management Act (43 U.S.C. 1748) and in addition to the moneys available for range improvement under section 401 of the Federal Land Policy and Management Act (43 U.S.C. 1751), there are hereby authorized to be appropriated an additional \$5,000,000 in fiscal year 1980; an additional \$15,000,000 annually in fiscal years 1981 and 1982; for fiscal years 1983 through 1986 an amount no less than the amount authorized for fiscal 1982, and for fiscal years 1987 through 1998 an amount not less than \$5,000, annually more than the amount authorized for fiscal year 1986.

"(b) No less than 80 per centum of such funds provided herein shall be used for on-the-ground range rehabilitation, maintenance and the construction of range improvements (including but not limited to project layout, project design, and project supervision). No more than 15 per centum of such funds provided herein shall be used to hire and train such experienced and qualified personnel as are necessary to implement on-the-ground supervision and enforcement of the land use plans required pursuant to section 202 of the Federal Land Policy and Management Act (43 U.S.C. 1712) and such allotment management plans as may be developed. Such funds shall be distributed as the Secretary deems advisable after consultation and coordination with affected interests. To the maximum extent practicable, and where economically sound, the Secretary shall enter into cooperative agreements with range users (or user groups) for the installation and maintenance of on-the-ground range improvements.

"(c) Prior to the use of any funds authorized by section 4(a) of this Act the Secretary shall cause to have prepared an environmental assessment record on each range improvement project. Thereafter, improvement projects may be constructed unless the Secretary determines that the project will have a significant impact on the quality of the human environment, necessitating an environmental impact statement pursuant to the National Environmental Policy Act prior to the expenditure of funds.

Suggested Revision of  
Section 7 of  
H.R. 10587

"Sec. 7(a) The first section of the Act of December 15, 1971 (16 U.S.C. 1331), is hereby amended by deleting the last sentence thereof and substituting the following sentence in its place:

"It is the policy of Congress that wild free-roaming horses and burros shall be protected from capture, branding, harrassment, or killing by unauthorized means, and they shall be considered, in areas where presently found, as an integral part of the natural system of the public lands and as a natural resource to be managed under multiple use principles in accordance with applicable land use planning."

"(b) A new subsection (f) is added to section 2 of the Act of December 15, 1971, as amended (16 U.S.C. 1332) to read as follows:

"(f) 'excess animals' means wild free-roaming horses or burros (1) which have been removed from an area by the Secretary pursuant to applicable law or, (2) which must be removed from an area in order to preserve and maintain the habitat in a suitable condition for continued use, while also maintaining a thriving natural ecological balance and hamonious multiple use relationship in that area."

"(c) Subsections 3(b), (c) and (d) of the Act of December 15, 1971, as amended (16 U.S.C. 1333(b)-1333(d)) are hereby revised and new subsections (e), (f) and (g) are hereby added to read as follows:

"(b) The Secretary may order wild free-roaming horses and burros to be captured, removed, or destroyed in a humane manner when in his judgment (i) they are old, sick, or lame; (ii) it is an act of mercy; or (iii) they are excess animals for which there is no adoption demand by qualified individuals under subsection (d) of this section and destruction is, in the judgment of the Secretary, the only practical way to dispose of the animals."

"(c) (1) The Secretary shall maintain a current inventory of wild free-roaming horses and burros on the public lands. The purpose of such inventory shall be to develop information for use in making

annual determinations as to whether there are excess animals within areas of the public lands. On the basis of this information and any land use planning completed pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) or other applicable law, the Secretary shall determine from time to time appropriate management levels of wild free-roaming horses and burros on the public lands.

"(2) The Secretary shall determine on an annual basis whether there are excess animals within areas of the public lands and if so, whether appropriate management levels should be achieved by the removal or destruction of excess animals or by other options, such as sterilization or natural controls on population levels.

"(3) In making determinations as to how to reduce the number of excess animals to effectively and efficiently achieve the purposes of this Act, the Secretary shall consult with wildlife agencies of the state or states wherein wild-free roaming horses and burros are located, and individuals having scientific expertise and special knowledge of wild horse and burro protection, wildlife management and animal husbandry as related to rangeland management.

"(d) Where the Secretary determines, on the basis of the inventory and the land use plans referred to in subsection (c) (1) of this section, or in the absence of a completed inventory or land use plan, on the basis of information available to him, that excess animals exist, and that action is necessary to remove such excess animals, he shall remove excess animals from the range and dispose of them in accordance with the following provisions and with regulations issued by him so as to achieve appropriate management levels:

"(1) The Secretary shall cause the number of excess animals to be humanely captured and removed for private maintenance and care for which he determines an adoption demand by qualified individuals exists, and for which he determines that humane treatment and care, including proper transportation, feeding and handling, will be provided by the adopting party.

"(2) The Secretary shall cause additional excess animals, for which he determines that an adoption demand by qualified individuals does not exist, to be destroyed in the most humane and cost efficient manner possible.

"(e) Where excess animals have been transferred to a qualified individual for adoption and private maintenance pursuant to this Act and the Secretary determines that such individual has provided humane conditions, treatment and care for such animal or animals for a period of one year, the Secretary is authorized upon application by the transferee to grant title to not more than five animals to the transferee at the end of the 1-year period. The Secretary shall issue regulations providing for documentation by written evidence that animals, the title to which is granted pursuant to this section, no longer fall within the purview of this Act.

"(f) To facilitate the implementation and enforcement of subsections (d) and (e) of this section, the Secretary is hereby authorized to contract with animal protective organizations, such as humane societies, to screen applicants seeking to adopt excess animals and to conduct inspections after adoption to insure that adopted animals are receiving humane treatment and care. However, this authority shall in no way be construed as relieving the Secretary of his responsibility to carry out the provisions of this Act assuring that adopted animals receive humane treatment and care.

"(g) Wild free-roaming horses and burros or their remains shall lose their status as wild free-roaming horses or burros and shall no longer be considered as falling within the purview of this Act:

- (1) upon passage of title pursuant to subsection (e) of this section; or
- (2) if they have been transferred for private maintenance or adoption pursuant to this Act and die of natural causes before passage of title; or
- (3) upon destruction by the Secretary or his designee pursuant to subsection (b) of this section; or
- (4) if they die of natural causes on the public lands or on private lands where maintained thereon pursuant to section 4, and disposal is authorized by the Secretary or his designee; or
- (5) upon destruction or death for purposes of or incident to the program authorized in section 12 of this Act.

(d) The first sentence of section 4 of the Act of December 15, 1971, as amended (16 U.S.C. 1331 et seq.) is amended to read as follows:

"Section 4. If wild free-roaming horses or burros stray from public lands onto privately owned land which is enclosed by a fence meeting State standards and specifications, the owners of such land may make a written request for removal to the nearest Federal Marshall or agent of the Secretary, who shall, as soon as he can make the necessary arrangements, remove the wild free-roaming horses and burros from the private lands."

(e) The first paragraph of section 11 of the Act of December 15, 1971, as amended (16 U.S.C. 1340) is amended to add the following sentence:

"Starting in 1981, such report shall be made in February and every twenty-four months thereafter in subsequent years."

(f) A new section 12 is added to the Act of December 15, 1971, as amended (16 U.S.C. 1331 et seq.) to read as follows:

"Sec. 12. (a) In order to provide more adequate research data on biological aspects of management of wild horses and burros for use in carrying out the provisions of this Act, the Secretary of the Interior through the Bureau of Land Management shall conduct research programs, in-house or under contract, designed to identify biological principles for managing populations of wild free-roaming horses and burros in a humane manner. Such research shall also include but is not limited to investigations of population dynamics. Such research shall be coordinated, to the extent practical, with related research programs of other Federal agencies.

"(b) The Secretary is authorized to establish such conditions as he deems essential to the research program authorized by this section. Any person engaged in research pursuant to this section shall carry out such studies under such conditions as the Secretary may prescribe.

"(c) The Secretary of the Interior through the Bureau of Land Management shall report to the Congress the progress of the studies authorized by this section not later than 120 days after the end of fiscal year 1982.

"(d) During the pendency of the studies authorized by this Act, the Secretary shall continue to maintain animal control under existing authority of law."

Explanation

The provisions presently in H.R. 10587 are unduly complicated and appear to overlap in some respects. Further, current authorities to dispose of old, sick, or lame animals as distinguished from excess animals would be unnecessarily weakened.

In addition, while H.R. 10587 requires determination as to whether removal or other means should be used to deal with problems of excess animals, and adopts a scientific approach to animal management, it contains no corresponding specific provisions to authorize comprehensive studies. The suggested revision would streamline the provisions of H.R. 10587, include more comprehensive disposal authority to address a variety of problems in this regard, and would specifically authorize a research program to study, among other things, population control options other than removal and adoption. This revision would not provide for consultation with the Fish and Wildlife Service as would the current language.

Section 4 of the Wild Free-Roaming Horse and Burro Act was recently interpreted to require the Bureau of Land Management to remove wild animals which have strayed onto private lands that are unfenced and intermingled with public lands. There are few areas in the West where public lands are not intermingled with private lands. The proposed amendment to section 4 of the Wild Free-Roaming Horse and Burro Act which is contained in our proposed section 7(d) of H.R. 10587 would limit the responsibility of the Bureau of Land Management for removing stray animals to situations where the private land is fenced in accordance with 43 CFR 4750.3 and where written request is made for removal.

Senator CHURCH. Before we go to our first witness, Senator Domenici of the committee is present this morning from New Mexico and Senator Laxalt from Nevada, who, with me, is the other principal cosponsor of the bill we are considering.

First of all, I would like to ask Senator Domenici if he has any remarks that he would like to make.

**STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO**

Senator DOMENICI. Yes, Mr. Chairman. I know we have a very busy day and I will try to keep my remarks brief, but I would indulge the Chair with a request. On the witness list before the Chair, I wonder if I might make two corrections, if the Chair would permit me to. On the bottom of the page, Robert Jones, president of the New Mexico Public Lands Council, with your permission we would like to substitute Dr. Gene Ross from New Mexico State University who will summarize Mr. Jones' testimony and give some expert testimony resulting from research.

Senator CHURCH. Very well.

Senator DOMENICI. And the last witness on that page, Mr. Buddy Eppers, although he is here, he prefers to permit the secretary of agriculture and the Governor of the State of New Mexico to testify through their liaison man here in New Mexico, Mike Olguin.

Senator CHURCH. What is his name?

Senator DOMENICI. Mike Olguin.

And then, Mr. Chairman, I would ask unanimous consent that Mr. A. W. Langenegger—if you turn the sheet on the witnesses you will find he is the president of the New Mexico Farm and Livestock Bureau—I would ask that he be permitted to testify with the panel since his testimony is related to theirs and he is of equal status to the panel of National Cattleman's Association Public Land—

Senator CHURCH. I wonder if we could have his name again. I don't see it here.

Senator DOMENICI [continuing]. Yes.

Senator CHURCH. I don't see it here. Is it listed?

Oh, yes. At the very end. And which panel do you wish him to testify on?

Senator DOMENICI. I wish him to testify along with the Idaho Cattleman's Association, Mr. William Swan, and the panel.

Senator CHURCH. Very well.

Senator DOMENICI. Now, Mr. Chairman, I have a prepared statement and I'm not going to read it. It's very similar to yours.

I commend you and Senator Laxalt for the introduction of the bill which I cosponsor and call your attention to my proposed amendment, which is Senate bill 2517. I would say that in the event we mark up and report out your bill 2475 it would incorporate the language contained in 2517.

I would ask that my entire statement be made a part of the record.

I would also ask that a petition that I received, Mr. Chairman, totally written in Spanish by a list of some 100 Spanish Americans, who are in the area of New Mexico known as Rio Puerco basin, be

included in the record. They are the first group of small allotment permittees who are suffering under the present AMP procedure. I think their plight, as expressed in their petition, dramatizes the need for modifications in the AMP procedure. Their petition has been interpreted in English by the Library of Congress, and I would ask that their petition and the Library of Congress interpretation of it be made a part of the record at this point.

Senator CHURCH. Without objection that will be done.

Senator DOMENICI. Mr. Chairman, that portion of the bill that has to do with grazing fees and major improvements, and the responsibility of the Federal Government to help with them has been more than adequately covered by you and by others.

I would just like to say that I am equally convinced that some major modifications in the AMP's must be made because of the peculiarities that exist in many States with intermingled lands; that is, lands of fee ownership, State ownership, and a water-based management. I believe that witnesses will adequately explain why this must be modified to be permissive and why the State and other landowners must be consulted as part of AMP's and that's the thrust of my amendment.

I thank the Chair for granting me this privilege and look forward to today's testimony.

Senator CHURCH. Thank you very much for your statement.

[The prepared statement of Senator Domenici and additional material follow:]

STATEMENT OF HON. PETE V. DOMENICI, A U.S. SENATOR FROM THE STATE OF NEW MEXICO

Mr. Chairman I would like to commend the Senator from Idaho for the legislation he has proposed that will improve the range conditions of the public grazing lands in such problem areas as permits, grazing fee formulas, and the wild horse problem.

As you know, I have introduced a bill which I believe will clarify the language without changing the Federal Land Policy and Management Act's (FLPMA's) underlying policy concerning Allotment Management Plans (AMP's) and their relationship to environmental impact statements.

Similar language is contained in the bill passed by the House and I would hope that we can adopt the language worked out by the House Interior Committee. This reemphasizes the intent of Congress that the Federal Agency should work in "cooperation and coordination" with the range lessees and permittees, and with advice from the district advisory boards. Range users assert that such "cooperation and coordination" has been ignored in the past.

This clarifying legislation would insure the ranchers of New Mexico that individual rights, as guaranteed by our state Constitution are not in jeopardy of being violated by the Federal Land Policy and Management Act of 1976 (P.L. 94-579). Under present law, if a rancher has intermingled Federal, state, and private land, he does not have equal status with the Bureau of Land Management (BLM) in deciding on an allotment management plan on all of these lands and the Federal Government can dictate how lands in the ranch—Federal, state, and private—may be used and developed. Mr. Chairman I would like to emphasize that in the House report it was very distinct that AMP's are discretionary, not mandatory and will only be developed when the Secretary determines they are necessary. An example of this might be the construction, location, and design of fences, or the development of a windmill for stock water. Mr. Chairman most New Mexico ranchers with BLM land have intermingled state and private land.

AMP's implemented on ranching units which have intermingled land status, also forces management by a government agency upon state and deeded lands. AMP's include stringent grazing systems which are detrimental and in many ways harmful to the arid regions within the western states. Rotational grazing systems under certain conditions are beneficial yet where livestock are required

to be concentrated into a small area for a specific length of time, the results can be devastating to some of the shallow soil types existing in the West.

The important part of this amendment is to bring proper representation into the planning of AMP's. Also to allow all entities concerned to be involved in the decisions. Our complex mixture of private, state, and Federal lands creates an unusual problem which can only be solved by mutual effort. This will also allow the least disruption of local revenues and legal questions regarding authority and jurisdiction.

The Allotment Management Plan has been used by the Federal Land Managing Agencies on public lands as a "means to the end" of federal land use planning over State and private lands.

However, land management planning as used by the rancher is only a portion of the total ranch management. The rancher, of course, must be concerned about the range forage conditions, watershed conditions, erosion hazards, the type of soil, wildlife, climate, variable topography, and many other problems concerned with land management. But in addition to land management considerations, he must be concerned with the problems of livestock production, such as: the type of livestock, the breed, time of calving or lambing, breeding cycles, calf and lamb crop percentages and weaning weights.

He must also concern himself with the economics of running a ranch, such as: cash flow, interest payments, taxes, and the marketing and price of livestock. Moreover, public land ranchers must be concerned about range improvements, brush control, water development, fencing and the maintenance of these improvements.

A rancher who can integrate all of these factors into a prosperous ranching operation will be there for many years to come, and those who do not have this ability will be eliminated by the market. The rancher who has been on the same ranch for many years, some are third generation on the same land, have demonstrated this ability. However, let me emphasize once again, this is not solely due to land management, but due to an integrated system of land management, livestock management, and financial management.

One factor that is apparent in successful operations is the flexibility of the ranching operation. Producers are able to recognize the problems when they arise and make the needed changes. A rigidly drawn allotment management plan will not allow for this.

Now, I will grant there are some ranchers operating on the public range who are abusing the federal lands. However, the Federal Land Management Agencies have the policy and the regulations to rectify these situations and they should be carried out immediately to prevent a few bad apples from spoiling the barrel.

Let me also point out a misconception, that an AMP is synonymous with grazing system. This should not be implied. Many ranchers operating on the federal lands today have very successful systems not tied to specific dates of rotation of pastures.

Let me close by saying the track record of AMP's in New Mexico have not been all that successful. For example in the Rio Puerco Environmental Impact Statement, of the twenty-one implemented AMP's, ten required an increase in stocking and ten required a decrease in stocking, and one was scheduled for no change in carrying capacity. This is not what I would call a high success ratio, and points out the inadvisability of blanket application of AMP's across the Western states.

Thank you, Mr. Chairman.

U.S. SENATE,  
Washington, D.C., June 29, 1978.

Hon. GILBERT GUDE,  
Director, Congressional Research Service,  
Library of Congress,  
Washington, D.C.

DEAR MR. GUDE: I am enclosing a letter from the officers of the Rio Puerco Livestock Association in La Jara, New Mexico, which I am requesting that you please have translated into English.

Thank you for your assistance. With best wishes.

Sincerely,

PETE V. DOMENICI,  
U.S. Senator.

Enclosure.

JULY 18, 1978.

Hon. FRANK GREGG,  
*Director, Bureau of Land Management,*  
*Washington, D.C.*

DEAR FRANK: I am enclosing a letter which I received from some people in New Mexico who are very concerned about the Environmental Impact Statement on the Rio Puerco Resource area.

I would very much appreciate it if you would be kind enough to personally look into this matter for me. It appears that my constituents have raised some valid points and I would like to know of your views.

Best regards.

Yours very truly,

PETE V. DOMENICI,  
*U.S. Senator.*

Enclosure.

RUDY GUTIERREZ,  
*Presidente,*  
 MANUEL F. MARTINEZ, *Secretary-Treasurer,*  
*Rio Puerco Livestock Association, La Jara, N. Mex.*

DEAR FRIENDS: Thank you very much for writing to me to express your concerns with the Environmental Impact Statement pertaining to the Rio Puerco Resource Area. I can understand your misgivings about the possible economic consequences implementation of the AMP's might have on graziers in your area.

As you know, I have introduced legislation which I believe may be of some help. My bill would amend the Federal Land Policy and Management Act to reinforce Congresses intent that the AMP's are to be developed in consultation with range lessees and permittees, and with the advice from the district advisory boards. In addition, allotment management plans must be tailored to the specific range condition of the area.

Hearings will be held on this bill in August and I am hopeful that the Senate will approve it. I believe it will be some small help to you folks.

I am also asking the Director of the Bureau of Land Management to personally look into this matter for me. I will be in touch with you again when I have a response.

Best wishes.

Yours very truly,

PETE V. DOMENICI,  
*U.S. Senator.*

U.S. SENATE,  
 COMMITTEE ON ENERGY AND NATURAL RESOURCES,  
*Washington, D.C., July 18, 1978.*

Hon. GILBERT GUDE,  
*Director, Congressional Research Service,*  
*Library of Congress, Washington, D.C.*

DEAR MR. GUDE: Enclosed is a copy of a letter I would like to send to the officers of the Rio Puerco Livestock Association in La Jara, New Mexico. I would appreciate it if you would have it translated into Spanish.

Thank you very much.

Sincerely,

PETE V. DOMENICI,  
*U.S. Senator.*

Enclosure.

U.S. DEPARTMENT OF THE INTERIOR,  
 BUREAU OF LAND MANAGEMENT,  
*Washington, D.C., July 24, 1978.*

Hon. PETE V. DOMENICI,  
*U.S. Senate,*  
*Washington, D.C.*

DEAR SENATOR DOMENICI: This will acknowledge your July 18, 1978, letter transmitting correspondence from Mr. Rudy Gutierrez and Mr. Manuel F. Martinez concerning the final environmental statement on Rio Puerco Livestock Management.

We are reviewing the matters discussed in your constituents' letter and will furnish you a more detailed reply in approximately two weeks.

Sincerely yours,

GEORGE O. LEA,  
Deputy Assistant Director.

[Translation]

LA JARA, N. MEX., June 20, 1978.

DEAR SIR: We the undersigned, members of two animal growers' associations, the Rio Puerco Livestock Association and the Rio Puerco Grazing Association, and others of us who have permission for grazing in the Rio Puerco Resource Area, wish to request the Congressional delegation to ask B.L.M. to explain to you and to us why the aspects and proposals they are advocating in the study of the Rio Puerco Resource Area in their Environmental Impact study cannot be modified. The following points explain the most drastic actions that affect the economic life of Cuba, La Jara, San Ysidro, and many others who live in other places but use the area for grazing cattle.

1. We maintain the position that the EIS is not complete because a total and diligent study of the economic impact of the community was not made. Local interviews were held about the effect of the reduction of animals but it was a very superficial study that did not produce any important data.

2. The plans to implement the management of the land (the AMP's) are very cruel, and not efficient, after they made many animal reductions, sometimes up to 50%, they are going to insist that each allotment be run under a series of pastures where the animals will be put for a certain time and then moved to another pasture letting the used place rest. Alright, we concede letting the land rest but we do not agree with the system. B.L.M. wants to concentrate all the animals in one pasture for a certain time and then move them; this concentration of animals causes the most cruel use of the land and in less time. With their proposal that only 50% of the land be used; that a pasture rest for a full year; that the other pastures be used with set dates; is not a guarantee of good management, it only creates problems that are ruinous to the country, concentrations of animals under conditions that do not allow the animals to do well, and once concentrated they do damage to the place. We propose that they allow us to put 10, 15, 30, etc. for pasture to avoid prejudice, overgrazing, the work of constantly moving animals and to compensate in using the places that bear the use and this is so because there is no control of rain or snow. And also that there be an opportunity to drive and segregate registered animals with special bulls, or in other words to separate the cattle for one reason or another, have the young, skinny, sickness, poisonous grasses—whatever the reason may be—we maintain that there are many unanticipated problems in the AMP.

3. Another way to confuse and complicate the operation of the ranchers is in combining the allotments that once had already been established. Some of us have registered bulls that others do not like; some of us segregate for breeding; and the worst thing is that most of us leave in the summer for the forests and those that graze there year round would use the grazing land that should have been reserved for the winter. (See Pgs 111-56 of the Proposed Rio Puerco Livestock Grazing Management Program, Final Environmental Statement.)

4. The cost of grazing will be very high, and the price received for the livestock is not sufficient to earn a living, in view of the many costs; multiplicity of regulations is about to eliminate the ranchman, if it has not done so already. We are proud of what by our effort we contribute, a precious commodity, which is meat, to the great number of inhabitants who grow with each passing day. Taking the animals away from public lands, which is what is going to happen with all the limitations, we are denied the opportunity to harvest one of the natural resources that is renewed each year—grazing land.

5. We resent that the study (EIS) has focused on the use of cattle on public lands, even the title of the book explains this, and the multiple use of the public has not been given enough responsibility to take care of the land. Hunters, companies that explore for gas and oil, people who visit in search of recreation, and others who only drive vehicles on the surface of the land without any regulations, control or responsibility for protection. They make unnecessary roads, leave fence gates open and commit many acts of damage to houses and acts of vandalism and robbery against the rancher and public land.

6. If the AMP's are going to be implemented regardless of their impractical aspects or the objection of the livestock community, we ask that it be done only for a minimum of five years.

7. Final and most important point: We ask that a diligent and detailed study be made of the grazing land and of the capacity of animals that can graze on each allotment ending before March 1, 1979, the date on which the AMP's are to be imposed.

Finally we unanimously support the amendments proposed to the Organic Act and we appreciate your efforts in the Congress in favor of the livestock industry in New Mexico, and in particular your efforts for reforms in this study and proposal of the Rio Puerco Environmental Impact Proposal. Thank you very much.

RUDY GUTIERRE, *President*,  
MANUEL F. MARTINEZ, *Secretary-treasurer*.

This petition was signed by 100 Spanish Americans.

[Translated by Deanna Hammond.]

Senator CHURCH. Senator McClure, also a member of the committee, has come in and I wonder if you have any preliminary remarks you'd like to make?

#### STATEMENT OF HON. JAMES A. McCLURE, A U.S. SENATOR FROM THE STATE OF IDAHO

Senator McCLURE. Mr. Chairman, first of all I apologize for being late. Secretary Schlesinger was trying to persuade me to sign the natural gas report.

Senator LAXALT. Was he successful?

Senator McCLURE. He was having a little difficulty and, therefore, it took a little longer time.

I do appreciate the fact that we are having these hearings today, and I know the witness list is long. I will not burden the hearing by my statement at this time, except to say that I hope that we may also address the suggestion that I have made in legislation that's already introduced. There is a possibility of enhancing the investment in public land management in the grazing areas by allowing the holders of permits to make the capital investment and recoup their investment against their grazing fees.

I think that can be done. It would free a lot of capital which we cannot get by way of appropriations. I think with some refinement, if that's necessary, that at least the concept is good and might assist us in getting a lot more good land management done out there without the direct expenditures, the capitalization by the Federal Government, and without hurting any of the management objectives—I think it would enhance the management objectives.

With that, Mr. Chairman, I think I'll withhold any further statements so that we can hear this rather lengthy list of witnesses.

Senator CHURCH. Thank you very much, Senator.

Now, I'd like to turn to Senator Laxalt.

#### STATEMENT OF HON. PAUL LAXALT, A U.S. SENATOR FROM THE STATE OF NEVADA

Senator LAXALT. Thank you, Mr. Chairman. Just an observation here. I think the chairman covered the basic elements of the legislation adequately.

I'd like to ask you to file a statement of my own for the record.

Senator CHURCH. Without objection, that will be done.

Senator LAXALT. And I'd like to also indicate to those present here that this hearing is approached in an atmosphere of conciliation rather than confrontation.

I come from a State where we are experiencing very serious problems in all these areas addressed in the legislation. We're not coming in here with a meat-ax approach to do away with all the constructive and beneficial legislation that has occurred in the past, including the Wild Horse and Burro Act.

We in Nevada are experiencing extremely serious problems. Each of the provisions in the legislation addresses in some manner and in some way is an attempt to correct those problems as best we can. There is a feeling out West that we are in a war for survival in relation to the agencies here in town and the stock people and the mining people throughout the West. We want to mediate that.

We think that this legislation is a vehicle whereby in the future we will provide better direction for rules in connection with range improvements; in connection with the wild horse and burro problem; in connection with the grazing fee problem that we have every year, and unless we fix the fee formula by statute, I think we're going to continue to have the type of confrontation, which is too often unpleasant, that we've had in the past.

So I think we are going to develop a lot of badly needed certainty, Mr. Chairman, into areas which are so vital to all of us in the West.

Senator CHURCH. I fully agree, Senator, and I think the bill that we've drafted attempts to reach the most pressing problems that face those that are using the public domain, including the wild horse and burro problem.

You know, the success of that bill protecting wild horses and burros went far beyond the expectations of anyone and now we face just the opposite problem, and we have to consider that the grazing lands are not only important for domestic production of cattle and sheep, but also are an essential habitat for our wildlife. And we have disturbed the natural balance, I think, in a very serious way, and that needs to be addressed.

[The prepared statement of Senator Laxalt follows:]

STATEMENT OF HON. PAUL LAXALT, A U.S. SENATOR FROM THE STATE OF NEVADA

Mr. Chairman, I wish to commend the Committee for holding these hearings on S. 2475 and H.R. 10587. As we all are aware, this is an effort to address in a single bill several issues that effect the future of the Western public lands, and I might add, that this is a historic opportunity for Congress to assert a clear and deliberate policy toward resolution of many of the problems involving the management and improvement of the public lands administered by the Bureau of Land Management and the Forest Service. I was pleased to be able to join my distinguished colleague from Idaho, Senator Church, in introducing this legislation in the Senate.

As you are aware, Mr. Chairman, these proposals address the following matters: problems with levels of range improvement funding; an over population of free roaming wild horses and burros, which is of particular concern in Nevada; uncertainty as to what scale and type of range improvement projects may proceed under current law and court decisions; the potential hardship to the ranching community throughout the West, and particularly in my State of Nevada, from proposed increases in grazing fees; and several other matters of serious concern.

I believe everyone agrees with the comprehensive approach to range improvements that S. 2475 and H.R. 10587 represent. The range land improvement fund-

ing provisions, in my view, represent a serious commitment that has been long over due.

With your indulgence, Mr. Chairman, I would like to point out that I have been more than disturbed by the series of misleading reports which have colored the opinion of Congress, the media, and the public nationally on the problems and conditions of the West public lands. In this context, I call your attention to the BLM report "Effects of Livestock Grazing on Wildlife, Watershed, Recreation and other Resource Values in Nevada".

Now known as the "Nevada Report", this document became a key piece of evidence in the *Natural Resources Defense Council v. Morton* suit, which resulted in a landmark judgment which has had a serious impact on Nevada and the West, and will continue to have an impact into the unforeseeable future. In my view, Mr. Chairman, the reports purposes were obviously preconceived. It was prepared by five Washington BLM "experts" who spent eleven days in Nevada in 1973, and, despite severe scarcity of basic information on the range at that time, managed to survey over 47 million acres and determine the conditions on them. I think it is important to note that the BLM team, while in Nevada, made no contact with local, state, or University personnel or repositories of competent and pertinent information, and the team said they were not charged with reporting BLM's past accomplishments in Nevada in range management. An obvious oversight after BLM's 40 years in my State of Nevada. After recommending steps to be taken to compensate for certain purported deficiencies, on the basis of the report, BLM in Washington came to the conclusion " \* \* \* the evaluation Report points to a critical resource condition on BLM lands \* \* \* " and attributes this to livestock overgrazing.

At this point, I would like to point out that federal statistics and knowledgeable observation, paint a far different picture. For example, Nevada's sheep counts for 1920 show 1,340,000 head, and this steadily diminishes each decade to 1973, the year of the previously mentioned BLM evaluation which shows over one million less—171,000. Now, in 1978, the sheep industry in Nevada is in effect wiped out. Mr. Chairman, I think this speaks for itself.

Mr. Chairman, the provisions of S. 2475 and H.R. 10587 that spell out those range improvements that can be made before completion of an Environmental Impact Statement are most important and indeed necessary. These include such range improvements as fencing, small water developments, fish and wildlife projects, restoration of native vegetation, and vegetative manipulation through grazing management. These improvement efforts should speed the process of getting on with the important business of maintaining and upgrading our public lands in the West.

Mr. Chairman, the results of passage of the Wild Free Roaming Horse and Burro Act of 1971 has far surpassed anyones wildest imagination. Populations of wild horses and burros now pose a serious problem in my State of Nevada, and I might add, that we have approximately 60% of the wild horse and burro population in the nation. In certain areas of Nevada, these wild horse and burro populations now pose a serious threat to wildlife, livestock, over all range conditions, and even to the horses and burros themselves. Consequently, I support the provisions of S. 2475 and H.R. 10587 relating to wild horses and burros which would allow the Secretary additional discretion and control over these animals.

Mr. Chairman, I understand that the major area of controversy with the Administration appears to be the Sections of S. 2475 and H.R. 10587 dealing with grazing fees. I believe it is important to recognize that grazing fees paid by permittees for grazing on public lands can, at certain times, make or break a ranching operation. Even a small increase in grazing fees can have serious impacts on some ranchers even to the extent of forcing some ranchers out of business. Mr. Chairman, I cannot support this as public policy. I support the grazing fee formula recommended by the Grazing Fee Technical Committee. I introduced this recommendation in the form of legislation (S. 2458) on January 30, 1978, and I am pleased that this same formula is included as part of this comprehensive legislation.

Mr. Chairman, the Administration continues to press for a fair market value basis for a grazing fee based upon the results of the Private Land Lease Survey. I must express doubts about the reliability of the Private Land Lease Survey. For example, Mr. Chairman, my staff informs me that for the years 1976 and 1977, there were no responses from Arizona or Nevada to the Private Lands Lease Survey. Up to 25% of the public land permittee are from these two

states. Given this fact, how can we accept that a fair market value has been determined for grazing fees for these two states.

In my view, the Technical Committee's recommended formula is far more equitable because it takes into consideration the short term cost of production and beef prices, while at the same time being sensitive to the long range forage values. Mr. Chairman, this formula will have minimum adverse economic impact upon our Western livestock industry. The public land grazing land fee issue has been with us for many years. I hope we can once and for all settle this issue by establishing statutorily this grazing fee formula.

This concludes my statement, Mr. Chairman, and thank you for the opportunity. I look forward to participating in the discussions during the hearing procedures.

Senator CHURCH. All right. Our first witness was to be the Honorable Newton I. Steers of Maryland. He has been called back to the House on account of the vote, and when he returns we will be glad to hear from him.

We will move from Congressman Steers to the Government witnesses, and I would ask them if they would appear as a panel. They include the Honorable Guy Martin, who is Assistant Secretary for Land and Water Resources from the Department of Interior; John McGuire, the Chief of the Forest Service; and Frank Gregg, the Director of Land Management.

Senator McCLURE. Mr. Chairman, might I assume if Congressman Steers is able to return that we will afford him the courtesy of hearing his testimony at whatever point—

Senator CHURCH. Yes.

About the only courtesy extended to Members of Congress these days is that which is extended by fellow Members. [Laughter.]

Very well. Mr. Secretary, would you lead off with your statement and to the extent that you can summarize your position. We will be happy to accommodate you by including your written testimony in the record.

We have many witnesses to hear today, and we hope to hear them in panels. For that reason, I would hope that you might find it possible to compress your testimony.

#### STATEMENT OF GUY R. MARTIN, ASSISTANT SECRETARY FOR LAND AND WATER RESOURCES, DEPARTMENT OF THE INTERIOR

Mr. MARTIN. Mr. Chairman, I do intend to do that. I think I can help the committee in that regard. I think that each of the three of us does have a statement, and to the extent possible we have attempted to work with one another to avoid repetition to deal with different issues in each of our own capabilities.

I think I can speak for all of us in saying that we appreciate the opportunity to be here and that we sincerely compliment this committee for taking up in a single bill so many of the key issues that have been troublesome, over the years with regard to dealing with the public rangeland. You are dealing with funds to restore the range; you are dealing with the issue of wild horses and burros; you are dealing with the issues that have to do with grazing fees and permits; you are dealing with a series of the most vexatious—as one of your Members said—issues that have confronted this area for years.

We honestly see this bill as a historic opportunity, not only for Congress but this administration, and for the country to bring some

real tools and some real capability to bear as a complement to the sound land use policy that Congress expressed in the Federal Land Policy and Management Act.

Mr. Chairman, as you know very well, the administration has a major and fundamental objection to one section of this bill, regarding grazing fees, and we intend to discuss that issue with you. I intend to make available to you during this hearing, to the extent that the committee desires it, the expertise of BLM and the Forest Service to help you understand our position on that issue at whatever level of detail you choose.

But let me say at the beginning that I fear that the tenor and the focus of what we all do may tend to converge on that issue, and to make that issue detract from other important issues, not only in the minds of those of us who are here in this room, but in the minds of the general public and the public that we serve, particularly in the West.

That convergence and that focus on the fee issue may tend to obscure a far broader and far deeper commitment than this committee—and, I am emphasizing, this administration has—to deal with the overall problems of the western range. For that reason, I think it is very important for me to say, as a policy representative of this administration, a few things that I hope will give this committee, and the public, some additional perspective on the way we see the overall issue.

From the very day I assumed this office, a substantial improvement in the way that the western range is managed has been among my very highest priorities.

The Secretary shares that view in full measure, and has given me and the BLM, and the other agencies the strongest possible support in the most meaningful way—sometimes at the budget negotiating table; sometimes when we are dealing with getting things done on time, but always the strongest possible support in carrying out that priority.

I think I can say without any fear of contradiction that our new BLM Director, Frank Gregg, has spent more time dealing with this issue, both in Washington and in the field in the Western States, than any other issue that he has in his area of responsibility.

And we believe—and I say these words fairly carefully, Mr. Chairman—that the continued tenure on the western public lands of a strong, healthy livestock industry is imperative not only as an economic matter, but as an environmental and social matter as well. And it is that tenure of a healthy and strong livestock industry that has a great deal to do with the way in which we have reacted to this overall problem.

We believe that tenure, to be sustainable and credible, must rest on a balance of uses of the range. I know that the committee shares the view. We know that the livestock industry has to recognize other values and other demands on the range so that we do not sponsor a single-minded dedication to that tenure alone. We know that our commitment to livestock has to rest on a Federal dedication to an improved range, a range that has the ability to sustain more, rather than less, over the years and to reverse the cycle of deterioration.

Now, as you look back—and you pointed out, Mr. Chairman—there is a virtually endless chain of reports. I can remember seeing them for a good part of my career in resources; you remember them far longer than I do, and everyone of those reports says the same thing. It says the range is in bad condition; it is getting worse; our policies are not good; we are not putting enough into it; we don't have enough balance in uses. The themes are so common that I think all of us now are looking for common answers. And those answers have not been hidden over the years. Those answers include such things as a real improvement in the quality of the range and that means simply better management and the investment of funds to make the range better.

It includes better grazing allocations—an honest look at what the range can sustain and how we should balance the uses of the range. It includes a modern scientific program, one that is based on the very latest knowledge from the universities and the others that can tell us what we ought to know about managing that range.

It has to include, as I see it, much better coordination with the States and a way to deal with the terrible intermingled lands question so that we don't do things which destroy what the States want to do, or that we together don't follow courses that penalize those that have to use the range. It also depends on a number of other things, which I'm not going to inventory, Mr. Chairman. I do think we stand at a point where there is tremendous agreement on the problems and what it is we have to do to solve them.

As you consider this bill, I think that it is very important to give you a quick résumé of some of the things this administration has done which make it clear how we feel about this issue. This is the most important possible sort of background to the position we take on this bill.

Virtually immediately upon taking office as Assistant Secretary, I instructed BLM to come in with the strongest proposal they could for the budget, the internal budget to deal with all of the elements of range management. And I accepted their proposal almost completely. I went to the Secretary forcefully to get that budget through. This budget had been knocked down for years, either at the secretarial level or at OMB. We got that first year's budget all the way through almost unscathed. Congress was glad to see it. I am talking about last year's budget.

That was a dramatic change in the way that BLM had received support for the whole range budget. And that meant—and I want to make this clear to the committee—taking money out of other budget areas. In some cases, it was energy sector money; in some cases, it was money going to fish and wildlife, and it meant reprioritizing certain things in order to put money into range management.

I'd be glad to detail that for the committee if it is interested.

Another thing we are doing is writing environmental statements on every allocation in the whole range program. We not only do it because it is required; we think that this effort is appropriate. We think that the rangeland will benefit from a thorough going environmental analysis in each of the various allocation units in order to better address the problem. Most agree on this.

Here is where we differ. As you may know, there was a strong recent effort to get a delay in the EIS schedule; to slow that schedule down and prepare those statements over a longer period of time. It was somewhat tempting from the perspective of the land manager to say, we will wait. We will take longer; we will do it better.

We made the decision and I think it is an important decision for you to know about, not to engage in that delay. Not engaging in it means that we are going to stay on the fast schedule because completing those environmental statements is the single thing that stands between us and undertaking many of the range improvements that you are talking about in this legislation. Undertaking the decision of "no delay" means that we have to reallocate resources, manpower, and money within the Department of Interior to do this job. These actions constitute a real statement on our part, that this job is more important than some of the other things we have to do and we would like you to know about it.

We have also established—and I think this is also important for you to know—an excellent relationship, I believe, with both the livestock industry and the environmental interest groups that are working in this area. We have a virtually continuous working relationship with them. We have differences, some of them major, but we have a weekly and monthly working relationship directed primarily at seeing that the environmental statements that we produce are of sound technical quality and that they actually mean something as a tool to manage range.

Similarly, we undertook, and finalized during the last few months, a formal working relationship with the States and a formation of a Grazing Committee to deal with the Western State land commissioners on the intermingled land problems. What you propose in this bill has the opportunity to come alive in the planning sense as we try to deliver range improvement on the ground. This is what we are after.

Just a couple of other notes: I think, without belaboring it, that you are going to find us ready to work with this committee very closely to address the issue of wild horses and burros, which we see as every bit as serious a problem as many of you do. It is an issue, if I can use a phrase that was coined by the Director of BLM, on which basic authority to deal with the problems has existed for years, but there is no mandate to deal with them. It is the mandate, not the authority that is important here. It is the understanding of what Congress actually wants to be done that is critical, rather than the simple establishment of the authority to do it.

This administration is certainly willing to deal with that problem. We think the time has come to take some steps which we have indicated in support of your bill and in support of some amendments to it, which will move us forward.

I should also tell you that issuance of 10-year permits is also a subject that is very important to us. In that regard, the administration had a very important choice to make. Until the ES's are issued on each of the various units, we had a choice as to whether or not to issue 10-year permits only as an exception to a general rule not to issue them, or whether, on the other hand, to issue 10-year permits

generally and then to make exceptions, and to put conditions on them where it was necessary to do so for a stated reason.

We chose the latter course. And we chose that course, even though I think it is going to be controversial, because we felt it was important to try to maintain the basic stability necessary for the public land livestock industry not only to survive, and have predictability for sound management.

Finally, I want to mention that we feel that we have made a signal accomplishment by getting the support of this administration, which basically means jousting with OMB to come up here and support what is basically a \$2 billion authorization over 20 years to address problems that we all know are overdue for range improvement.

Those of you that have been wrestling with this issue for years understand how infrequently an administration can provide that kind of support for an authorization. It means we might not do other things, but this is important and we ought to do it. We are in support of it. Although we have some amendments we want to discuss with you, the basic tenor of our message to you is that we support that kind of a commitment, and we are going to work with you to carry it out.

There is more, but I will stop here. The kind of commitment and action that I have just described is something of which we are rather proud, frankly, and it is closely related to our deep concern on the grazing fee issue.

To put it in its simplest form, we believe that we are at a time of virtually ideal opportunity, with great support, to begin a long-term program of investment in the quality of the western range. It involves money; it involves money to be spent at the ground level where it will do the most good. But by establishing a legislative fee, which abandons what we believe is a very fair historic concept of fair market value, we are greatly risking the continued support of the general American public for that program by creating a subsidized fee situation.

We believe that the fair market value fee, which we've proposed to you is a key to stability in the public livestock industry. We believe that it confirms and will constantly leave us with the strong argument that this industry pays its own way.

We believe that a fair market value fee removes an objection which is going to be based on subsidy to this industry which I predict will be made for years in the future, and virtually continuously—the objection that this industry is not paying its own way because of the abandonment of the fair value concept.

We believe that to continue a dedication to fair market value creates a legitimacy for a long-range investment program which can be sustained much more readily over the years.

Now, let me just very briefly discuss our perspective on the concept of fair market value. My testimony has attached to it, and I hope you will include it in the record, a great deal of information in tabular form and chart form which compares the various versions of fees and returns, and charges that are associated with both our proposal and the so-called Technical Committee proposal.

I think that information will be interesting and informative to the committee, but I don't intend to deal with it now.

Let me, however, deal with just a couple of issues to put them on the record. First, how would we determine grazing fees under our proposal? First, it is based on the price paid for livestock grazing on private land adjusted to reflect differences between grazing on those lands and grazing on the public land. And it is, of course, based on the old \$1.23 rate that was established in 1966 and includes a setoff of some 13 factors that represent the difference between what it costs to graze on public lands and private land.

I think an interesting comparison, which we frankly have not made, would be for the committee to take a serious look at what some of the States have done, the States also being public landowners, under the mandate, in many States, to get the maximum return for the use of their resources. I think it would be instructive, although we have not provided that information, to take a look at that.

Second—

Senator CHURCH. You say you have not provided that information?

Mr. MARTIN [continuing]. We have not provided that. We would be glad to, Senator.

Senator CHURCH. Would you provide that for us?

Mr. MARTIN. I'd be pleased to.

[Subsequent to the hearing the following information was submitted for the record:]

#### APPENDIX C<sup>1</sup>

##### Part 4

##### SURVEY OF GRAZING FEES CHARGED ON STATE LANDS

Each of the Western States (except Nevada) has State public lands upon which they authorize livestock grazing and charge fees for that use. The States contacted by telephone, acres under grazing lease, number of AUM's of grazing, total dollars collected, and the dollar charge per AUM are displayed in table 1.

While each State has its own land use objectives, legal necessities, and grazing rental procedures, there are some common procedures. Advance payment of rental is required, rental charge is by the acre based upon carrying capacity data, prior lessee may have preference for renewal when lease expires, lessee maintains the improvements, leased lands are open to other uses such as recreation, hunting, and fishing, and grazing lease may be cancelled should the State desire the land for its own purposes.

Most State lands agencies are legally obligated by State law to secure the maximum rental possible from use of State trust lands for the benefit of schools and other State institutions. Some States have completed, and others are in the process, of evaluating and auditing their grazing lease rental rates and procedures. New Mexico, in their annual report for the 1976 fiscal year stated on page 17: "All rentals on grazing leases have been doubled. This increase in the grazing fees was commenced five years ago and completed this year."

Idaho has completed its range resource inventory and classification program and is adjusting rentals on State grazing lands. They anticipate an average rate near \$4.00 per AUM when the adjustments are completed. Arizona's grazing lease revenues have doubled during the past 10 years. Oregon is in the process of revising their grazing rental system with an expected increase in rental rates.

North and South Dakota offer their grazing leases through public bidding with a minimum rental rate and this procedure is reflective in their higher per acre income. South Dakota collects approximately \$1.25 per acre from grazing use while Wyoming collects approximately \$0.25 per acre from grazing use.

<sup>1</sup> Study of Grazing Fees for Grazing Livestock on Federal Lands, Secretary of the Interior and Secretary of Agriculture, October 21, 1977.

TABLE 1.—STATE LANDS GRAZING FEE DATA—1977

State	Total AUM's	Total acres thousands	Total dollars collected thousands	Dollars per AUM
Arizona	<sup>1</sup> 1, 175, 610	8, 844. 2	<sup>2</sup> 964. 0	0. 82
California	1 8, 315	54. 2	<sup>2</sup> 60. 7	<sup>3</sup> 7. 30
Colorado	1 640, 000	2, 700. 0	<sup>2</sup> 1, 600. 0	2. 50
Idaho	1 269, 966	2, 112. 9	809. 9	<sup>4</sup> 3. 00
Montana	<sup>1</sup> 1, 348, 690	4, 112. 3	1, 955. 6	<sup>4</sup> 1. 45
Nevada	None	2. 0	None	-----
New Mexico	1 920, 000	9, 200. 0	2, 134. 9	1. 23
Oregon	58, 884	608. 4	88. 3	1. 50
Wildlife-Areas	21, 166	-----	77. 7	3. 67
Utah	1 179, 808	3, 021. 6	294. 9	<sup>4</sup> 1. 64
Washington	1 177, 665	1, 200. 0	350. 0	1. 97
Wyoming	<sup>1</sup> 721, 218	3, 642. 1	901. 5	1. 25
North Dakota	1 106, 400	202. 5	<sup>2</sup> 319. 2	3. 00
South Dakota	400, 000	931. 2	1, 200. 0	3. 00
Total	6, 006, 556	36, 629. 5	10, 756. 7	-----

<sup>1</sup> Derived data: Arizona, \$964 divided by \$0.82 per AUM equals 1,175,610 AUM's; California, \$60.7 divided by \$7.30 per AUM equals 8,315 AUM's; Colorado, \$1,600 divided by \$2.50 per AUM equals 640,000 AUM's; Idaho, \$809.9 divided by \$3.00 per AUM equals 269,966 AUM's; Montana, \$1,955.6 divided by \$1.45 per AUM equals 1,348,690 AUM's; New Mexico, \$2,134.9 divided by \$2.32 per AUM equals 920,000 AUM's; Oregon, \$88.3 divided by \$0.58 per AUM equals 153,000 AUM's; Washington, \$350.0 divided by \$1.97 per AUM equals 177,665 AUM's; Wyoming, \$901.5 divided by \$1.25 per AUM equals 721,218 AUM's; North Dakota, \$319.2 divided by \$3 per AUM equals 106,400 AUM's; Utah, (\$1.51 times  $\frac{1}{2}$ ) plus (\$1.75 times  $\frac{1}{2}$ ) equals average weighted charge per AUM, (1.06) plus (0.58) equals 1.64 per AUM, 294,886 divided by \$1.64 per AUM equals 179,808 AUM's; Wyoming, \$901.5 divided by \$1.25 per AUM equals 721,218 AUM's.

<sup>2</sup> 1976 fiscal year data.

<sup>3</sup> State fish and game lands, average fee.

<sup>4</sup> Average rate.

Note: 12 States simple average equals \$2.57 per AUM. 12 States weighted average equals \$1.79 per AUM.

Mr. MARTIN. The difference between our proposal and the Technical Committee formula is basically quite simple. Both start with the \$1.23 arrived at in 1966, and are adjusted for changes in the private land lease rate. But in adjusting that figure, the Technical Committee simply inserts one more element, consideration of the combined index—that is, the beef cattle price index minus the prices paid index, which is basically an indicator of cost or production.

And it is on that issue that we basically believe that the Technical Committee proposal departs from fair market value.

Now, briefly, what is the history of differences between the two fees in years for which data is available? Included among the materials that we submit to you is a chart that shows that for 9 of the last 14 years, the Technical Committee formula would have resulted in a higher fee than the administration formula, and I note parenthetically here that both sides used that as a great argument for their position. One side says if it's not a big difference why haggle over it. The other side says if it's not a big difference, stay with fair market value. But I think it is important to note that over the years, the Technical Committee formula would have returned a slightly higher fee in most of those years.

Senator CHURCH. Then if that is the case, on what basis do you assert that adoption of the fee would constitute a subsidy?

Mr. MARTIN. Because you run the risk, Senator, in those down years of having the taxpayers pick up whatever the difference is in the cost of production. In those years where it profit is down, where ordinarily that would be dissipated through a fair market, or a free market situation, it would mean—and it is unfortunate when it means this—that there are fewer cows out; that there are operations that do not survive economically or take a set back in those years, it would

not be the taxpayers who would be providing the subsidy to essentially even out the curve.

Senator CHURCH. Well, we will have an opportunity to discuss this further though, I've seen figures which show that over a long period of time it makes practically no difference in terms of the return to the Government and I don't follow your argument in bad times the taxpayer would be called upon to subsidize the cattleman, because in bad times the fair market value of grazing land comes down, the cost of production is—

Mr. MARTIN. Well, Senator—

Senator CHURCH [continuing]. Implicit and inherent part of fair market value, and it doesn't always keep going up.

Mr. MARTIN [continuing]. That would be easily demonstrable year by year if you based it on fair market value, but the fact is that if we go with the Technical Committee report what we will have is a fee that will vacillate according to cost of production, whereby the cost of grazing for all other livestock growers who are not fortunate enough to be grazing on public land will, in effect, reflect fair market value according to ordinary market forces.

Senator CHURCH. We will discuss this further as we move along.

Mr. MARTIN. For 1979, there has been some confusion. What will the fee be for 1979 under one fee or the other? The answer is they would be exactly the same. That is so for the reason that the administration, in an effort to make the imposition of this long overdue change in fees through a transition period has proposed that it be imposed with 25 percent yearly increase limits.

While the fee for next year would be slightly higher under the administration's proposal than it would be under the Technical Committee proposal, they would be the same because of the 25-percent limitation. They would be \$1.89 per AUM and that is because of the transitional proposal that we make.

We have a lengthy section in my testimony, and I will not belabor it, Mr. Chairman. It has to do with the question of whether a fair market value fee will destroy the economics of the cattle industry. Our answer is resoundingly, no, it will not. If the fair market value fee recommended by the two secretaries is sustained, we present a series of analyses and in which we portray the burden that would fall on the industry compared to the burden that is carried by the vast majority of other livestock interests that graze on either private land or State land, and just try to give you a series of comparative guideposts that you can look at.

Because we've worked closely with you and your staff, Senator, I don't think that there is a need to go over those again now, but we offer those as a guideline.

Our conclusion is that we are not talking here about either a devastating effect on the Federal Treasury or a devastating effect, as we see it, on the economy of the livestock industry. And we certainly feel we have provided the figures that carry that out.

Senator LAXALT. May I ask a question?

Senator CHURCH. Yes, certainly, Senator Laxalt.

Senator LAXALT. Mr. Martin, have you people worked up any figures indicating how many marginal operators may be affected? I've never seen any here. Let me ask the staff how we've addressed that issue.

Frank?

Mr. GREGG. Attached to Secretary Martin's statement, Senator Laxalt, there is a breakdown by State of how much the grazing fee would cost operators based on the size of the operation. I would assume that most of the marginal operators would be in that first category, which I think covers operators with from 1 to 500 head.

In that category, as I recall, nationwide about 72 percent of the total operators have those small operations. And for them, the difference of the fee between the Technical Committee fee and our recommended fee runs something like \$60 a year on the average for those marginal operators.

Mr. MARTIN. Senator, I would urge you to look at it as a whole because lifting anything out is somewhat difficult, but let me give you one example that I include in my testimony here: Taking an average grazing use for one group, which would be 159-animal-unit months, or the equivalent of 32 cows with calves for 5 months of grazing, which is a situation that exists in many areas 72 percent or 18,000 out of the 25,000 permittees using public range lands would have an annual increase of no more than \$60 on the average in their grazing bill over the 1978 level.

We are talking about a vast number of people in the small operation category having that kind of an increase. That is detailed further in the information that I give you.

Senator CHURCH. Are there any work-ups indicating—when you isolate the grazing fee item, it seems insignificant. Have you a general economic work-up indicating, in the down years, what affect this would be in addition to other costs, Mr. Gregg?

Mr. GREGG. I don't think we have analyzed it based on differences in the profit picture of the industry, but the old Economic Research Service several years ago did some work that established that grazing fees run from 3 to 8 percent of grazing operations. So that, for instance, a 10-percent increase in the grazing fee in the worst case would represent a 0.8-percent increase in operation. Well, it is on that scale.

Our figures also show, Senator, that of the total feed for beef, cattle, and sheep in the United States about 4 or 5 percent of that feed is from public lands administered by the Forest Service or BLM.

Senator CHURCH. Mr. Martin, are you about to wrap up—just about to conclude your testimony?

Mr. MARTIN. I have one closing statement, Mr. Chairman, and I am, indeed—

Senator CHURCH. Congressman Steers has come in and—

Senator McCLURE. I'd ask just one question.

Senator CHURCH [continuing]. Yes.

Senator McCLURE. A followup on a comment that Mr. Gregg made. If I understood you to say that the difference between the Technical Committee and the fair market value that you have established for the average small operator would not exceed \$60 a year. If I compute that, that is 70 AUM. You can't be serious.

Mr. GREGG. Let me get the table.

Mr. MARTIN. I would just say, Mr. Chairman, also that I would be pleased to yield to the Congressman immediately and simply resume—

Senator CHURCH. Well, I think in view of the number of witnesses we have that it might be best for you to conclude your testimony—

Mr. MARTIN [continuing]. All right.

Senator CHURCH [continuing]. Then we will ask the Congressman to give his testimony and then we'll take such supplementary testimony as the Chief may have, and Frank Gregg may have, and get on to questions.

Senator McCLURE. Seventy AUM would be 20 head for a little over 3 months?

Mr. GREGG. Yes.

I have it State by State, Senator. And I could run through them. Let's turn, for obvious reasons, to Idaho. For the 1979 fee year—looking at the fees in 1979—the difference for the average operator who had a herd size of 1 to 500, between the fair market value, as we describe it, and the Technical Committee would be \$64.30. There's a table, a State by State table attached to Secretary Martin's testimony, which is designed to give you that information.

That's based on an AUM average for those operators of 268 AUM's.

Senator McCLURE. How many AUM?

Mr. GREGG. That's based on an AUM average for those operators in that category of 268.

Senator McCLURE. And the difference between the two fees is \$0.83? You multiply \$0.83 by 268, you get a lot more than \$60.

Mr. GREGG. Well, the difference between the two fees would be \$0.39.

Senator McCLURE. That is not what your table shows.

Mr. GREGG. The fair market value of grazing fee for 1979 would be \$2.28. The Technical Committee grazing fee—excuse me—would be \$2.04 so there is actually a difference of \$0.24 between the two fees.

Senator McCLURE. Enclosure No. 5, with Secretary Martin's testimony, fair market value in 1978, \$2.38; Technical Committee formula \$1.55.

Mr. GREGG. Did I make it clear that that's a difference between the two fees, not the total cost.

Senator McCLURE. Yes, you did.

But, again, this enclosure No. 5 shows 1978, the difference between the two fees is \$0.83.

Mr. GREGG. I'll have to look at the enclosure No. 5.

Senator LAXALT. What was your OUM, \$2.60 something?

Senator McCLURE. \$2.68.

Senator LAXALT. \$2.68. You have a problem.

Senator CHURCH. Well, I wonder if in the interest of the witnesses we could ask Mr. Gregg if he would review those figures.

Mr. GREGG. Yes. I'll be glad to do that while Mr. Steers testifies.

Senator CHURCH. We can examine them at greater length.

Senator McCLURE. Yes. And I don't mean to belabor it, Mr. Chairman, I'm sorry to interject it, but I wanted to make sure we didn't pass over that without knowing. My calculations would indicate that that is \$222.44, not \$60.

Mr. MARTIN. We will look at it, Senator.

Senator McCLURE. All right.

Mr. MARTIN. Mr. Chairman, I think I can wrap up very quickly and I think it is important to add a final note.

One of the other debates that has arisen, and maybe legitimately, is just how important is this fair market value idea, anyway? I've tried

to suggest to you why we think it is crucially important with regard to sustaining a credible program of range management over the years, rather than risk it due to debate over subsidy.

I would further suggest that although we've looked, as you have, at exceptions that have been created over the years the clear trend in congressional policy and administration policy, in the coal-leasing amendments, the OCS amendments, FLPMA, and others, is to maintain the fair market concept for the use of Federal public resources unless there is a strong and articulated reason to the contrary.

And I would just suggest to this committee that we have really not yet heard that strong overwhelming reason to abandon fair market value here. We think it is particularly unwise to do it when it looks like the downside risk of doing it, and we are trying to signal you to these risks as we see them, are so great of putting the livestock industry in an unfavorable position over the years.

Perhaps we are wrong, but we certainly see it that way, and we see it as there being no strong rationale for abandoning that concept now.

Now, we feel that while we want to say that—and I know I've been strong about it, Senator, let me hark back in just a closing moment to the theme of what this administration has done in this area. We do care deeply about the things that we have done. We care deeply about what you are doing in this bill, and we want to try to work this through and get something that we can all live with. That is really why we are here today.

Senator CHURCH. Thank you very much, Secretary Martin.

Senator LAXALT. May I ask one closing question, if I may? I don't want to prolong this.

Senator CHURCH. Yes.

Senator LAXALT. On the basis of the fair market value approach, in the down years is there any mechanism developed to reflect a lower market value in private land?

Mr. MARTIN. Yes, sir. It would be reflected and it would be picked up on a cyclical basis each year so that it would change and vacillate just as would the other formula.

Senator LAXALT. How would that happen? Your assessors in the field aren't going to do that every year, at least they never have

Mr. MARTIN. Well, they would—

Senator LAXALT. It is a monumental job keeping track of market values on private property when we have the down years.

Mr. MARTIN [continuing]. Well, the administrative burdens of the two formulas are basically similar.

The Technical Committee formula would require the additional step, which is the cost of production measures, so that there is really no difference in administration.

But we think, yes, it would reflect it every year.

Mr. GREGG. The Department of Agriculture develops that information for us every year on what the grazing rate is on private land. So if the situation is operating in such a way that rates for private land grazing leases fall, then our fee falls.

Conversely if it up, I suppose.

Senator CHURCH. If that is so, it seems to be that the argument is much adieu about nothing, but I would like to see a list of the rate

that has been charged through the years the so-called fair market value that has been charged to see whether, in fact, it has fluctuated with the fluctuations in the market.

Mr. MARTIN. That basically is reflected in the attachments to my testimony, Senator.

Senator CHURCH. You have furnished those figures?

Mr. MARTIN. Yes, sir. And we will be glad to work with you

Senator CHURCH. Very well.

Senator McCLURE. Enclosure No. 5 purports to show that. It shows that there has been no downward fluctuation in private land lease rate. Each year it has gone up.

Mr. GREGG. That is what our formula, of course, is intended to do to relate to the private land lease rates.

Mr. MARTIN. A down year can be a year in which for many reasons cattle prices are down. In other words, there is less profit. That's a down year. That would be reflected in a free market situation in lots of different ways.

It could be reflected in the price of feed; it can be reflected in the price of grazing permits on private land; it can be reflected in a number of ways. Sometimes, and in many cases, with the increasing value of land it may not be reflected specifically in what a person on the private market charges for grazing. I agree with the chairman that the trend in every sector with the State and private owners is upward, and the question is whether or not the Federal Government wants to establish a system which relates to what you get on private land in a direct way, or one which relates to the market.

Senator LAXALT. But there is some other factor for the reason for the rise in the value of private rates which may be totally unrelated to the grazing fee equation, that's why I don't think it is practical. How are you ever going to experience any relief from the so-called down years unless you factor in, as we are planning to do, the cost of production?

Mr. MARTIN. That's what we attempt to do, Senator. I understand the difference, and that difference which we are sensitive to, is exactly what we attempt to address with the 13 specific criteria, that articulated difference between private lands and public lands.

Senator CHURCH. All right, Secretary Martin, thank you for your testimony.

[The prepared statement of Mr. Martin follows:]

STATEMENT OF GUY MARTIN, ASSISTANT SECRETARY, LAND AND WATER RESOURCES,  
DEPARTMENT OF THE INTERIOR

Mr. Chairman: I appreciate the opportunity to appear before you today to discuss S. 2475 and H.R. 10587.

We appreciate very much your efforts and those of the staff to address in a single bill several issues that affect the future of the western rangelands: funds to restore the range to productive condition, with provisions to accelerate on-the-ground improvements; fees and terms of permits for livestock grazing; provisions for more effectual management of wild horse and burro populations.

I want to emphasize first that we agree that it is time to mount a sustained, determined and cost-effective program to improve the productivity of the western rangelands. We see an adequately funded and economically sound program for reversing rangeland deterioration, improving forage production for livestock, wildlife and, in certain areas, wild horses and burros, and protecting basic soil and water resources as vitally important. It is important to the western public

land livestock industry, and to the economy and the environment of the communities that depend upon that industry. It is important to wildlife habitats and populations, and to long-term success in protecting and sustaining wild horse and burro populations in healthy condition.

We believe this is an historic opportunity for Congress to assert a clear and deliberate policy that western rangelands are to be restored to and maintained in productive condition. While earlier acts, including the Taylor Grazing Act and the Federal Land Policy and Management Act of 1976, have recognized the problem and declared the intent to protect and restore the rangelands, these policy declarations were not accompanied by a clear intent to provide the tools to accomplish the goals.

The appropriation levels authorized by S. 2475 and H.R. 10587 would approximate \$2.0 billion for a 20-year period. The dedication of one-half of grazing fee receipts will add significantly to the potential pool of financial resources for on-the-ground work: a conservative estimate would be \$218 million potential from grazing fees over the next 20 years.

The Administration strongly supports a balanced program for restoring, improving and managing the western rangelands, funded at levels responsive to need within the constraints of cost-effectiveness and budget policy. We want to see legislation enacted in this session of Congress which will establish such a program firmly in the context of multiple use of rangeland resources. We want to see a program which recognizes the importance and value of these lands for wildlife, recreation, watershed protection, water quality and other purposes, as well as livestock grazing.

Frank Gregg, Director of the Bureau of Land Management, will suggest some specific amendments which are designed to strengthen several provisions of the bills.

I will concentrate my remarks on an issue that poses the greatest threat to implementing the kind of rangeland program that is so important to the livestock industry, to the western community and to all public values. I refer, of course, to the issue of grazing fees. Put simply, we are risking sustained support of the taxpayers of the United States for a long-range program by considering a legislated fee which is not firmly based on fair market value concepts.

We continue to believe strongly that the fair market value fee basis developed by the Secretaries of the Interior and Agriculture pursuant to the Bureau of Land Management's Organic Act (Federal Land Policy and Management Act of 1976) is in the interest of all concerned. The fair market value on public lands is in the interest of stockmen who graze only on private lands because it does not place them in an unfair competitive position with public land livestock operators. And we believe it is in the interest of the public land livestock grazing industry. This is because—given a fair market value grazing fee—the taxpaying public all across the country is far more likely to support the investment of tax dollars in rangeland improvements which are of direct benefit to the industry.

The fair market value concept is thus, in our opinion, a key to stability for the public livestock industry. It confirms that the industry pays its own way, removing otherwise predictably chronic objection to orderly investment in the rangelands and to the continued recognition of livestock grazing as a basic and important use of the public lands.

I want to make several comments about the Administration's concept of fair market value.

We have attached to this statement a series of charts and other materials that explain how the Administration's fee formula and the so-called Technical Committee formula incorporated in S. 2475 and H.R. 10587 are arrived at and how they differ. We have also attached a number of questions that always come up in discussions on grazing fees, and answers to them. I hope you will look at the material carefully. I believe you will find it helpful. I will not try to reiterate all that is in those materials, but I will briefly touch on a few key points.

*How are grazing fees determined under the Administration's formula?*

The fee is based on the prices paid for livestock grazing on private lands adjusted to reflect differences between costs of grazing on private as compared to public lands.

In 1966, the fair market value for the standard grazing unit—the so-called animal unit month of AUM—was determined to be \$1.23 on the basis of a number of factors, including the private land lease rate (which at that time was \$3.65) and 13 cost factors reflecting differences in operating costs. After 1966, the fee formula provides for adjustment annually based on the relative change in private land lease rate. Among the materials attached to this statement is a list of the

13 cost items used in making the public-private cost comparison. In the interests of time, I will not discuss them further.

*What is the difference between the Administration's formula and the Technical Committee formula?*

There is actually only one point of difference. Both start with the \$1.23 arrived at in 1966, and adjusted for changes in the private land lease rate. But in adjusting that figure the Technical Committee formula inserts an additional element—consideration of the Combined Index, that is, Beef Cattle Price Index minus Prices Paid Index, an indicator of total costs of production. With this element the formula no longer reflects fair market value as determined by strict comparison with what is being paid for grazing on private lands less differences in public land operating costs.

*What is the history of differences between the two fees in years for which data is available?*

Included among the materials supplied to you is a chart showing that for 9 of the last 14 years, the Technical Committee formula would have resulted in a higher fee than the Administration formula.

*What will the fee be for 1979?*

Under both formulas the fee will be the same—\$1.89. This is because each formula proposes a maximum increase per year of 25 percent. If the 25 percent constraint did not apply, the Technical Committee fee is projected to be \$2.04 per AUM; the Administration-favored fee would be \$2.28.

*Will a fair market value fee destroy the economics of the western livestock industry?*

No. Nationally, if the fair market value fee recommended by the two Secretaries is sustained, about 72 percent or 18,000 of the 25,000 permittees using public rangelands would have an increase of no more than \$60 in their grazing bill over the 1978 fee level. The average grazing use for this group is 159 animal unit months or the equivalent of 32 cows with calves for 5 months of grazing.

Only 1.5 percent, about 380 of the largest operators, would experience an increase as high as \$3,800. This group of permittees all have over 5,000 animal unit months with an average of about 10,000 or the equivalent of 2,000 cows with calves for 5 months of grazing. These larger ranchers control 26 percent of the total grazing use made on public rangelands. They are not marginal operators for whom a small change in grazing fee is a critical factor in survival.

In fact, grazing fees constitute an average of only 3 to 8 percent of a rancher's operating cost, according to "Estimated Production and Expenses for Beef Cow-Calf Enterprises in Five Regions of the U.S., ERS, August 1976." We have prepared a state-by-state analysis, by herd size, which shows the effects or the difference between the two fee formulas if applied at full value, projected for the 1979 fee year. The analysis is included in our materials.

*What about old issues like inclusion of permit values?*

Industry support of the Technical Committee report should help lay to rest many issues that have been the basis for intense discussion for years. The wide areas of similarity in the two formulas have narrowed the areas of discussion considerably; they differ only in use of the Combined Index. We note that the question of considering the cost and value of grazing permits as a factor in determining fees is not proposed by the industry. Another issue that often emerges resolves around the suggestion that a reduction in fee should be allowed for range improvements made by the permittee. Without going into details, I'll note that this would be an administrative nightmare for both the lessee or permittee and for the land-administering agency in attempting to keep track of labor costs, time records, cost of materials, and so on.

I should also note that the Administration's fee formula includes, in the 13 cost factors, a recognition of higher range improvements costs on public lands.

The grazing fee issue is significant in the broad context of policy for private business use of public resources. Fair market value for use of Federal resources has been Congressional policy for many years, and has received positive affirmation in recent years in statutes such as the Federal Land Policy and Management Act of 1976, the Coal Leasing Amendments Act and the Outer Continental Shelf Lands Act Amendments.

I realize that Congress has legislated many exceptions. But even the most frequently cited exception—with respect to hard rock mining—has not been immune to this general thrust toward an explicit fair market value return. All the current proposals for amending the Mining Law of 1872 provide for a fair and direct return to the Federal Government for the resources being taken, including the legislation supported by organized mining interests.

There are also laws providing for a one-time disposal of a Federal resource or property for less than fair market value. But the trend even here—as symbolized by the repeal of the Homestead Act in the lower 48 States by the Federal Land Policy and Management Act of 1976—is consistent. Aside from these exceptions, the record is clear. Timber from Federal lands is sold at not less than appraised value and generally under competitive bidding procedures. Rights-of-way on Federal lands are charged fair market value under the Federal Land Policy and Management Act. Oil and gas, coal, geothermal steam, and other known minerals are leased by competitive bidding, with limited exceptions. Public lands may be sold under various bidding systems, but fair market value must be received for sale under the Federal Land Policy and Management Act of 1976.

Fair market value is, then, the accepted principle for commercial use of Federal lands. It is explicit in the Federal Land Policy and Management Act. That principle should be applied to grazing on Federal lands.

Competitive bidding has not been customarily used to establish fair market value for grazing, in part to assure the operating integrity of ranching units which are workable only through combined use of private and public lands.

Absence of competitive bidding makes even more important an alternative way of establishing fair market value. Livestock grazing on the public lands is a commercial enterprise. It involves a regular, continuing relationship between the permittee and the Federal Government. There is no "discovery" of a resource as there is in mining. Variance from fair market value is not needed to stimulate development of the West. Grazing makes use of a public resource—forage—on which considerable Federal money may be spent for restoration, maintenance and improvement.

The Administration continues to believe that a fee based on the private land lease rate adjusted to reflect the 13 factors I mentioned earlier is the sound approach.

We recognize that further refinements to the data used to make the annual fair market value adjustments are needed. These refinements are underway in cooperation with the Economics, Statistics, and Cooperatives Service, United States Department of Agriculture (formally the Statistical Reporting Service).

In 1977, the Bureau of Land Management and Forest Service sponsored further data collection by ESCS through standard surveys used to collect information on agriculture inventories and production. These surveys are the standard surveys for the collection of data used by the Department of Agriculture in four major annual reports issued by the Economics, Statistics, and Cooperatives Service.

These refined data can be applied to the 1980 grazing fee. I urge that you adopt a true fair market value policy for the grazing fee in S. 2475 and H.R. 10587.

I will be happy to answer any questions you may have on the fee issue. Director Gregg will continue the discussion on other elements of S. 2475 and H.R. 10587.

#### LIST OF ENCLOSURES

1. Historical Summary of Grazing Fee Events.
2. Public Land Livestock Industry Share of Western and National Livestock Production.
3. Comparison of Grazing Fee Formulas.
4. Progress Towards FMV.
5. Comparison of Fees and Private Lease Rates.
6. Data Base Used to Establish Private Grazing Land Lease Rate.
7. Series of Questions and Answers.
8. Executive Summary, October 1977 Report on Grazing Fees by Secretaries of Agriculture and the Interior. [Not received.]
9. State-by-State analysis of the difference between the FMV fee formula and the TC fee formula projected for the 1979 fee year.

#### Enclosure No. 1

##### HISTORICAL SUMMARY OF GRAZING FEE EVENTS

1897—First regulated use of Forest Reserves.

1900—Under the General Land Office, USDI, a permit was required on Forest Reserves; no fee charged.

1905—Forest Reserves were transferred to Bureau of Forestry, USDA.

- 1906—First Forest Service Fees were imposed on ranchers and settlers accustomed to free and unrestricted use.
- 1906—Increases between 1906 and 1915 were accompanied by rancher discontent.
- 1916—Some members of Congress urged fees be increased.
- 1920—House Committee on Agriculture tried to get fees increased up to 300 percent. (Forest Service opposed this attempt).
- 1920—Comprehensive Rachford study of 1920–24 was conducted to provide basis for fair and justifiable fee.
- 1925—New fees from Rachford study were deferred because of objections from stockmen.
- 1926—Secretary of Agriculture appointed stockman Dan Casement to check the Rachford data.
- 1927—Secretary Jardine chaired a 1927 Grazing Fee Conference in Salt Lake City to “thresh out (what fees should be charged).”
- 1928—New fees were put into effect to escalate to set levels in 4 years.
- 1933—Fees were reduced because of economic conditions.
- 1934—Taylor Grazing Act established control over grazing on the public domain and directed that reasonable fees would be charged.
- 1936—First Grazing Service fees were set at \$0.05 per head per month for cows and horses. Forest Service was \$0.13 each.
- 1939—Nevada stockmen obtained an injunction from a Nevada district court “restraining the Region Grazier from interfering with their free use of the range.”
- 1941—The Supreme Court reversed the Nevada courts in the case Dewar V. Brooks and upheld the Secretary’s authority to charge grazing fees.
- 1941—Saunderson (Forest Service) Leech (Grazing Service) completed the Range Appraisal Study on Commercial grazing lease costs of an animal unit month of feed.
- 1941—Senator McCarran (Nevada) embarked on an investigation of the Grazing Service, USDI.
- 1941 to 1946—Congressional committees were in disagreement over grazing fees; House Subcommittee on Interior Appropriations deemed the fees too low and the Senate Subcommittee on Public Lands and Survey questioned the need to increase fees.
- 1942—Proposed grazing fees increase deferred because of the war situation, no increase during the duration.
- 1945—The Nevada Legislature passed a joint resolution protesting proposed fee increase and urged Congress to repeal the Taylor Grazing Act.
- 1946—On July 16, 1946, the Grazing Service was reorganized into the Bureau of Land Management and ceased to exist as a separate organization.
- 1946—The Nicholson Report, November 12, 1946, recommended that grazing fees be based on administrative costs.
- 1947—Barrett Amendment to the Taylor Grazing Act.
- 1950—Granger-Thye Act authorized Secretary of Agriculture to issue 10-year permits in regulating grazing use.
- 1952—Independent Agencies Appropriations Act called for user fees to be self-sustaining, uniform, and fair and equitable to the public and user.
- 1959—GAO, Comptroller General ruled fees too low and not uniform.
- 1959—BOB, (OMB) Circular A-25, called for Fair Market Value.
- 1960—Congressman Wayne Aspinall, (then Chairman, House Committee on Interior and Insular Affairs), requested revision of fees.
- 1961—President Kennedy instructed BOB to formulate user charges principles.
- 1962—Senate Public Lands Subcommittee under Senator Alan Bible (Nevada) held hearings on grazing fees.
- 1964—BOB formulated user charges guidelines in a report entitled Natural Resources User Charges Study.
- 1966—Western Livestock Grazing Survey to determine grazing costs and values.
- 1969—New fees system was implemented after review by industry, conservation, and farm groups. First of 10 incremental adjustments applied to reach FMV by 1978.
- 1969—Hearings on grazing fees were held by Public Lands Subcommittee of Senate and House Committees on Interior and Insular Affairs.
- 1969—The Secretaries of Agriculture and Interior were defendants in a New Mexico class action suit (Pankey vs. Freeman) and the Secretary of the Interior in Utah (Broadbent vs. Hickel) seeking injunctive relief against the 1969 grazing fee regulations and alleging the Secretaries acted illegally in failing to take capital investment into consideration.

1970—Moratorium on scheduled increases.

1971—Second of 10 incremental adjustments applied.

1972—Hearings on S. 2028 (Allot et al., bill on grazing) turned strongly on need for a statutory fee system.

1972—Fees limited to a 3-percent increase over 1971.

1973—Third of 10 incremental adjustments applied, FMV to be reached by 1980.

1974—Fourth of 10 incremental adjustments applied.

1975—Moratorium on scheduled increase. The President has said the schedule will be maintained to reach FMV by 1980.

1976—Scheduled adjustment applied.

The Federal Land Policy and Management Act was signed on October 21; Section 401(a) directed that there would be no grazing fee increase in 1977 and also directed the Secretaries of Agriculture and Interior to conduct a grazing fee study.

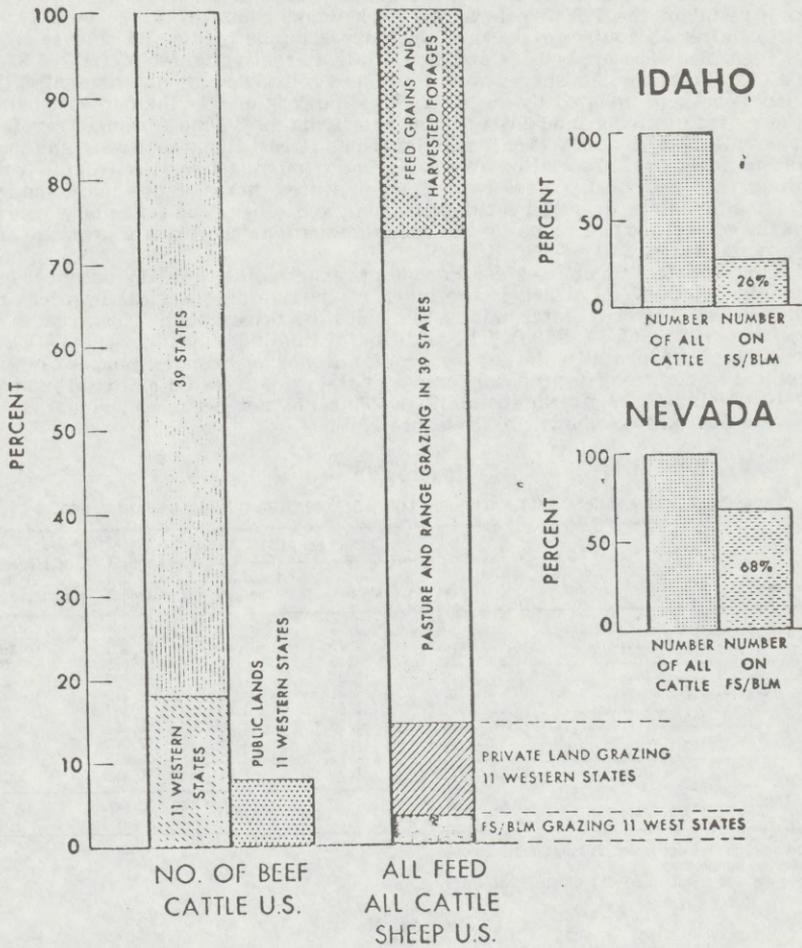
1977—Moratorium on scheduled increase.

Report of Secretaries on grazing fees was submitted to Congress on October 21, 1977.

1978—Moratorium bills have passed both Houses of Congress.

Public Rangelands Improvement Act of 1978, H.R. 10587, has been passed by the House of Representatives on June 28, 1978.

ENCLOSURE No. 2—THE PUBLIC LAND LIVESTOCK INDUSTRY SHARE OF WESTERN AND NATIONAL LIVESTOCK PRODUCTION



## Enclosure No. 3

## COMPARISON OF GRAZING FEE FORMULAS—ADMINISTRATION PROPOSAL VS. H.R. 16087

## A. How the Administration's FMV formula was arrived at:

As a result of the 1966 Western Livestock Grazing Survey which used 14,000 questionnaires 13 nonfee production items operating on public and private lands were identified. The analysis established a fair market value fee in 1966 of \$1.23 per AUM. So that a new survey would not need to be conducted periodically, the fee has been kept updated by an index. This index is merely the percent change in the private grazing land lease rental rate from 1966. The formula therefore becomes:  $\$1.23 \times (L \div 100)$  (L—that index). The 13 cost items that were analyzed were: animals lost, association fees, veterinary, moving livestock to and from, herding, salt and feed, travel to and from, water, horse, fence maintenance, water maintenance, development depreciation, and other. The formula works to keep these increased in value by the same amounts as the private grazing land lease rental rates.

B. The Technical Committee Fee Formula is exactly like the FMV except it has a combined index (P) which is the index of the average beef cattle prices received in 11 Western States minus the index of prices paid. The formula is therefore:  $\$1.23 \times (L + P \div 100)$ . The addition of this index changes the FMV fee to one based upon ability to pay or profitability. The primary purpose of the Technical Committee fee proposal for use of the price received and paid indexes was to eliminate short-term instabilities. This did not occur as evidenced by the wide fluctuations shown in Enclosure No. 5.

## Enclosure No. 4

## PROGRESS TOWARD FAIR MARKET VALUE FOR LIVESTOCK GRAZING ON PUBLIC LANDS, 1969-78

Fee year	Amount per AUM		Receipts lost (thousands)	R.I. funds <sup>1</sup> lost (thousands)
	FMV fee	Actual fee charged		
1969	\$1.25	\$0.44		
1970 <sup>2</sup>	1.29	.44	\$1,653	\$550
1971	1.36	.64	1,089	370
1972 <sup>2</sup>	1.37	.66	1,790	627
1973	1.41	.78	2,149	795
1974	1.54	1.00	2,157	863
1975 <sup>2</sup>	1.96	1.00	8,268	4,134
1976	1.94	1.51	2,984	1,492
1977 <sup>3</sup>	2.15	1.51	6,565	3,283
1978 <sup>3</sup>	2.38	1.51	10,385	5,193
Total			37,040	17,307

<sup>1</sup> Portion of the fee designated as range improvement.

<sup>2</sup> Executive moratorium.

<sup>3</sup> Congressional moratorium—FLPMA (1977), H.R. 9757 (1978).

## Enclosure No. 5

## COMPARISON OF FEES AND PRIVATE LEASE RATE, 1965-78

Fee year	Fair market value	Technical committee formula	Private land lease rate
1965	1.18	1.08	} 3.65
1966	1.23	1.17	
1967	1.25	1.32	
1968	1.25	1.28	
1969	1.25	1.28	3.74
1970	1.29	1.43	3.82
1971	1.36	1.56	4.05
1972	1.37	1.49	4.06
1973	1.41	1.86	4.17
1974	1.54	2.21	4.57
1975	1.96	2.08	5.82
1976	1.94	1.48	5.75
1977	2.15	1.53	6.37
1978	2.38	1.55	7.06

<sup>1</sup> 5-yr average 1964-68.

## Enclosure No. 6

## DATA BASE USED TO ESTABLISH PRIVATE GRAZING LEASE RATES AS A BASIS TO DETERMINE A PUBLIC LAND GRAZING FEE

The annual March Farm and Ranch Questionnaire sent out by the Department of Agriculture contains a question on private grazing land lease rental rates. (There has been limited response from some Western States.) The results of this survey produces the private land lease rate used in the FMV fee formulation. (It is the only index available for the commodity of rental for nonirrigated pasturage.)

The private grazing land lease rate index will be improved by the Department of Agriculture which has started to collect an improved sample in their June and July probability survey material. In addition, the Department of Agriculture will analyze the lease term to determine if there is a relationship between length of lease and price paid.

## Enclosure No. 7

## QUESTIONS AND ANSWERS ON GRAZING FEES

## No. 1:

**Question.** Will the grazing fee proposed by the Secretaries of Interior and Agriculture "destroy" the Western public land livestock industry?

**Answer.** No. Grazing fees are a small part of the total ranch operating cost averaging from 3 to 8 percent (*Estimated Production and Expenses for Beef Cow-Calf Enterprises in Five Regions of the U.S., ERS, August 1976*). The fair market value (FMV) fee will, on the average be greater than the "Technical Committee" (TC) fee. While it may be true the TC fee would be easier for the permittees to pay because it varies with productivity, the fee introduces an "ability to pay" concept which violates basic principles governing private use of public resources. The TC fee formula is unfair to other Western livestock producers whose cost are based on private market factors.

## No. 2:

**Question.** How can you justify charging the same fee for all public lands in the Western States when conditions are not always the same?

**Answer.** The grazing fee in both versions is based on the use of the amount of forage needed to support one cow or five sheep for one month an animal unit month (AUM), thus the fee is not based on land characteristics; it is based on the use and value of the forage on the land.

In May 1969, at the direction of the Office of Management and Budget, a special interagency Grazing Fee Technical Committee was appointed to determine whether the information in the 1966 Survey showed:

(1) any statistical difference between the cost of grazing BLM and FS lands, or

(2) if there was any basis for a variable fee.

The report of this committee, known as the "Houseman Report" (Statistical Reporting Service), reached the following conclusions:

1. Differences among ranching areas were not large enough in relation to the wide variation that existed within areas to provide a basis for a variable fee among ranching areas.

2. No statistical support for a differential fee between BLM and FS ranges.

3. The strongest relationship found was the tendency for grazing cost to decrease as the size of the livestock use increased.

4. For purposes of establishing a base fee, \$1.23 per head per month has the soundest base.

## No. 3:

**Question.** How was the present fee formula determined?

**Answer.** The present fee formula is based on a model developed by Utah State University. The Western Livestock Grazing Survey of 1966 interviewed 10,000 individuals and collected more than 14,000 questionnaires from BLM and FS grazing permittees, ranchers who leased private grazing land, loan agencies and others. Among other data, the analysis of the 1966 survey established the difference between cost of grazing on private lands and grazing on public lands which is used to arrive at the fair market fee level for public lands.

The method of estimating FMV fees for grazing on public lands is based upon the average lease rate (11-Western States) for private grazing adjusted by

the amount that the cost of grazing on public lands exceeds the cost of grazing on private lands. The fee formula provides for annual adjustments to the fee level to reflect the relative *change* in the average monthly rate per head for grazing cattle on privately owned grazing land. The \$1.23 FMV grazing fee established by the 1966 survey is "indexed" to the average private grazing land lease rate for the 11-Western States.

No. 4:

*Question.* How can a private grazing land lease rate index that does not include Arizona or Nevada be used to determine fair market value?

*Answer.* Arizona and Nevada are included in the Farm and Ranch Survey which is conducted in March. The mail returns of this sample have not been considered adequate for these two States to establish a State rate. This situation is not abnormal and should not be unexpected since Arizona and Nevada have only 2.6 and 1.5 percent of the total number of livestock ranchers and livestock farms in the 11 Western States. Thus, only, 4.1 percent of the operators in the West are involved.

The purpose of this survey is to determine changes in grazing charges in the 11 Western States on private land. Areas such as Nevada and Arizona have small quantities of private lands and therefore minor influences on the 11 Western States average.

The June and July surveys do collect adequate data for all 11 Western States, including Arizona and Nevada, and fully confirms the validity of the March Mail Survey. When a three year base has been established for the June survey data, this survey data will be used to adjust the fee level.

No. 5:

*Question.* The Private Grazing Land Lease Rate data has been questioned. Why is its continued use recommended?

*Answer.* The Private Grazing Land Lease Rate data supplied by the Statistical Reporting Service (SRS) and the Economic Research Service (ERS) (now both called the Economics, Statistics and Cooperatives Service or ESCS) from the March Farm and Ranch report has been used since 1969 as the most appropriate measure of changes in grazing value. Prior to 1977, there was not sufficient knowledge of this data to support it without reservation. Therefore, in 1977, questions similar to the March survey were added to the regular June, July, and December surveys of SRS (now ESCS). The results of these surveys are sufficiently similar to the March data to fully substantiate the continued use of the data. A shift to the new data for determining 1978 fee was not made since that shift would have resulted in additional fee increases. The ESCS will continue the collection of private grazing lease data from surveys in March and June until questions regarding this data are resolved and a shift is made from the March survey to the June survey for use in future years to adjust the public land fee level.

Finally, in spite of previous reservations, this private grazing land lease rate data is a much better measure of changes in grazing values than any of the alternatives available. These data, when compared to an indirect indices of prices paid or prices received leaves far fewer questions about the quality of the data.

No. 6:

*Question.* What are the 13 cost items used in the formula to establish differences in the public land and private land cost? What are the cost differences?

*Answer.* The enclosed Table lists the cost items used in 1969 analysis. The difference in cost items for cattle in 1966 were: \$3.28 for public lands and \$2.75 for private lands or \$0.53. These items are kept current annual by the private grazing land base rate also.

No. 7:

*Question.* Why haven't the 13 nonfee cost items been updated since 1966?

*Answer.* The cost relationships between public and private lands have not been restudied, but the economic factors of inflation have the same impact on the 13 nonfee cost items regardless of land ownership.

However, Dr. Darwin Nielsen, Utah State University, has updated the 1966 information using November 1977 price index numbers as published by USDA. As shown on Table No. 2, the public cost has increased by 211 percent; from \$3.28 to \$6.92 per animal unit month. Over this same period of time, the private land lease rate increased from \$3.65 to \$6.37 for a 175 percent increase.

TABLE 2.—NONFEE COSTS OF GRAZING FEDERAL LANDS—CATTLE DATA, PUBLIC COST

[Updated with 1977 (November) index numbers<sup>1</sup>]

Item	1966	Basis	1977
Lost animals.....	\$0.60	Times 1.75 (meat animals—prices received) equals	\$1.05
Association fees.....	.08	Times 1.99 (production items) equals.....	.16
Veterinarian.....	.11	Times 2.20 (wage rates) equals.....	.24
Moving livestock.....	.24	Times 2.38 (autos and trucks), 2.20/2 (wage rates), (2.29 average) equals.	.55
Herding.....	.46	Times 2.20 (wage rates) equals.....	1.01
Salting and feeding.....	.56	Times 1.73 plus 2.38/2 (auto and truck, feed), (2.06 average) equals.	1.15
Travel.....	.32	Times 2.38 plus 2.05/2 (auto and truck, fuel and energy), (2.22 average) equals.	.71
Water.....	.08	Times 1.99 (production items) equals.....	.16
Fence maintenance.....	.24	Times 2.20 plus 2.37/2 (wages, building and fencing), (2.29 average) equals.	.55
Horse cost.....	.16	Times 1.73 (feed) equals.....	.28
Water maintenance.....	.19	Times 2.20 plus 2.37/2 (wages, building and fencing), (2.29 average) equals.	.44
Development depreciation.....	.11	Times 3.28 (interest rates) equals.....	.36
Other costs.....	.13	Times 1.99 (production items) equals.....	.26
Total nonfee cost.....	3.28		6.92

<sup>1</sup> Index factors as used by Dr. Darwin Nielsen, Utah State University.

Note: Times increase 1966 to 1977 equals 211.

STATE-BY—STATE COMPARISON OF GRAZING FEE FORMULAS SHOWING DIFFERENCE  
BETWEEN FAIR MARKET VALUE AND THE TECHNICAL COMMITTEE FORMULA

Arizona BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)			Difference FMV-T.C.
					FMV Formula 1/	T.C. Formula 2/		
1-500	828	94.4	65	592	1,349.76	1,207.68		+142.08
501-1,000	34	3.9	18	3,944	8,992.32	8,045.76		+946.56
1,001-5,000	14	1.6	16	8,706	19,849.68	17,760.24		+2,089.44
5,000 +	1	0.1	0.9	6,776	15,449.28	13,823.04		+1,626.24

Average AUM per permittee is 858.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

California BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)			Difference FMV-T.C.
					FMV Formula 1/	T.C. Formula 2/		
1-500	701	92.8	51.1	271	617.88	552.84	+65.04	
501-1,000	30	4.0	19.6	2,432	5,544.96	4,961.28	+583.68	
1,001-5,000	23	3.0	28.4	4,594	10,474.32	9,371.76	+1,102.56	
5,000 +	1	0.1	0.9	3,232	7,368.96	6,593.28	+775.68	

Average AUM per permittee is 492.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

Colorado BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)		Difference FMV-T.C.
					FMV Formula 1/	T.C. Formula 2/	
1-500	1533	92.8	56.7	185	421.80	377.40	+44.40
501-1,000	89	5.4	27.1	1,528	3,483.84	3,117.12	+366.72
1,001-5,000	29	1.8	16.2	2,803	6,390.84	5,718.12	+672.72
5,000 +	--	--	--	--	--	--	--

Average AUM per permittee is 304.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

Idaho BIM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)		
					FMV Formula 1/	T.C. Formula 2/	Difference FMV-T.C.
1-500	2080	92	49	268	611.04	546.72	+64.32
501-1,000	113	5	19	1966	4,482.48	4,010.64	+471.84
1,001-5,000	61	3	26	4827	11,005.56	9,847.08	+1,158.48
5,000 +	5	0.2	6	14,628	33,351.84	29,841.12	+3,510.72

Average AUM per permittee is 508.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

Montana BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)			Difference FMV-T.C.
					FMV Formula 1/	T.C. Formula 2/		
1-500	4,043	96.6	72.3	227	517.56	463.08	+54.48	
501-1,000	94	2.2	13.4	1,805	4,115.40	3,682.20	+433.20	
1,001-5,000	45	1.1	14.3	4,048	9,229.44	8,257.92	+971.52	
5,000 +	--	--	--	--	--	--	--	

1/ FMV grazing value is \$2.28/AUM for 1979 fee year; Average AUM per permittee is 304.  
fee level would be \$1.89 (\$1.51 x 125 = \$1.89).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 (\$1.51 x 125 = \$1.89).

Nevada BLM Cattle Permittes  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)		
					FMV Formula 1/	T.C. Formula 2/	Difference FMV-T.C.
1-500	417	66.3	19.4	920	2,097.60	1,876.80	+220.80
501-1,000	110	17.5	21.4	3838	8,750.64	7,829.52	+921.12
1,001-5,000	90	14.3	45.6	10,013	22,829.64	20,426.52	+2,403.12
5,000 +	12	1.9	13.5	22,287	50,814.36	45,465.48	+5,348.88

Average AUM per permittee is 3,139.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

New Mexico BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)		
					FMV Formula 1/	T.C. Formula 2/	Difference FMV-T.C.
1-500	2347	94.9	62.5	469	1,069.32	1,956.76	+112.56
501-1,000	87	3.5	17.7	3,585	8,173.80	7,313.40	+860.40
1,001-5,000	37	1.5	17.3	8,265	18,844.20	16,860.60	+1,983.60
5,000 +	2	0.1	.02	21,785	49,669.80	44,441.40	+5,228.40

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

Average AUM per permittee is 712.

Oregon and Washington BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)		
					FMV Formula 1/	T.C. Formula 2/	Difference FMV-T.C.
1-500	1670	91.5	44.2	298	679.44	607.92	+71.52
501-1,000	1,102	0.6	21.9	2,415	5,506.20	4,926.60	+579.60
1,001-5,000	50	0.3	29.2	6,583	15,009.24	13,429.32	+1,579.92
5,000 +	2	0.1	4.7	26,542	60,515.76	54,145.68	+6,370.08

Average AUM per permitte is 617.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 (\$1.51 x 125 = \$1.89).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 (\$1.51 x 125 = \$1.89).

Utah BLM Cattle Permits  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)		
					FMV Formula 1/	T.C. Formula 2/	Difference FMV-T.C.
1-500	1464	94.5	64.5	340	775.20	693.60	+81.60
501-1,000	60	3.9	20.4	2,620	5,973.60	5,344.80	+628.80
1,001-5,000	24	1.5	14.8	4,759	10,850.52	9,708.36	+1,142.16
5,000 +	1	0.1	--	2,470	5,631.60	5,038.80	+592.80

Average AUM per permittee is 498.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 (\$1.51 x 125 = \$1.89).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 (\$1.51 x 125 = \$1.89).

Wyoming BLM Cattle Permittees  
Comparison Of Fee Formula For The 1979 Fee Year

Herd Size	Permittee No.	Permittee %	AUM %	AUM AV.	Fee Impact (\$)			Difference FMV-T.C.
					FMV Formula 1/	T.C. Formula 2/		
1-500	2434	92.2	47.9	279	636.12	569.16		+66.96
501-1,000	118	4.5	17.3	2,081	4,744.68	4,245.24		+499.44
1,001-5,000	80	3.0	25.4	4,518	10,301.04	9,216.72		+1,084.32
5,000 +	8	0.3	9.4	16,715	38,110.20	34,098.60		+4,011.60

Average AUM per permittee is 538.

1/ FMV grazing value is \$2.28/AUM for 1979 fee year;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

2/ TC grazing value is projected to be \$2.04/AUM;  
fee level would be \$1.89 ( $\$1.51 \times 125 = \$1.89$ ).

Senator CHURCH. I wonder if Congressman Steers might come up while the panel is still—

Panel, just remain seated, please because we will want to go to questions.

Congressman Steers, we'd be happy to hear from you at this time.

**STATEMENT OF HON. NEWTON I. STEERS, JR., A U.S. REPRESENTATIVE FROM THE STATE OF MARYLAND**

Mr. STEERS. I want to first of all thank you very much, Mr. Chairman, for inserting me since I had to step out for a vote in the House, and I want to thank you for providing me with this opportunity to testify before this subcommittee on similar bills H.R. 10587 and S. 2475.

I'm particularly concerned about section 7 of each of these bills, which relates to management of wild horses and burro herds. It is section 7 which seriously weakens the Wild Horses and Burros Protection Act.

In 1971, the Congress established a policy of protecting wild free-roaming horses and burros from capture, branding, harrassment, or death. These horses were found to be part of natural system of the public lands.

Since passage of the Wild Horses and Burros Protection Act, the Bureau of Land Management has had jurisdiction to protect these animals. The American Horse Protection Association has reported poor conditions that the wild horses are usually found in after the BLM has rounded them up. The holding pens are often overcrowded. The animals are bruised with open sores on their hides.

Furthermore, hay is thrown on the ground so that only strong horses eat and the weaker ones continue to decline. It is in this atmosphere that the bill, H.R. 10587, allows for greater opportunities to destroy these animals. First of all, the bill speaks of excess horses, yet there is no definition of what constitutes excess horses.

Second, the bill allows the Secretary of the Interior, through the BLM, to establish management levels of wild and free-roaming horses on public lands, again, without any sort of definition or congressional guidance. This bill also removes the discretionary authority for the destruction of wild horses and, instead, uses the word shall order horses destroyed. All of this is going to be done when no one has an adequate figure on the number of wild horses that exist.

The Department of Interior's own figures range widely from 53,000 to over 70,000 indicating how inexact the Department's knowledge is.

As an example, please consider the following excerpt from Mrs. Joan Blue, president of the American Horse Protection Association in her testimony before the House Interior Committee :

All of these concepts depend upon the accuracy of the BLM's calculation of the numbers of horses in the public lands. These calculations are, at best, very rough estimates, yet they are constantly used to make crucial management decisions and become the basis for proposed legislation, such as H.R. 10587. The numbers are extremely imprecise. For example, a 1977 BLM pamphlet on the adopt-a-horse program states that there are over 70,000 wild horses and burros on the public land. A letter from the chief of the BLM's division of range to an AHPA member sent in January of this year, stated that there are 60,000, despite

the fact that the BLM's 4-year authorization proposal, which was before the subcommittee, put the number at 70,000. And on February 15, Secretary Andrus told me that the BLM's figure was 53,000.

The BLM has requested a budget increase of approximately \$5.4 million over the next 3 years. The BLM estimates that each horse costs \$150 on the open range and \$300 when it is captured and placed for adoption.

I feel that in light of the BLM's poor management of the current program and the inexact knowledge of the wild horse and burro population, our amendment for a study of population dynamics is an initial step toward improving management at BLM. This bill calls for the gathering of excess animals where an adoption demand exists. All other animals that are gathered must be destroyed if this section passes.

In correspondence received by the Interior Committee from both the Department of Interior and the Department of Agriculture, it is clear that both agencies have a great deal of concern for the grazing lands and not for the wild horses and burros.

During House consideration of H.R. 10587, I was prepared to introduce an amendment that would strike section 7 and order a study of the population dynamics of the wild horse and burro herds. I have enclosed a copy of the amendment with my testimony. I strongly urge you to consider this amendment.

I did not offer the amendment in the House because of statements that were circulated to the other Members of the House. These statements made by some wildlife protection and environmental groups, even if misleading, would have made it difficult, if not impossible, to have my amendment pass the House.

These statements were made in testimony before the House Interior and Insular Affairs Committee—Subcommittee on Public Lands months before there was any consideration on my part to introduce an amendment to section 7.

Let me also add that in at least one instance, the statement attributed to the Sierra Club, there was no national position, rather a statement made by one member of the club in a field hearing. It was my opinion that such a lopsided vote would have meant greater harm to the wild horse herds because of the way the vote would have been interpreted.

In the Interior and Insular Committee report, 95-1122, there is a great deal of agreement on the fact that there are not adequate population figures on wild horse and burro populations. "Opinions clash as to whether and exactly where excess numbers of wild free-roaming horses and burros actually exist."

That is why I feel that before we sentence these animals to destruction, we should decide how many animals we are talking about. The amendment that is attached to my testimony would allow for an impartial study to take place over 2 years. This should help provide a body of knowledge which will protect the grazing lands, as well as the wild horses and burros.

It is my feeling that this proposal is more balanced than the destruction of these wild animals when we are not sure that the animals should be destroyed.

Once again, I thank you, Mr. Chairman and members of the committee.

Senator CHURCH. Thank you very much Congressman Steers.

I wanted to say only one thing that in the management of grazing lands, we have to depend on the discretion of those in charge in determining how many head of cattle, how many sheep are going to be permitted to graze on a given tract of land, a given range. The BLM or the Forest Service has to be given the discretion to determine whether or not that particular range is being overgrazed or the numbers have to be cut down, a necessary management tool. And it seems to me that the same thing must apply to wild horses or wild burros.

Mr. STEERS. Well, I think that's true—

Senator CHURCH. That this element discretion is equally necessary in the case of wild horses and wild burros because if on a given range there are too many, then Nature's revenge is inextricable.

You speak of our execution of these animals, Nature's execution in the wintertime is far more cruel than the swift dispatch of animals that are in excess to the capacity of the range.

I think what we are striving to do here is to give the same degree of flexibility—not really the same degree, because we still provide for the adoption of these animals. We make every effort to avoid their destruction. We're trying to give some reasonable flexibility to the management of these animals as we require for the domestic animals.

Mr. STEERS. Well, Mr. Chairman. I would agree with everything you've said; however, that authority for discretionary management already exists and that is exactly what I object to in the language of the bill and that is it says, "the animals shall be destroyed." In a sense, it even takes away the flexibility from the Secretary.

Now, it is true that what shall be destroyed is the excess, but he already may destroy them, why impose upon the Secretary a new duty when the figures are so inexact.

Senator LAXALT. May I make an observation to the Congressman on that point?

Senator CHURCH. Yes, of course.

Senator LAXALT. Mr. Steers, I think what has happened here is that we have learned from rather painful experience that unless we mandate here in the Congress, political pressures in the field, and here in Washington, such simply isn't going to happen.

Once a determination is made that there are excess horses and burros, and it is going to have to be made in the field on a best estimate basis by professionals, we're not going out there and attempting at random to kill wild horses who are not excess on the range. But once that determination is made, it is either mandated here or it is not going to happen. And that is the reason why we've asserted the mandatory language.

Mr. STEERS. Well, if you say that it is not going to happen, that must mean that the professionals that you just referred to don't think it ought to happen. They have full authority to destroy them now.

Senator LAXALT. Not at all, not at all. That just simply isn't the case.

Mr. STEERS. You don't believe they have the authority or the will?

Senator LAXALT. They have the authority, but they don't have the political freedom. There will be a Congressman from Maryland who will tell them they shouldn't do it.

Mr. STEERS. Well, this Congressman isn't saying that. I think that the problem is to define excess animals and then they should be destroyed for the reason that the chairman mentioned—namely, that Mother Nature has a crueller way of disposing of excess animals—and I don't contest that principal at all.

Senator MELCHER. Congressman, you would agree, I think, that our goal is the humane treatment of the animal?

Mr. STEERS. Yes, sir.

Senator MELCHER. Then if Nature's cruel way were left to be that leveling off factor, it would be lack of nutrition, wouldn't it?

Mr. STEERS. Well, that and the elements, I suppose.

Senator MELCHER. Then I want to point out to you that the reason for not having very exact numbers isn't all that simple. The definition of a wild horse is a wild free-roaming horse that is unclaimed and unbranded.

Are you advocating that the BLM be required to round up all of these horses to determine whether they are unclaimed and unbranded?

Mr. STEERS. No. The amendment calls for a study to be made, but I don't believe the roundup would be required. There is some dispute about who ought to make the study because the BLM—

Senator MELCHER. Well—

Mr. STEERS [continuing]. Doesn't show a great degree of independence in arriving at its figures because, of course, their primary allegiance is to the land and not to the animals that the Congress saw fit to try to protect.

Senator MELCHER [continuing]. Well, then Congressman, I must point out that no matter who does the study, if they are not rounded up and held, and advertised, there will be no fulfilling of the definition of an unbranded, unclaimed horse.

Many of these horses are horses that are on the public land that have just strayed from their owners maybe several generations ago. If we want to entirely assess which of those animals meet the definition of the act, we could not do it any other way than absolutely rounding them up and then finding out whether they are truly unclaimed.

But using your larger figure of 70,000, have you ever gone through the arithmetic to project what would be the likely population?

Senator MELCHER. The likely population when?

Mr. STEERS. Well, 5 years, 10 years.

Senator MELCHER. Well, I would only point out, Senator, that you are pointing out the difficulty of arriving at the definition and that would apply even under the bill as it stands because it talks about excess. And in order to know what the excess is, you have got to know how many animals there are. So I would have to say that my amendment does not affect to one iota the problem of counting the horses. It exists whether my amendment is adopted or not.

Mr. STEERS. I would agree with you entirely. I just don't think the National Science Council, or what is your term—

Senator MELCHER. The Academy of Science.

Mr. STEERS. The Academy of National Science.

Senator MELCHER. I don't think that they are better able to identify the number unless they do just what we have described, but let me

point out that if we provide adequate nutrition and some control over disease that we should at least expect, under the worst set of circumstances, a 50-percent reproductive rate of all of the mares of breeding age. And just on the basis of 5 years on that very moderate fold rate, at the end of 5 years, we would have starting at your high figure of 70,000, we would have 107,000.

And then if you would take that out 20 years, and there is no reduction in population, we would end up in the millions.

Now, the question is Mr. Steers: Are we to follow with this species a practice that we follow with no other specie?

Mr. STEERS. Well, I think that the fundamental question is why we are talking about 5 years. All this amendment does is call for a 2-year study and it says nothing about preventing the Secretary from executing excess animals. He can do it now; he doesn't require the bill. The amendment doesn't change that authority in the Secretary.

Now, if for political reasons he wouldn't do it as asserted previously—

Senator MELCHER. I may disagree with my colleagues on the left, and probably disagree with you. As I understand the law, I think it is quite rigid. The Secretary may only dispose of those aged, infirmed, or diseased animals at his discretion. Otherwise, he must provide the excess animals out for adoption under rather rigid conditions that nobody really wants to adopt a horse.

The success of this adoption program has been about that tiny, and we can go on—you know, why these number of years, I think the act was passed if I recall correctly, about 7 years ago. We didn't have the right answers then. It was an ill-conceived designed bill at that time because we didn't really provide a method of getting rid of excess animals.

Now, Wild Horse Annie used to say when she were alive and testifying on this bill as she did numerous times, "that the Secretary must have the capability to get rid of excess animals when the conditions require them."

Mr. STEERS. When the conditions require it, and you, I think, agree that he has that authority now?

Senator MELCHER. I'm afraid I don't.

Mr. STEERS. You don't think he has the authority to dispose of the animals under the conditions you enumerated; namely, when they are aged or ill?

Senator MELCHER. Aged, infirmed, or ill. If we provide the right environment for these horses, they are going to live to ripe old ages; they are going to reproduce to ripe old ages if you consider 12- or 13- or 14-year-old mare as being an—

Mr. STEERS. I'm very much in favor of them being allowed to live to a ripe old age.

Senator MELCHER [continuing]. That's right. So if we are going to be humane and allow them adequate nutrition, then we must arrive at a point where we can get rid of the excess animals in a better way than through the adoption method where you never transfer title; whether the owner can never acquire a title, and under conditions of reporting that if the owner takes the animal on, the owner has the burden—he or she and the Secretary has the burden of exam-

ining the animal wherever it might be, in Florida or what-have-you. And that doesn't accomplish the purpose that all of us would like to see, humane treatment of the horses.

So I think it is really time that we arrive at that humane treatment of the horses rather than stall again for another 2 years. It isn't as though we just got into this act last year or the year before. It is an old act.

I've taken a lot of time. Thank you, Mr. Chairman.

Senator CHURCH. Fine.

Well, we are still on the first witness and it is 20 minutes past 11.

Senator McCLURE. I wanted to ask just two or three questions. I think you would agree that if as a matter of fact a wild horse herd exceeds the capacity, that that herd ought to be reduced?

Mr. STEERS. Yes, I would agree with that.

Senator McCLURE. And I think we would be in agreement that the mandate of the Congress was to protect the herds that exist in the areas where they existed at the time the act was passed. And I would hope that you would agree that that does not mean that the western ranges and the people and other animals that compete in use for those range, must tolerate the growth of that herd without limit?

Mr. STEERS. I agree with that.

Senator McCLURE. Because we do have situations where the wild horse and burro herds are driving all other animals off the range; that is, domestic animals and other wild animals.

Mr. STEERS. And I think the Secretary has full authority to diminish the herd accordingly.

Senator McCLURE. Under the rules that Senator Melcher has described and that hasn't proven to be a very effective way of doing it.

Mr. STEERS. Well, maybe the Secretary isn't performing his duty effectively, but I don't find that a reason for requiring him to do what he apparently doesn't think he ought to do.

Senator McCLURE. All right. Well, he has had some difficulty finding enough people to adopt enough horses. That is the only alternative he has. I might just note parenthetically that there is no provision in here for the adoption of excess cows. Would you support such a provision that requires somebody somewhere else to adopt the cows that have to be removed from the range?

Mr. STEERS. I was not aware that there was a large population of cows roaming that needed to be controlled and I have to say that I don't know whether there should be legislation on that subject or not.

Senator McCLURE. Well, I assume that if the range is overgrazed, you would support a reduction in the grazing on that area, even though they may be cows?

Mr. STEERS. I just have no comment on cows at all. I just don't know enough—I'm a Steer myself. Excuse me. [Laughter.]

Senator McCLURE. You have suggested that adoption would be sufficient. You don't want them to be destroyed?

Mr. STEERS. I've suggested that what?

Senator McCLURE. That adoption—the current law—would be sufficient for the removal of the animals from the range. You do not want them to be destroyed,

Mr. STEERS. Well, I prefer adoption, yes, but I don't say that there isn't such a thing as an excess. I just want to get a better handle on it before we mandate destruction.

Senator McCLURE. What would you think if in an area in one grazing unit in Idaho that the members at the time the act was passed were 150 wild horses and that today, the numbers on that same unit are 600. What would you do with 450 that have—

Mr. STEERS. Well, if they were truly excess, I presume that that would indicate that they were going to be infirmed, sick, or aged and the Secretary could dispose of them.

Senator McCLURE [continuing]. That, of course, doesn't follow at all. I don't know that those 600 or 450 of the 600 are aged, infirmed, or ill. They are just driving everything else off the range and destroying the range.

Mr. STEERS. Well, can't we find some language though that doesn't just simply require the Secretary to destroy them. Isn't there some language which can allow these horses to exist where they do not represent a threat to the herds?

Senator McCLURE. Well, maybe we can round them all up and turn them loose on the C. & O. canal.

Mr. STEERS. I would be willing to consider that, sir.

Senator CHURCH. Congressman, thank you.

Mr. STEERS. Thank you, sir.

Senator CHURCH. You've been outnumbered and outgunned here—

Mr. STEERS. Yes, sir, Senator.

Senator CHURCH [continuing]. On this particular issue.

Senator DOMENICI. I just want to make one observation. I hope you would understand that the kind of problem we have in the West is that you don't seem to want to trust the present discretion—

Mr. STEERS. That's true.

Senator DOMENICI [continuing]. I would like you to go out to my State and meet with small ranchers who are trusting this discretion everyday on how many cattle can properly graze. This decision is being made by administrators that we trust. And I see no reason why we can't trust them in the same manner with reference to this species.

Our people are having to trust them. I've got a list here of 16 pages where, because the range is not as good as it should be, they say instead of 100 animals, it will be 60 this year. Now, I see no reason, as long as we are basically protecting that herd, why we can't trust the same kind of administrative decision with reference to overgrazing by this kind of animal so long as we're following the basic mandate of keeping alive in reasonable numbers and providing a humane mechanism for getting rid of them.

Our men are having to get rid of cattle because they can't put them on the range, and when they have to kill them too young and sell them off too cheap, that is inhumane also from their standpoint. And I think that is the basic issue, we've got to trust somebody and right now the trust, as prescribed in the law, cannot be executed for other reasons as described by Senator Melcher. Politically, it can't be exercised and it is our job to give them a more firm authority, that is, they have the same kind of discretion that we give them with reference to capacities elsewhere.

Thank you, Mr. Chairman.

Mr. STEERS. Well, may I just say one thing in closing and that is that evidently the trust that you have is not total, because you would leave the law the way it is where there is discretionary authority, but at any rate, I do appreciate the opportunity and now I have to go and vote. Forgive me.

Senator CHURCH. Congressman, thank you. You see the sentiment on this committee on the issue, and I want to give you a B for bravery. [Laughter.]

Senator McCCLURE. And an E for effort.

[The prepared statement of Congressman Steers follows:]

STATEMENT OF HON. NEWTON I. STEERS, JR., A U.S. REPRESENTATIVE FROM THE STATE OF MARYLAND

Mr. Chairman, thank you for providing me with this opportunity to testify before this subcommittee on two similar bills, H.R. 10587 and S. 2475. I am particularly concerned about Section 7 of each of these bills, which relates to management of wild horse and burro herds.

It is Section 7 which seriously weakens the Wild Horses and Burros Protection Act. In 1971, the Congress established the policy of protecting wild free-roaming horses and burros "from capture, branding, harassment, or death." These horses were found to be part of the "natural system of the public lands."

Since passage of the Wild Horses and Burros Protection Act, the Bureau of Land Management (BLM) has had jurisdiction to protect these animals. The American Horse Protection Association has reported poor conditions that the wild horses are usually found in, after the BLM has rounded them up. The holding pens are often over-crowded the animals are bruised with open sores on their hides. Furthermore, hay is thrown on the ground so that only strong horses eat and the weaker ones continue to decline.

It is in this atmosphere that the bill, H.R. 10587, allows for greater opportunities to destroy these animals. First of all, the bill speaks of "excess horses", yet there is no definition of what constitutes excess horses. Secondly, the bill allows the Secretary of the Interior, through the BLM, to establish "management levels" of wild and free-roaming horses on public lands again without any sort of definition or Congressional guidance. This bill also removes the discretionary authority for the destruction of wild horses and instead uses the words "shall order" horses destroyed. All of this is going to be done when no one has an adequate figure on the number of wild horses that exist. The Department of Interior's own figures range widely from 5,300 to over 70,000, indicating how inexact the Department's knowledge is. As an example, please consider the following excerpt from Mrs. Joan Blue, President of the American Horse Protection Association in her testimony before the House Interior Committee:

"All of these concepts depend upon the accuracy of the BLM's calculation of the numbers of horses in the public lands. These calculations are at best very rough estimates, yet they are constantly used to make crucial management decisions and become the basis for proposed legislation such as H.R. 10587. The numbers are extremely imprecise. For example, a 1977 BLM pamphlet on the Adopt-a-Horse program states that there are over 70,000 wild horses and burros on the public lands; a letter from the Chief of the BLM's Division of Range to an APHA member, sent in January of this year, stated that there are 60,000, despite the fact that BLM's Four-Year Authorization proposal, which was before the subcommittee, put the number at 70,000; and on February 15, Secretary Andrus told me that the BLM's figure was 53,000."

The BLM has requested a budget increase of approximately \$5.4 million over the next three years. The BLM estimates that each horse costs \$150 on the open range and \$300 when it is captured and placed for adoption. I feel that in light of the BLM's poor management of the current program and the inexact knowledge of the wild horse and burro population, our amendment for a study of population dynamics is an initial step towards improving management at BLM.

This bill calls for the gathering of "excess animals" where an adoption demand exists. All other animals that are gathered must be destroyed, if this section passes. In correspondence received by the Interior Committee from both the

Department of Interior and the Department of Agriculture, it is clear that both agencies have a great deal of concern for the grazing lands and not for the wild horses and burros.

During House consideration of H.R. 10587, I was prepared to introduce an amendment that would strike Section 7 and order a study of the population dynamics of the wild horse and burro herds. I have enclosed a copy of the amendment with my testimony. I strongly urge you to consider this amendment.

I did not offer the amendment because of statements that were circulated to the other members of the House. These statements made by some wildlife protection and environmental groups, even if misleading, would have made it difficult if not impossible to have my amendment pass the House. These statements were made in testimony before the House Interior and Insular Affairs Committee, Subcommittee on Public Lands, months before there was any consideration on my part to introduce an amendment to Section 7. Let me also add that in at least one instance, the statement attributed to the Sierra Club, there was no national position, rather a statement made by one member of the club in a field hearing. It was my opinion that such a lopsided vote would have meant greater harm to the wild horse herds, because of the way the vote would have been interpreted.

In the Interior and Insular Committee Report, 95-1122, there is a great deal of agreement on the fact that there are not adequate population figures on wild horse and burro populations, "Opinions clash as to whether, and exactly where, excess numbers of wild free-roaming horses and burros actually exist." That is why I feel that before we sentence these animals to destruction, we should decide how many animals we are talking about. The amendment that is attached to my testimony would allow for an impartial study to take place over two years. This should help provide a body of knowledge which will protect the grazing lands, as well as the wild horses and burros. It is my feeling that this proposal is more balanced than the destruction of these wild animals, when we are not sure that the animals should be destroyed.

Once again, I appreciate the opportunity to appear before you, and I thank you for your attention in this matter.

#### AMENDMENT TO H.R. 10587, AS REPORTED, OFFERED BY MR. STEERS

Page 32, strike out line 18 and all that follows down through line 8 on page 35, and insert in lieu thereof the following:

SEC. 7. (a) The Secretary of the Interior shall undertake to enter into appropriate arrangements with the National Academy of Sciences (hereinafter in this section referred to as the "Academy") to conduct a study of the population dynamics of wild free-roaming horses and burros on public lands. Such study may be conducted by the Academy, or by a Task Force appointed by the Academy, utilizing such scientific and other expert personnel from various fields as the Academy determines necessary to carry out the study.

(b) The study required under subsection (a) shall be conducted over a period of not less than two breeding seasons. Such study shall include a current inventory of the wild free-roaming horses and burros on the public lands and projections concerning the size of the population of such horses and burros on the public lands for the foreseeable future. Such projections shall be based upon the number of offspring, the mortality rate, breeding characteristics, and such other factors as may be appropriate.

(c) Upon completion of the study required under subsection (a), the Academy (or Task Force appointed by the Academy, as the case may be) shall submit a report containing the results of the study to the Secretary of the Interior and to the President of the United States Senate and the Speaker of the United States House of Representatives.

(d) If the report submitted under subsection (c) recommends that the study of wild free-roaming horses and burros on the public lands should be continued following the submission of such report, the Secretary of the Interior shall specify a Federal range area wherein a detailed and in-depth study of such horses and burros may take place and shall enter into such contracts or other arrangements with the National Academy of Sciences or any other appropriate scientific group to conduct such study and provide periodic reports to the Secretary and to the Congress.

Senator CHURCH. Now, I wonder, gentlemen, if the position of the Forest Service does not differ substantially from that of the Interior Department on this issue?

I wonder if we could move to questions for the panel and the statements prepared by you, Chief McGuire and by the Director, Frank Gregg could be inserted for the record.

Would that be satisfactory?

Mr. McGUIRE. That would be satisfactory, Mr. Chairman.

Senator CHURCH. Very well.

Senator McCLURE. Before that I wonder if I might express on behalf of Senator Hansen his regrets at not being able to be here. As you know the Senate is in session and the Interior Appropriations bill is on the floor and there's a matter of extreme urgency that is being handled on the floor by Senator Hansen on behalf of the rest of us. So he is covering that end of it while we try to cover this end of it.

Senator CHURCH. Senator Hansen has a statement. We will see that it is included in the record.

[The prepared statements of Senator Hansen, Chief McGuire, and Mr. Gregg follow:]

STATEMENT OF HON. CLIFFORD P. HANSEN, A U.S. SENATOR FROM THE STATE OF WYOMING

Mr. Chairman, the Departments of the Interior and Agriculture have in the past set the grazing fees for the public lands from the authority given by the Taylor Grazing Act 43 USC 315. Since 1969, a formula has been in operation which has taken into consideration most of the operating costs incurred by private and public land graziers, with an adjustment being given for the private lease rate.

However, both departments have proposed and would have implemented increases in the fee as high as 25 percent but Congress declared a moratorium. This increase is proposed in times when beef prices have been systematically decreasing according to the USDA, and when many range improvements have been delayed, restrained or halted due to the court suit, *NRDC vs. Morton*. There is great debate on the degree of range improvements that is permissible. A 10-year wait while 212 environmental impact statements are being prepared has held up needed range improvements. Graziers have paid a part of their fees into range improvement funds. Permittees are being forced to pay more at a time when they can ill afford it and when the fees that are applicable to the range improvement fund cannot be spent.

In 1973, total net farm income in the State of Wyoming was \$123.7 million, and net income per farm was \$14,788. By 1976 these figures has declined so that total net farm income for Wyoming was \$1.9 million and net income per farm was down to only \$241. According to USDA's Economic Research Service, total and individual net income figures for these four years are as follows:

WYOMING

Year	Total net farm income	Net income per farm
1973.....	\$123,700,000	\$14,788
1974.....	61,700,000	7,530
1975.....	14,200,000	1,751
1976.....	1,900,000	241

It is at a time such as this that the Range Forest Index, which is used to compute present fees, is so inaccurate—that is, when prices of beef are low, owners tend to hold livestock they would ordinarily market, adding more cattle on a finite amount of land. This tends to drive the price of private grazing land up. The cost of private land is used as a comparative base to compute public fees; yet often, this is inaccurate since it may reflect increased numbers of cattle on hand due to distressed market conditions.

After careful analysis of this continuing situation, I have, with many co-sponsors, offered amendments and bills which address the issue to bring equality in determining grazing fees. Title IV on range management of the Federal Land Policy and Management Act of 1976 directed the Secretaries of Agriculture and Interior to conduct a "study to determine the value of grazing on the lands under their jurisdiction in the 11 Western states with a view to establish a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holder of grazing permits and leases on such lands. In making such a study, the Secretary shall take into consideration the cost of production normally associated with domestic livestock grazing in the 11 Western states, differences in forage values and other factors as may relate to the reasonableness of such fees. The Secretary shall report the result of such a study to the Congress not later than one year from, and after the date of approval of this act (which was October 1st), together with recommendations to implement a reasonable grazing fee schedule based upon such a study."

Section 402(h) says: "Nothing in this act shall be construed as modifying in any law existing on the date of approval of this Act with respect to the creation of right, title, interest or estate in or to public lands or lands in the National Forest by the issuance of grazing permits and leases."

I quote that Act because I firmly contend that the cost of permit in the sale of ranches in the 11 Western states is included in the sale price and is a cost of doing business. The permit, in effect, has been allowed to accrue chattel value and is a legitimate cost of production. Along with 25 other Senators, I urged the Task Force and both Secretaries to include the cost of permit acquisition in the cost of production for that purpose only and that no right or title or interest should convey. They chose not to include the Cost of Permit acquisition in their determination of grazing fees. But, the fact should be recognized. It is a matter of equity, IRS sure thinks it's jim dandy. They recognize it.

Section 412(h) does not preclude the cost of permit being included in a determination of a cost of production but simply reaffirms what the Taylor Grazing Act said, that there is no value by law. I urge Congress to address this issue, to seek an equitable answer because I believe there is a public good served by grazing the public lands at a fair cost.

I quote from the paper done for the Council for Agricultural Science and Technology, Report No. 23, January 22, 1974, Livestock Grazing on Federal Lands in the Eleven Western States:

"Almost half the land area in the 11 Western States is federally owned. Domestic livestock graze on 73 percent of this area. Federal land is estimated to supply 12 percent of all grazing resources in the region and to provide the equivalent of the feed required year-long for 1.7 million head of cattle and 1 million head of sheep. These grazing lands provide energy, water, minerals, recreation opportunities and wildlife, in addition to grazing for domestic animals.

"The forage on federal lands represents a renewable natural resource and economic source of feed for production of cattle and sheep. Loss of the products of grazing currently derived from federal lands would increase the scarcity of feed, meat and wool.

"The mounting demands for both grain crops and meat point to an increase and importance of forage on both private and public lands to support the beef and sheep industries. Elimination of grazing from the federal range lands in the 11 Western states would require a shift of animals to other lands or would result in loss of these animals from the productive pool.

"More animals on non-federal lands would require more intensive use of private range land, acreage increases in pastures, harvested forage and feed grains; more acres in cultivation and greater dependence on feedlot feeding in meat production. Only limited acreage is available for development of additional intensive pastures in the United States.

"The alternatives to less grazing on federal range lands appears to us to be wasteful of natural resources and uneconomical for the producers dependent on these lands unless prices of meat and wool were to be increased considerably. Small communities in subsistence type livestock operation within large areas of federal grazing land would suffer most if grazing on federal lands were eliminated.

"The grazing of herbage has been a natural process on grasslands, shrublands and forests, for as long as grazing animals have existed. The effect of grazing on the range environment depends upon the kind of vegetation, the intensity of

grazing, the kind of animal and degree of management employed to control the animals. Experiments and wide-spread experiences show that moderate and planned grazing restores protective vegetational cover on deteriorated ranges, thereby reducing accelerated erosion and improving wildlife habitats. Most range land is better suited to all types of use today than it was before 1950."

Finally, the President on July 21, 1978 while signing the Grazing Fee Moratorium bill sounded a warning that passing anything other than the Administration's grazing fee recommendations would be opposed by both departments and the White House.

I would hope that the persons responsible in the departments recognize that:

1. The technical committee formula does consider FMV and was a joint, official effort.

2. That the grazing fee section of this bill is only a small portion of the bill's content and that there is almost unanimous agreement that the other sections calling for range improvements, and other needed reforms. It can be with the Administration's cooperation, a most significant event in the history of rangelands.

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STATEMENT OF JOHN R. MCGUIRE, CHIEF, FOREST SERVICE, DEPARTMENT OF  
AGRICULTURE

Mr. Chairman and members of the committee: I appreciate this opportunity to present the views of the Department of Agriculture on S. 2475 and companion bill H.R. 10587 which was passed by the House on June 29, 1978.

Briefly, the bills would: (1) direct the Secretaries of the Interior and Agriculture to develop and maintain an inventory of range conditions and trends; (2) authorize and define the use of appropriations for range improvements on lands administered by the Department of the Interior; (3) amend the Federal Land Policy and Management Act to clarify the issuance of term grazing permits for a 10-year period or less; (4) establish a statutory grazing fee formula and; (5) amend the Wild Horses and Burros Protection Act of 1971 to provide for transfer of title, after one year, to holders of adopted excess animals.

Three major provisions of the bills would directly impact the Department of Agriculture—the requirement to update, develop and maintain range condition inventories and trend records; the statutory grazing fee formula, known as the Technical Committee's Recommendation; and the proposed amendment of the Wild Horses and Burros Protection Act of 1971, relating to the transfer of title to holders of adopted excess animals. I will confine my discussion primarily to these three aspects, although, we do have some concerns and technical suggestions on definitions contained in the bills. These additional concerns are discussed in some detail in our legislative report which is being prepared.

The Department of Agriculture does not object to the enactment of either S. 2475 or H.R. 10587 if they are amended to delete section 5 which contains the Technical Committee's grazing fee formula, and if our technical and clarifying amendments are adopted. We defer to the Department of the Interior on the remaining provisions of the bill.

First, Mr. Chairman, I would like to state that we support the basic objectives of these bills "to improve the range conditions of our public grazing lands." With regard to the Department of Agriculture, significant legislation has been passed in recent years which provides clear and sound direction for the management of National Forest System lands. This direction provides for balanced and multi-resource programs and is contained in the Multiple-Use Sustained-Yield Act of 1960, the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended, and the Federal Land Policy and Management Act of 1976. While S. 2475 and H.R. 10587 address one important resource activity, range management, we interpret the intent of these bills as being supplementary to our broader multi-resource authorities.

Section 3(a) of S. 2475 directs the Secretaries of the Interior and Agriculture to develop and maintain an inventory of range conditions and a record of trends in accordance with the process outlined in section 201(a) of the Federal Land Policy and Management Act (FLPMA) of 1976.

We concur with this direction and have for a number of years gathered this data. We should, however, point out that section 201(a) of FLPMA does not apply to the Department of Agriculture. We have other direction and authorities for inventories and planning. Specifically, the Forest and Rangeland Renewable

Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, provides direction to conduct a comprehensive and appropriately detailed inventory for all renewable resources, including range conditions and trends. Since we have other authorities for inventories and planning, and in order to avoid any duplication or conflict with these authorities, we recommend that the Department of Agriculture be excluded from section 3(a).

The designation of a grazing fee formula (section 5) is a central issue in this proposed legislation. The direction provided in the Federal Land Policy and Management Act of 1976 makes it clear that it is the intent of Congress that the United States should receive fair market value for use of public lands and their resources, unless otherwise provided by statute. We fully agree that an equitable, fair market value grazing fee should be established on all Federal public lands. However, we do not believe that the Technical Committee's formula is an appropriate approach to accomplish this fair market value objective. As you know, the use of the Technical Committee's formula was one alternative strongly considered in the Administration's grazing fee study report which was transmitted to Congress on October 20, 1977. This alternative was not selected because it was not the best measure of fair market value.

An erroneous impression has been created that the material prepared by the Technical Committee was ignored by the Grazing Fee Task Force and by the Secretaries in preparation of their recommendations in the October 1977 report. However, I would like to reiterate that full consideration was given to the Technical Committee's proposal. After considerable study and testing of the Technical Committee's proposal, the Administration's recommendation was selected as the most reliable procedure having the best technical foundation.

The Technical Committee's beef cattle price index minus prices paid index for production items measures changes in general economic welfare of the total livestock enterprise. It does not specifically measure changes in the value of grazing, but instead measures many factors associated with the production of beef cattle.

The Technical Committee tried to find a means to recognize and provide for situations where abrupt short-term price and cost changes could be accommodated in the annual establishment of fees. Thus, the prices received minus prices paid process was added on the assumption it could account for short-term deviations from basic grazing value as measured by the index of private land grazing lease rates. Study and consultations with other groups led the Grazing Fee Task Force to conclude that the beef cattle prices received index minus the prices paid index would not measure such deviations, because it accounts for many other factors in addition to the value of grazing. It has a trend which is independent of grazing value; is unpredictable; and the actual construction of the prices paid index is not as precise as expected. This means that the Technical Committee's formula could result in fluctuations in grazing fees for public land that are inconsistent with charges on private lands.

We are aware that there have been criticisms of the Administration's recommendation. However, we should point out that the criticisms of the Administration's proposal would also apply to the Technical Committee's proposal since both approaches are identical, with the exception that the Technical Committee's proposal adds a combined beef cattle prices received less prices paid index.

One of the most common criticisms of the Administration's recommendation has been that it did not take into consideration the cost of production. The Administration's proposal does include 13 cost items in the base fee of \$1.23 which are associated with the cost of grazing on public lands versus comparable grazing on private lands. The cost items are: Loss of animals, veterinary costs, movement of livestock to and from public and private grazing areas, herding and movement of livestock while on the grazing area, salting and feeding, travel by personnel to and from public or private grazing areas, pumping or hauling of water, horses used in movement and management of livestock, maintenance of fences and watering facilities, depreciation of user's investments in construction of fences and other permanent structures, other miscellaneous costs, and cost paid through associations. Analysis of the 13 cost items, updated by indices of price changes, indicates the continued usefulness of this data and tends to verify the measurement of fair market value.

If the Technical Committee's formula is adopted, it would result in some double consideration of costs, once in the determination of the base value of \$1.23 and again in the total costs of production which are reflected in that portion of the formula concerning beef cattle prices received, less prices paid.

Changes in the private grazing land lease rates used for annual fee adjustments also recognize the changes in production costs as well as other factors since they reflect the willingness and ability of livestock producers in the private sector to pay for grazing.

We strongly recommend that the Technical Committee's formula, contained in section 5, be deleted in order that the Secretaries may proceed with the implementation of the Administration's proposed fee system beginning with the 1979 fee year. Deletion of the grazing fee provision would leave the Federal Land Policy and Management Act of 1976 as the governing statute on grazing fees.

There are several amendments included in the House Act, HR 10587, which we believe deserve further comment.

The provision of a seven-year trial period for the Technical Committee's formula does not improve its acceptability. The trial period assures continued debate over appropriate fee levels for the next seven or eight years.

We are also concerned with the trial incentive program provision in section 5 of the House Act. We believe that the proposed experimental incentives program fails to recognize longstanding procedures for incentives and cooperative programs with permittees in the use of the public grazing lands. The issuance of 10-year permits and the opportunity for permittees to use the increased production resulting from their joint efforts are important incentives and are currently available and utilized. In fact, the high level of cooperation currently received from many permittees is in direct response to the incentives available. We will continue to explore opportunities for greater cooperation with the understanding that improvement and management of the range is contingent on the permittees receiving benefits consistent with their contributions.

The proposed use of lower grazing fees as an incentive ignores that the permittees contributions are already considered in the establishment of the base fee of \$1.23. Lowering fees as an incentive is inconsistent with the concept of collecting fair market value.

We would like to emphasize that we believe that the fair market value approach is the most equitable approach for grazing users of public lands, other producers of livestock, and the American public. Roughly 25,000 permittees share in the use of the public lands for the grazing of livestock. These permittees represent about 33 percent of the ranchers and farmers having cattle or sheep in the 11 western States and about 5 percent of the farmers and ranchers in the United States. We believe equity to these other producers requires the collection of fair market value from the producers who use public land.

Section 7 in the two bills amends the Wild Horses and Burros Protection Act of 1971 by providing additional authority to transfer title to individuals who have adopted excess animals, after a one-year probationary period.

We believe that this new authority would be beneficial in managing wild free-roaming horses and burros. We support the specific amendments proposed by the Department of the Interior in regard to the disposal of old, lame, and sick animals.

We are concerned that the one-year probationary provision would be more restrictive than necessary and would be very difficult and costly to administer properly. We recognize the concern and need to insure proper care of the animals and to avoid commercialization of animals once they have lost their status as protected wild horses or burros; however, we believe this can be accomplished by carefully screening adoption applicants and imposing strict requirements prior to the transfer of title. We would prefer that a probationary period not be required and suggest that the Committee carefully consider whether it is necessary, or not, in light of the additional costs for administration.

This concludes my statement. We are available to respond to any questions you have.

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STATEMENT OF FRANK GREGG, DIRECTOR, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

Mr. Chairman, Secretary Martin has presented the Administration's views on the grazing fee issue. I'll say only that I share those views wholeheartedly.

Because the legislation before the committee is a potentially historic expression of congressional determination to restore and maintain the rangeland resources administered by the Bureau, I want to discuss briefly how the two bills fit into a comprehensive program for management of rangeland resources of the public lands. I will then suggest several specific amendments.

For convenience—since the Senate bill is similar in many respects—I will address my remarks to H.R. 10587 as approved by the House.

H.R. 10587 is clearly intended to establish a coherent and dependable system for utilization and management of rangeland resources administered by BLM. We particularly appreciate the firm recognition of multiple use, with funds authorized by the bills to be available for wildlife, soil and moisture and range management programs.

Laying the grazing fee issue to rest would do much to bring order to the range, by permitting the government and public land users to concentrate on the key issue of rangeland condition and use; we continue to believe strongly that a fee derived from rates paid for grazing on private lands is the only enduring solution.

The funding provisions and the environment-nonenvironment impact provisions are intended to support orderly planning and action on the ground.

The 10-year grazing permit seeks to stabilize BLM-livestock permittee relationships.

The wild horse and burro provisions would strengthen the ability of the Bureau to manage these animals as elements of the range ecosystem.

These provisions of H.R. 10587 move us toward a coherent program. They must, however, be considered in combination with another major factor affecting the entire process of making and carrying out decisions about the western rangelands.

I refer to the Environmental Impact Statements on livestock grazing which are now being prepared by BLM in response to a federal court order.

These grazing ES's will be prepared on 174 million acres of public land managed by BLM in the West. As required by the Court, the ES's will consider the impact of livestock grazing on the environment and on other uses of the land and the forage resource. Each statement will analyze the impacts of a wide range of alternative levels of livestock grazing as well as levels of forage use by wildlife and, where they occupy the rangelands, of wild horses and burros as well.

BLM is required, under the order, to identify and evaluate both the grazing systems that may be employed in specific areas, and the nature, extent, location and impacts of various kinds of range improvement projects that may be undertaken.

Each statement will also consider the economic and social effects of alternative actions, and ways of mitigating negative economic effects on public land users and communities.

As we contemplate the rangeland improvement and management program envisioned by H.R. 10587, it is my firm opinion that we should turn the ES requirement into an opportunity and use the ES process as a positive tool for helping us plan for restoration and management of the rangeland resource for all purposes: livestock, wildlife, wild horses and burros, soil stabilization, watershed protection, water quality protection, etc.

Both the Administration and the Congress have been generous in supplying additional funds to gather basic information on soils and vegetation essential to sound ES's on rangeland management.

We will continue to use this information, supplemented by what we know or can learn of range conditions and trends and the best judgments of BLM professionals, livestock operators, and range and wildlife scientists, to formulate approaches to the management and restoration of individual areas in ways that reflect honest consideration of all interests.

The ES itself, of course, is not a program or a decision. It is an analytical tool.

Making the right decision and implementing them will be tough and often controversial, particularly where there is no alternative—in the interest of sound, long-term management—to cut back on current levels of use. Many individual livestock operators may be faced with significant cuts in current use, and substantial reductions in wild horses and burro populations are indicated in a number of areas.

The Range Land Improvement Act of 1978, as we hope the amended bill will be titled, may prove immensely helpful in this painful but necessary process of analysis about how best to manage the individual rangeland areas.

In fact, in many cases, the prospect of appropriate funding for rangeland improvement may offer the key to honest reconciliation of the economic interests of affected livestock operators with a sound multiple-use range management program.

Where conditions are conducive to improvement of forage yields, necessary cuts may well be restorable as production increases with good management of forage use and on-the-ground work.

We will fully consider rangeland potentials as well as current conditions in the grazing ES's. We are working diligently to develop ES and range analysis processes that have the support of the livestock industry, environmental organizations, and relevant scientific disciplines. We have met and will continue to meet with both livestock and environmental litigants in the suit which imposed the ES requirements.

The grazing ES's are going to be a major factor in rangeland decisions for a decade. I trust we will continue to have the support of Congress for needed and cost-effective funding for the grazing ES's.

I will now comment briefly on specific provisions of H.R. 10587 and S. 2475.

It is our judgment that the Bureau cannot effectively and efficiently use the full amount of the authorization proposed by S. 2475 and H.R. 10587 for fiscal year 1979 under either existing constraints pursuant to *NRDC v. Andrus* or under provisions of S. 2475 and H.R. 10587 with respect to the distinction between environment impact and nonenvironment impact improvements.

A more realistic schedule for increasing on-the-ground improvements would be to add \$5.0 million for 1980, leaving FY 1979 at the President's budget level. After 1980, the rate of completion of ES's and related plans, in addition to work which can be done without conflict with ES processes, offer a realistic prospect that the additional \$15.0 million could be efficiently and effectively used.

Before I leave the subject of funding, I would like to mention one specific provision of S. 2475 that we find objectionable. Section 4 of S. 2475 tells the President what his minimum annual appropriation requests from fiscal year 1979 through 1998 shall be. This provision was deleted from H.R. 10587 as passed by the House because it encroaches on the President's authority and ability to represent to the Congress what he believes to be his budget needs. It makes the appropriation request not the request of the President, but of the Congress. We urge that it be deleted from S. 2475. Both S. 2475 and H.R. 10587 also contain language in the funding sections which require the Secretary to set forth reasons for any funding request less than called for in the bills. This language is also objectionable and should be removed.

The President feels very strongly about such encroachment on the authority of the Executive Branch. It is important to note that the same language was cited by the President as the reason for vetoing the Sikes Act. It is also important to note that annual appropriation requests will be worked out within the context of the budget and competing demands of other programs and may or may not be at authorized levels.

#### INCENTIVE PROGRAM

H.R. 10587 contains a provision which has laudable objectives but is not needed. I am talking about the incentive program in section 5(c) of that Act. The Secretaries of the Interior and Agriculture would be authorized and directed to develop and implement an experimental program which provides incentives to and rewards for grazing permittees and lessees whose stewardship results in an improvement of the condition of the rangelands. One problem with the provision is that it is tied directly with grazing fees and specifically includes less than fair market fees as an element to be explored. The Secretary has ample authority under existing laws to explore incentives of the kinds encouraged by section 5(c), and the Bureau is prepared to do so. A legislated provision for lowering fees could well turn an otherwise imaginative program into a competition for participation in an experimental program in order to qualify for lower fees.

Given that authority for improved management systems is now available, we would prefer to see section 5(c) deleted.

#### TEN-YEAR PERMITS

S. 2475 and H.R. 10587 would reaffirm that provision of FLPMA which provides for 10-year permits with certain exceptions. It would amend FLPMA to provide that absence of completed land use plans or court ordered ES's shall not be the sole basis for establishing a term of less than 10 years. The Secretary may, however, find on a case-by-case basis that the information to be contained in the plan or ES is necessary to determine whether a shorter term is necessary in the interest of sound land management, as specified in FLPMA.

There has been a great deal of discussion as to what this Section of the Organic Act means and our initial grazing regulations did not seem to clarify the issue.

Department policy has now been firmly established and the grazing regulations that went into effect on August 4 assure that 10-year permits will be offered as a general rule. Exceptions will be on a case-by-case basis only and will have to be based on good evidence that the issuance of a 10-year permit would be detrimental to sound public land management as provided by the Organic Act.

Because we have clarified this issue through the regulations, we believe Section 6 of S. 2475 and H.R. 10587 is not necessary. If it is to be retained, we have in our report suggested language of amendment which we believe states the provisions of the section and of § 402(b) (3) of FLPMA more clearly and succinctly.

Of course, 10-year permits will have to be clearly conditioned to make sure that if a problem in grazing capacity is later identified through the EIS process or completion of AMP's for example, then the Secretary can and must make the appropriate adjustments in grazing levels. Thus, the 10-year permit does not constitute an immutable right for a decade.

We believe that security for the grazing use is provided by the BLM Organic Act, which provides for retention of the public lands, for grazing as a principal use under the multiple use concept, and for continuation of permit and lease privileges so long as the lands are available for grazing use and the permittee or lessee accepts and observes the terms and conditions of the lease or permit. These are important protections.

Security as to the grazing allotment is a function of restored, well-managed, productive rangelands capable of sustaining balanced forage uses.

In this regard, we see the range improvement objectives of S. 2475 as critical.

#### RANGE IMPROVEMENTS

S. 2475 and H.R. 10587 both make a distinction between environment impact improvements and nonenvironment impact improvements. Until land use plans and AMP's have been completed for an area, funds authorized for on-the-ground improvements could not be used for environment impact improvements. The funds could only be used for "nonenvironment impact" improvements. Under S. 2475, these nonenvironment impact improvements would not be considered a major Federal action requiring an ES, but not additional forage produced by certain non-livestock projects could be allocated for livestock use until the documents referred to above have been completed and such allocation is consistent with the documents. ES's other than court ordered ES's required for these non-livestock projects would have to be completed prior to initiation of such non-livestock projects. H.R. 10587 has similar provisions, but does not include a statement that nonenvironment impact improvements are not major Federal actions. Instead it would somewhat modify the NEPA process in the Secretary's discretion.

The terms "environment impact improvement" and "nonenvironment impact improvement" are defined and are intended to delineate between projects involving a commitment to irreversible decisions on the one hand and those improvements that are clearly of a desirable nature and do not alter the environment or pose a threat of pollution.

We appreciate the desire of the Congress to clarify a complex issue and facilitate the work of the Bureau of Land Management. However, there are legitimate differences as to what improvements should go into these categories.

We do not believe that a generally workable distinction between "environment" and "nonenvironment" impact improvements can be clearly made. The attempt to do so undermines NEPA by establishing an undesirable precedent insofar as it avoids the natural consequences of the NEPA process; i.e., an ES upon finding of significant impact.

We are in complete accord with the desires of the Congress and of both livestock and wildlife interests to move ahead with needed range improvements. Exemption of the nonenvironment impacts, however, would not exclude certain kinds of actions from the ES's otherwise being prepared. This division would seem to subdivide the efforts being made by BLM to better integrate NEPA processes with the Bureau's land use planning process.

We would prefer to continue to work toward more timely rangeland improvements not having significant environment impacts without potentially damaging NEPA exemptions. We will continue to work with field staff to clarify kinds of actions which may be taken within the context of NEPA itself and of *NRDC v. Andrus*.

We realize that this approach is certain to be relatively slow in evolving, but

we believe it important to approach rangeland improvements, whether or not significantly affecting the environment, in ways that are consistent with the multiple use planning process mandated in FLPMA, and with our efforts to more fully integrate NEPA processes with the planning process.

#### WILD HORSES AND BURROS

S. 2475 and H.R. 10587 would amend the Wild Horse and Burro Act to provide for donation, and under certain conditions disposal, of wild horses and burros. They specify that after an individual has provided humane conditions for an animal under a private maintenance program for one year, the Secretary would donate and pass title to that animal to the individual. Upon donation or disposal as provided in these provisions, the animals would lose their status as wild horses or burros under the Act and thus would not be subject to restrictions in the Act. Several additional provisions are included in H.R. 10587.

We support the objectives of the amendments. However, we believe that some vital provisions have been left out, such as authority to destroy old or sick animals as distinguished from excess animals. In addition, we believe that other provisions are needed concerning adoption of animals and disposal of remains. Our report suggests language of amendment. We will be happy to work with staff in developing additional amendments, if necessary.

Mr. Chairman, I want to reiterate our willingness to work with the subcommittee and the Congress in developing legislation that will provide for restoration and maintenance of the productive potential of the public rangelands for livestock grazing, wildlife, wild horses and burros and other uses, and will yield a fair return to the public for economic utilization of its resources.

This legislation, with modifications, may prove to be one of the most significant events in the history of the rangelands under BLM jurisdiction. We hope to work with you and your colleagues to enact legislation which the Administration, Congress and all public land users can support.

Thank you for the opportunity to present these views. I will be happy to answer your questions.

#### EXPLANATION OF AUTHORIZATION LEVELS OF H.R. 10587 (INCLUDING COMPARISON WITH BLM 4-YEAR AUTHORIZATION) [In millions]

Fiscal year	4-year authorization	H.R. 10587
1979	\$57.8	\$72.8
1980	65.4	80.4
1981	73.0	88.0
1982	85.0	100.0
Subtotal	281.2	341.2
1983	85.0	100.0
1984	85.0	100.0
1985	85.0	100.0
1986	85.0	100.0
Subtotal	340.0	400.0
1987	85.0	105.0
1988	85.0	105.0
1989	85.0	105.0
1990	85.0	105.0
1991	85.0	105.0
1992	85.0	105.0
1993	85.0	105.0
1994	85.0	105.0
1995	85.0	105.0
1996	85.0	105.0
1997	85.0	105.0
1998	85.0	105.0
Subtotal	1,020.0	1,260.0
Total	1,641.2	2,001.2

<sup>1</sup> Assumes an authorization for fiscal year 1983 through fiscal year 1998 equivalent to the fiscal year 1982 level in the Secretary's request.

In addition to those authorizations for appropriations from general funds of the Treasury, additional funds are also available for range betterment from the dedication of  $\frac{1}{2}$  of the fees received for grazing livestock.

Since the fees are variable it is not practical to attempt a precise estimate. The general scale of funds available from this source can be illustrated by assuming a continuation of the \$10,900,000 estimated in the President's fiscal year 1979 budget request. This \$10,900,000 projected for the 20 years from fiscal year 1979 through fiscal year 1998 would amount to an additional \$218,000,000 for range betterment.

Senator CHURCH. Now, let's move to questions and I'm going to defer my questions until the other Senators have had an opportunity to ask theirs, and we'll start with Senator Melcher.

Senator MELCHER. Thank you, Mr. Chairman.

First of all, I am interested in the opinion of the BLM if it is necessary to incorporate in a new bill, such as the House has passed and it is before us in the Senate, some legislation regarding the use of grazing fees that is not satisfactory in the BLM Organic Act, not as to the amount of the fee, but as to the use of a portion of the fee for range improvement?

Mr. GREGG. Well, as far as I know the Organic Act provides that half of the grazing fee receipts are dedicated to the range betterment fund, and half of that half is allocated at the discretion of the Secretary, and half of it goes back to the district where the fees came from.

I don't believe that is changed by any provision of the bills before the committee, nor have we proposed that they be changed. So I am assuming that the language in the Organic Act is satisfactory for that purpose.

Senator MELCHER. How much money has accrued to the BLM in that question of grazing fees where half of it is earmarked for range improvement?

Mr. GREGG. For the last year for which we have information, I believe about \$10 million.

Senator MELCHER. Is that correct? Is it \$7.5 million?

Mr. GREGG. \$7.5 million went into the range betterment fund from the BLM grazing fee receipts.

Senator MELCHER. And how much was unexpended from that? Have you had 2 years of collection, or just 1 year? Just one?

Mr. GREGG. 1977 is the latest one for which we have complete data.

Senator MELCHER. And, Chief McGuire, how much is available for the Forest Service?

Mr. MCGUIRE. I think approximately the same amount. Maybe a little less.

Senator MELCHER. It's about \$6 million then?

Mr. MCGUIRE. About.

Senator MELCHER. Now, of that \$13.5 million, is it being spent—first BLM?

Mr. GREGG. Yes. We have been able to obligate and plan to obligate all the money that comes in from grazing fees for on-the-ground range improvement.

Senator MELCHER. You have been able to use it this year?

Mr. GREGG. Well, this year isn't over yet, but we were able to obligate it.

Senator MELCHER. Yes, I know, but obligate it this year?

Mr. GREGG. Yes.

Senator MELCHER. Is that true for the Forest Service?

Mr. MCGUIRE. That's generally true with us, too, sir.

Senator MELCHER. Now, have you studied S. 2475, the bill, the Senate bill?

Mr. GREGG. Yes.

Senator MELCHER. What is the impact then on page 12, line 10 of subparagraph, or whatever it is (f)? This is a very short four-line section. It says, "None of the funds authorized for on-the-ground range

improvement by section 401 (B) (1) of the act shall be used for environmental impact improvements," which are the improvements we are talking about, I assume; is it not, or do you have a different understanding of that.

Mr. GREGG. Well, some of the improvements have significant environmental impacts and some do not. The legislation, as passed by the House and as introduced by Senator Church and Senator Laxalt in the Senate, tries to make a distinction between environment impact improvements and nonenvironment impact improvements. I understand that the purpose of this language beginning with line 10 in section 12 is to define the conditions under which money can be spent, trying to respond to some of the restraints that were placed upon us in the court suit on grazing.

Senator MELCHER. Well now, you are spending the money this year and that court suit hasn't interfered.

Mr. GREGG. Well, the restraint in the court suit has to do with improvements that implement an allotment management plan. The most obvious effect of that would be on a fence which actually divided an allotment into pastures for purposes of operating a rotation grazing system. But there are many kinds of range improvements which we can undertake under the court order through the normal application of the NEPA process.

Senator MELCHER. Like what?

Mr. GREGG. Like water improvements and small revegetation projects, and so on.

Senator MELCHER. We addressed that problem at the time of developing the BLM Organic Act, and we did not envision and tried to be very express, that when you are trying to improve the environment through range improvements we weren't going to let that long drawn out suit that you refer to interfere with it making the improvement.

Now, under what conditions does the solicitor advise you that a water improvement would have to be restrained until the settlement of that suit?

Mr. GREGG. We use the normal processes of the Bureau to arrive at that. We prepared what is called an environmental assessment report—referred to as an EAR—and make a normal determination as to whether that has a significant impact on the environment. If it does, we prepare an environmental impact statement pursuant to NEPA. If it doesn't, we don't.

Senator MELCHER. Are you saying that a simple procedure of putting a fence where you need it, you'd be constrained from doing that?

Mr. GREGG. We are not constrained by the court order. We are not constrained by the court order in undertaking improvement projects except those that relate to the implementation of an allotment management plan.

There are many kinds of improvements which are not tied to an allotment management plan. And on those we are free to go ahead and undertake those simply using normal NEPA process to which we have no objection.

Senator MELCHER. Do you feel that you can only use these improvements where you have an allotment management plan?

Mr. GREGG. Oh, no. Many of these improvements are not tied to an allotment management plan.

Senator MELCHER. When will you be completed with the allotment management plan?

Mr. GREGG. And in our instructions to the field, we instructed our field people to go ahead with these improvements. In fact, as I think I mentioned to you in my confirmation hearing, we sent three different memorandums to the field explaining and reexplaining, and reexplaining yet again of the conditions under which these kinds of improvements can be made.

Let me just volunteer, Senator—you didn't ask this question—that I found in my peregrinations in the West over the last few months that in many cases the reasons that we are not making range improvements on the ground as fast as we might like to is not because of the literal application of the restraints in the court order. It is because so much of our professional staff time is going into preparing environmental impact statements and doing inventory work that we don't have the professional staff time to actually develop the engineering and analysis that is needed in order to do a range improvement project.

So that my conclusion is that the restraints placed upon us by the court order per se are not as all-encompassing as we all thought they were. I don't mean they are not restraints, because they are intended to be as far as allotment management plans are concerned, but in many cases it is simply the fact that the technical staff of the Bureau is involved in inventory and environmental impact statement writing, and it takes staff time to do the engineering and design of a range improvement project.

Senator CHURCH. May I just ask at this point: Do you approve of the language in the bill which attempts to deal with this problem, at least by giving it expressed authority to the Bureau to undertake certain kinds of range improvements without the need to file an environmental impact statement?

Mr. GREGG. Senator, however, we appreciate the reasons that lead you and Senator Laxalt to do so. However, we would prefer to simply address the question under normal NEPA process, and not attempt, as you have done in the bill, to try to make a distinction between environment and nonenvironment impact improvements.

As I suggested, the restraint that is placed upon us by the court does not cover all improvements by any means. It covers improvements that relate to implementing an allotment management plan. We think that we can apply the normal NEPA process for an EAR and an ES where we need it, and that within those constraints we have already succeeded in obligating the range betterment money; that is, the money we get from the grazing fees. We haven't used any of that to write environmental impact statements, I want to reassure you. And we are now getting environmental impact statements completed.

We have three or four in final now, and I think five are in draft. We have a schedule; they will be coming out quickly and we think we will be able to obligate money after—we'll be under some difficulty in fiscal year 1979, but beginning in fiscal 1980 we don't see any difficulty in obligating the funding levels in this bill using normal NEPA process.

Senator CHURCH. Thank you.

Senator MELCHER. I ask when you are going to be through with the allotment management plan? What year? What century? [Laughter.]

Mr. GREGG. I think I'll answer the year first. Leave the century to someone who is younger than I am. The schedule calls for us to complete the grazing environmental impact statements by 1988, the schedule that is approved by the court. We intend to beat that schedule. We have allotment management plans now, of course, on a substantial percentage of BLM land, but the completion of the last restraint, under the present schedule, which is imposed by the court on range improvements—that is, on specialist range beyond normal NEPA processes—would not be removed until we completed the last environmental impact statement, which would be in 1988.

Senator MELCHER. I think 2 years ago the BLM had progressed to the extent of having about 15 percent of the allotment management plans completed; am I about correct on that? Or was it 10 percent?

Mr. GREGG. George Lea tells me we have 25 million acres by allotment management plans, which, as I calculate it, is substantially less than 10 percent.

Senator MELCHER. And what percentage is that?

Mr. GREGG. Divide 25 by 174 million acres.

Senator MELCHER. Yes. It's about one-sixth. It is about 16 percent. So probably 10 percent was correct 2 years ago. So in 2 years, or almost 2 years—about 2 years—added to that another 6 percent.

Now, on that basis, 10 years from now to complete the other 84 percent is two or three times as fast as you have been going. Isn't it more realistic to say that the allotment management plans will probably not be completed—won't be on grazing lands until about 1998?

Mr. GREGG. No. I don't think so, Senator.

Senator MELCHER. You think you'll pick up?

Mr. GREGG. You've been very good. The Congress has been very good to us. You have been very generous in funding us to do the natural resource inventory work, soils and vegetation conditions that we needed in order to get this work done. You have accelerated that funding very sharply and I'm assuming and hoping that we will have the environmental statements done before 1988.

In fact, I think with something that would bring—make this committee happy was that we could promise you that we would finish them early.

Senator MELCHER. Well, then, the point of my question gets back to the restrictions that would be imposed on you during that time, whenever it is until whatever year you get them completed, that you could not use the range improvement methods for water developments with a storage capacity in excess of 25-acre free modification projects, and that could be very broad. Free modification projects, I assume that also means dry creekbeds.

That you could not see seeding activities to introduce nonnative species or increase forage above the optimum condition which could occur naturally, you know, range improvement to me is to encourage the increase of forage over what it is now. As I read this, this would mean that until you had all the allotment management plans completed, for instance, using some rather common types of grasses that

are nonnative to Montana would be prohibited even though they are the best.

You couldn't control an erosion problem with the deep-rooted plants, for instance. Is this the type of language that you are seeking for the restraints?

Mr. GREGG. Senator, as you know, the purpose of this language that begins here on page 12 is leading up to some later provisions which are designed to clarify things that we can do with sort of a presumption of environmental sensitivity. So the purpose of this language is, in part, to recognize that we are under restraints from a court, and to not directly challenge all of that, but to provide a basis for clearing the way for certain improvements that we can undertake.

One of the things that concerns us is that it is very difficult to distinguish between environment and nonenvironment impact improvements, and we think that we can do a better job of honestly figuring out where an environmental statement is required and where it isn't required without this language than we can with it.

Senator MELCHER. You would rather not have the language?

Mr. GREGG. We would rather not have the language.

Senator CHURCH. Well, we will certainly take that into account. Thank you very much.

Mr. MARTIN. I can add something to that, Senator, that I think will help, and that is that in the House this same debate arose and one of the resolutions of that was to provide in the language—and I cite you the report—that it is a little different than an all-or-none situation. It provides that the Secretary can determine through an EAR—environmental assessment record—if they are nonsignificant impacts, then he can choose to go ahead as opposed to simply being a black-and-white situation, so there is a potential middle ground which is much more satisfactory than simply rejecting the whole idea.

Senator CHURCH. Thank you.

Thank you, Senator.

Senator McClure, do you have a question?

Senator McCLURE. Yes, I have, Mr. Chairman.

To return for a moment to the question I asked earlier, have you had a chance to look at those computations, these figures because I don't want to misread what—

Mr. GREGG. Yes. Well, the reason our ships weren't meeting, Senator, was that the material in attachment 5 that you were looking at referred to the difference between the technical committee fee and a fair market value fee in 1978. And I was looking at the State-by-State charts, which were based on 1979. So that you are correct that in 1978, the difference between our fair market value fee and the technical committee fee, both were fully implemented and not restrained by the fact that we don't increase them more than 25 percent a year anyway, and in 1978 the difference would be somewhere on the order of \$0.83 cents. Whereas, in 1979, the difference would be only \$0.24 per animal unit month.

Senator McCLURE. If we were to update that enclosure No. 5, what would the 1979 figures be for fair market value?

Mr. GREGG. For 1979 the fair market value figure would be \$2.28.

Senator McCLURE. The fair market value comes down \$0.10 from the 1978 figure?

Mr. GREGG. Yes. And the technical committee fee would be \$2.04.  
 Senator McCLURE. Thank you for the explanation.

The Wild Horse and Burro Act has some imprecise standards—precise in one sense, but they certainly don't define numbers of horses to be permitted. What has been the BLM's view concerning the numbers of horses to be permitted on a range under the existing statute? How do you determine how many should be permitted?

Mr. GREGG. Well, that has been a curious history, Senator. The wild horse and burro statute was developed, as you will recall, before the Organic Act was approved. Under normal Bureau operating circumstances, we would address the question of desirable numbers of wild horses and burros base on an assessment of range conditions, all the conflicting uses of the range, and arrive at a number on that basis.

And one of the things that we are asking the committee to do is to amend the wild horse and burro provisions so that the planning process which leads to the determination as to whether animals are in excess or not is, in fact, a part of the same statutory planning process that we undertake under the Organic Act. That is a very important provision that you are asking for.

The process that we are following now is not producing figures on numbers of animals which we specifically intend to remove because it is the current policy of the Department not to remove animals beyond those that we can adopt unless they are old, sick, and lame. And the whole problem, as you know has been plagued by a great deal of argument about numbers.

Senator McCLURE. Let me say at the outset, Mr. Gregg, that it seems to me the number of horses isn't really relevant to anything. Absolute numbers in all the States or in all the units may matter in a public relations exercise, but it has absolutely nothing to do with the mandate in the statute, in the Wild Horse and Burro Act or in the BLM Organic Act.

The real question is whether a particular range is deteriorating and, if it is, what do you do about it, and how do you optimize the management on a particular range; isn't that correct?

Mr. GREGG. Well, that's correct. We went through this, as you will recall, Senator, in the field of managing big game animals 30 or 40 years ago, and it took us several years to gain the kind of public acceptance that we needed of the necessity to control excess numbers of big game population.

And I thought that the discussion that the chairman lead this morning about the question of what is humane is a very, very important thing here. We are working in the Bureau to make certain that we accept our responsibilities under the Wild Horse and Burro Act with real enthusiasm. Congress told us that it was our responsibility to preserve these animals, to see that they are in healthy condition, and we are going to do that.

It is essential for us all to get across the point that the only way to do that is to have them on a range which is in good condition.

Senator McCLURE. Well, I would assume from that answer—

Mr. GREGG. So we are agreeing with as Secretary Martin said, some feeling, I think, that we recognize our obligation here. We hope that one of the results of your deliberations will be a clear mandate for

us to manage these animals as a part of the range ecosystem and we are prepared to bite that bullet.

Senator McCLURE [continuing]. Well, I think it already says that in the law. The question is how you do it, and whether or not we can make the law more precise and assist you in doing it. I know that you are constrained by the ability to remove horses from the range and offer them for adoption, and whether or not there will be enough potential in the country to adopt all those that are removed.

You have in effect now a virtual moratorium on management. You haven't done anything to remove animals. Is that because you are waiting until the EIS is completed before you do that?

Mr. GREGG. Well, we have adopted out 9,000 animals.

Senator McCLURE. How many of those did you take off the Challis unit?

Mr. GREGG. The Challis unit, Senator, is the only area of the United States where we are presently enjoined from doing anything with wild horses under a court suit which was brought specifically on that area. We can't conduct any roundups or do anything else there.

Senator McCLURE. I suppose you could go back to court. That wild horse herd has gone from 150 animals to 600 animals. You are talking about protecting the range and following the management criteria, and that range is in a deteriorating condition if I listen to your people out there correctly. They are saying it is so bad that they have got to take 80 percent of the domestic animals off of it. Yet the horses can keep right on breeding and expanding. They are driving the antelope and the Bighorn sheep off that range. They are driving the elk and the deer completely out of that range. And the livestock man is supposed to get completely out of the way so that the stallions are free to operate.

I should have said to the Congressman, if we could just substitute him for the stallions, we'd be all right. [Laughter.]

But that is a bit more difficult.

Mr. GREGG. Well, Senator, let me assure you on a couple of things.

Senator McCLURE. Would you explain that. I don't understand what—

Mr. GREGG. A supplemental Challis statement is out now. The 80-percent figure is an alternative. We are looking at all kinds of alternatives, as you know, in the Challis. Some of the cuts that we are looking at as possibilities are Draconian; some of them are very substantially less than that. And I can assure you that managing that wild horse herd is very much a part of our program.

Senator McCLURE. Well, let me ask you this—and I don't mean to abuse either the committee or my prerogatives at this time—but I think this is a good example of the kind of problem we face. Here is a range in deteriorating condition. According to the BLM's specialist, there is some argument about that on the part of other people. The numbers of wild horses has increased dramatically and continues to increase. The numbers of domestic livestock are reduced dramatically to the point of consternation in the minds of the people out there.

Remember in that area that Federal Government owns 97 percent of the land. Only 3 percent of the land is in private ownership. What

happens on those public lands is the total life or death of that community. They are very much concerned about it. And here we have a herd which originally numbered about 150. It would seem that under those circumstances that the management goal would not be to increase the size of that herd, but might under the mandates of the statute even envisage a reduction in the size of that herd. Instead of a reduction, we see it four times as large as it was.

Mr. GREGG. Well, Senator, as you know, I was out there last week or the week before last and spent most of the day with the Challis people and I don't want to prejudge what our decisions will be because the purpose of NEPA is to analyze alternatives so that we can make decisions, and those decisions are going to be made by our people in the field anyway. But I just want to assure you that we agree with you that we are going to have to manage the Challis herd and all the other wild herds as a part of the range ecosystem and that it is our intention with the mandate that we hope that we can get from the Committee to address the management of wild horse and burro populations, the control of excess animals in the spirit of sound range management, and also for the purpose of seeing that these animals are available in appropriate populations because they do mean a lot to a lot of people.

And we are not going to leave the wild horse populations unregulated as a matter of Department or Bureau policy and expect that to come out of the hide of the livestock industry. We are not going to do that.

Senator McCLURE. It would seem to me that if the condition of the range demands an 80 percent reduction in domestic livestock, it might demand a reduction of 80 percent of wild horse herds.

Mr. GREGG. I think you have underestimated the hopes of the Challis people.

Senator McCLURE. Well, let me just ask a couple of other questions.

Senator CHURCH. Before you do, Senator, may I just interject then? If there is language that we have not incorporated in this bill that you believe would be helpful in reasonable management of the wild horse and wild burro population, then I wish you would suggest it because this is our effort to correct these problems to the extent that we can do so—

Mr. GREGG. Yes, we've done that.

Senator CHURCH [continuing]. By statute. We want to do it now.

Mr. GREGG. Yes. We have suggested some language that we think will help.

Senator McCLURE. It is my understanding that part of the criteria by which you judge the availability of forage and appropriate management on a unit is that forage on a slope exceeding 50 percent should be totally discounted and that it is not available for domestic livestock if the slope exceeds 50 percent; am I correct?

Mr. GREGG. That is one of the so-called suitability criteria, and we do use that, Senator, not quite as sharply as you suggest, but there is a great body of work done by range scientists at the western land grant colleges and other places to suggest that when you get over 50 percent slopes, you've got a problem.

Our instructions to the field are that when you are looking at that kind of a situation that the burden of proof is on our fieldman to es-

tablish that livestock grazing use can be made of that area without destruction of resource values.

It is not a total prohibition, but it clearly says that as a rule of thumb that is a very good rule of thumb, and you ought to follow it unless you can establish that you ought to depart from it.

Senator McCLURE. Let me take more than mild exception to that standard. A high percentage of Idaho is in slopes of more than 50 percent. As a matter of fact, one of the range specialists out there told us that livestock don't graze on a slope over 50 percent. And he was standing there on the edge of the road looking across the canyon at livestock grazing on a slope that was far in excess of 50 percent.

I don't know where he got his schooling from, but it sure wasn't out there watching livestock graze.

We also have in the suitability criteria the distance to water question. If I recall correctly, they say that animals will not graze more than 3 miles from water; is that correct?

Mr. GREGG. I don't recall the figure to be honest with you.

Senator McCLURE. As I recall, BLM has spent a considerable amount of money in putting in water improvements on public lands in order to make water available and spread the loan. And that would seem to me to be a better criteria than saying since the water isn't there, we are going to take the livestock off the range.

Mr. GREGG. And I can assure you, again, that in the Challis unit, which we are using for illustration purposes here, that the analytical work that is being done in the grazing environmental statement is looking at the possibility of installing additional water systems for the purpose of spreading the use so that forage can be utilized without damage to other resources.

Senator McCLURE. How did you make an allocation or a distribution of forage among livestock, wild horses, and wildlife?

Mr. GREGG. Well, we do that through the Bureau's planning system in which we pose that question to the public involved and try to arrive, as the Organic Act requires us to do at the best mix of uses that we can find among the multiple uses, taking into account economic and social impacts, environmental objectives, public preferences, and the effect on the resources.

Senator McCLURE. Is there direct competition among livestock, wild horse, and wildlife for identical forage?

Mr. GREGG. Well, it varies, as you know, among wildlife species and on specific ranges, depending upon the composition of plants.

As a general proposition, I would think there is fairly direct competition between elk and wild horses, for instance, particularly on winter ranges. And substantial competition between elk and livestock, which are using winter ranges, and relatively speaking, substantially less between deer and livestock on almost any range. So it varies a lot. But the competition is not 100 percent and direct as you know.

Senator McCLURE. On the Shoshone unit, there was an assignment of available forage of 60 percent wildlife, and I asked the BLM personnel why the 60 percent assignment? He said it was an arbitrary figure. I said, where did you get the arbitrary figure? He said, I had to pick something. And he also said that there was direct competition and that meant a 60-percent reduction in the available grazing on that unit.

That kind of application of criteria is about to destroy the credibility of the BLM among the people who have to live on those lands.

Mr. GREGG. I had in my statement, and if you would give me about a couple of minutes, I'd like to say something here about these environmental statements.

You put together a bill here that has a number of strategic elements in it. In effect, a strategy for managing the range. We are working very hard to try to incorporate this environmental impact statement process into that strategy because we are under injunction from the court to do them, and we are going to have to do them.

Senator McCLURE. Unless you go back to court and ask the court to change it.

Mr. GREGG. Well, we have been over that endlessly, Senator, and we honestly do not see any prospect of doing so.

Senator LAXALT. May I ask a question? How about legislative relief?

Mr. GREGG. Well, even if we sought and got legislative relief from the court order, we still face the same piece of work, Senator, which is to go ahead and do the best analytical work we can do on each of these units and try to figure out the right thing to do with a range. So we sort of had a turnaround here and tried to figure, OK, here you are coming up, we hope, with a program which is going to put us in a position to really make some investments in these ranges and manage them well.

In order for us to do that responsibly, we are going to have to do some good planning on the ground to figure out what to do. And what we are trying to do is to simply take this environmental impact statement process, look at it constructively, use the money that you have given us for soil work and vegetation work and use it as a positive planning tool. And the point I wanted to make to you, Senator McClure, is that we are having, to use a technical term, one hell of a time getting across to people in the West that when we look at alternatives in a grazing environmental impact statement, that the worst alternative that we look at does not foreshadow a BLM decision.

And what has happened almost everywhere is that the law requires us to look at alternatives in these EIS's; so we look at alternatives. And one of the alternatives is a very sharp cutback in livestock grazing.

And you look at that to see whether it would create corresponding benefits in wildlife, and in most cases it won't because, you know, a 50-percent drop in livestock is not going to produce a 50-percent increase in wildlife as you already suggested. But we are having a terrible time with people assuming that the worst alternative that we are looking at is the decision that our fieldman is going to make, and that is part of what you are hearing from Challis, Senator, and I hope we can do a better job.

Senator CHURCH. I think this hearing is getting out of control because it is 5 minutes after 12 and we haven't finished the first panel and because there are a number of Senators here, I think we ought to follow a—as soon as you are finished, Senator—a 10-minute rule so we can move.

Senator McCLURE. I understand. And I just said to Senator Domenici, I was about to let him ask the questions because I don't want to abuse him either.

But, I understand what you are saying that a great many of users in the past have seen the worst case develop, however, and they are very fearful that the worst case is going to develop again.

There is a credibility problem with BLM—between BLM and the users, and I don't blame the users for being fearful—because if the worst case occurs, the BLM specialist's salary keeps right on going. He doesn't have the same economic imperative that the guy that is dependent upon that range for his livelihood has, and he might get wiped out economically while the BLM is making up its mind what it ought to do. And they are very fearful of that.

Mr. GREGG. Well, in being straight with you, and in going through these environmental impact statement processes, it is clear that in our professional judgment there are, on occasion, going to have to be cuts and we are not looking for them, but our responsibility is to the resource, and we are finding some. We are going to do everything we can to handle that in the way that causes minimum economic damage, but there are going to be some cuts and it is our responsibility to make them.

Senator McCLURE. And it is going to have some adverse consequences, not just on the economy, but upon the values which we are trying to protect.

I'll tell you right now that up in that area, if the cuts that are being proposed as a matter of fact take place, you are going to see subdivision of the land as the only alternative for the landowners. That I don't think is good for you, or for the land, or for us in Idaho, and I hope it doesn't result in that.

Just one final question: One of the greatest needs that we have is for suitable range improvement. The BLM has complete authority to determine what that might be as does the Forest Service on Forest Service land. Whether it be a waterhole, an extension of water by pipeline, a division fence, or reseeding or brush removal, any of these things are subject to the management skills and management directive of the management agency.

One of the reasons these things have not occurred in the past—the investments have not been made—is because you haven't been able to get enough money appropriated by Congress. Certainly last year and we hope this year, there will be a great increase in the amount of money the BLM and the Forest Service can use in range improvement.

At the same time, there is very likely going to be more that could be done if you had more money. Why not consider the possibility that is embodied in my bill, S. 1183, which would allow the permittee to make an investment and deduct that from their grazing fee. I suspect the answer is that OMB won't let you, but I suspect that is an answer you can't give.

Mr. GREGG. John, do you want to comment on that? I have a comment on it, too.

Mr. McGUIRE. Senator, we would be opposed to the addition of a payment and time provision in the fee. For one thing the contributions of the permittee, the costs he occurs on the land are already taken into account in the establishment of the fee.

Senator McCLURE. But those are basic contributions and that doesn't indicate that he couldn't make other contributions pursuant to the management plan which you might have adopted?

Mr. MCGUIRE. That is true. It would be possible to increase the fee, I suppose, by deleting the construction item and using credit for construction in lieu of cash payment of fees. As I understand your proposal, that would be the way it would work.

Senator McCLURE. That's correct.

Well, I know for example that if you have got to put in a line fence or a division fence, and the rancher can put it in, he is going to get it in for a lot less money than if the Government contracts it or does it with their own forces. That would be not only an expansion of the capital, but the installation of a capital improvement at far less expense to the taxpayers ultimately.

Mr. MCGUIRE. We certainly would agree with that. You know, the way we usually work it, we put up the materials and the rancher puts up the fence.

Senator LAXALT. And that worked well, didn't it? And that worked for a long time?

Mr. MCGUIRE. That's right.

Senator McCLURE. I just wish that you could bring yourself to looking at it dispassionately perhaps and maybe even get OMB to close their eyes for 1 minute—if not their eyes, their mouth—

[Laughter.]

Senator McCLURE [continuing]. For 1 minute to give us an opportunity to try to get something done out there that we all want done. I don't understand why it causes such a tremendous difficulty. You say a rancher can do it if it conforms to the management plan and put up his own capital to do it, rather than have the Government have to put up the capital.

Senator CHURCH. Well, 10 minutes having passed since I announced the 10-minute rule—

[Laughter.]

Senator CHURCH. [continuing]. Senator Bumpers, any questions?

Senator BUMPERS. I'll be very brief.

First of all, I ask you now to accept a letter from the Commissioner of Public Lands from the State of New Mexico, a letter from the Resources Agency of California, a letter from the Executive Office of the President's Council on Environmental Quality. And let's see, I guess that is it.

Oh, here is another one. Oh, that is the same one. Yes, plus the Presidential statement by the President at the time he signed the grazing fee moratorium last year all be made a part of the record.

Senator CHURCH. Without objection, that will be done.

[The information follows:]

STATE OF NEW MEXICO,  
COMMISSIONER OF PUBLIC LANDS,  
*Santa Fe, N. Mex., August 4, 1978.*

HON. DALE BUMPERS,  
*Chairman, Senate Public Lands and Resources Subcommittee,*  
*Washington, D.C.*

Dear SENATOR BUMPERS: We respectfully request that this letter be made a part of the record of the hearing before your subcommittee relative to the above-referenced legislation.

Federal, state and privately owned lands are checkerboarded or intermingled throughout the State of New Mexico. Consequently, ranching units are made up of varying amounts of diverse ownership of lands. The problems of any one of the

three owners implementing managements plans on such ranch units will undoubtedly vary according to the location of water and geographical factors.

Historically, the operation and policy management of the ranchers in New Mexico generally rested in the private landowner who leased the federal and state lands in his particular ranch unit. The only controls were that the federal and state agencies could cancel leases or refuse to renew a lease if the lessee abused the land.

As to the state lands, the lessee was required as a part of the consideration for lease, to protect the lands against abuse and the commissioners operated on the theory that the rancher, having a much larger investment in the operation, therefore more to lose or gain, would generally be more responsible in the management of the lands. Further, that the rancher, having lived upon the land, and in most instances in recent years, having possibly had formal training in an agricultural school, was far better qualified to manage the land than would government employees. It is also considered that most ranchers realized that they could not abuse the land seriously and stay in business in the long run.

Upon this scene came The Federal Policy and Management Act of 1976 (FLPMA) under which the BLM proposed to exercise management control over its lands under the theory that it could do a better job and that by reducing carrying capacities, allowing for game and recreation, the ranch could be made to carry more livestock after a 10 to 30 year rest period of reduced grazing. Among the matters brought to our attention by the ranchers are the following points: that the lands generally were not mismanaged and that only a small number were mismanaged; also, they disputed the standards being applied by the BLM as to what constituted overgrazing and mismanagement, and, the ranchers-landowners in multiple ownership units could see that because of high fencing costs the control and management of their private lands would also be taken over by the BLM. They also felt that this reduction in livestock production would create a shortage of meat in the United States which would bring on imports of beef which would further increase the balance of payments problem.

One of the first issues arising from FLPMA was whether Section 402, Allotment Management Plans (AMPs), are made mandatory for each federal lease or permit. Subsection (d) indicates that AMPs may be required but the legislative history pertaining to subsection (d) from House Report No. 94-1163 states that subsection (d) requires the Secretary of the Interior to include an allotment management plan for each lease or permit and in subsection (f) it provides that the AMPs shall not "refer" to operations or range improvement on nonfederal lands except where the lands are intermingled with federal lands or consent from the permittee is obtained to make this reference. At any rate, early administrative interpretation by the BLM was that they were mandatory and would have to be secured even though the particular ranch unit was being properly managed.

From the foregoing, and from a reading of FLPMA and of the New Mexico Enabling Act, a glaring problem is one of conflict of missions. The mission of the BLM under FLPMA is to take over managerial supervision of its lands and to manage them in the "public" or "national interest" and that has administratively been interpreted as providing for free uses such as for recreation, hunting and fishing, endangered species, and for preservation of wild horses and burros and to set aside lands for wilderness and etc.

On the other hand, the private landowner's mission is to make a living or a profit from the lands and the mission of the State of New Mexico is to produce revenue to be used for the limited purposes stated in its Enabling Act and Constitution.

As a practical matter, in ranching units of checkerboard ownership, problems will arise in implementation of an AMP designed to allow for free uses on federal lands because as a usual matter the lands in a typical ranching unit are not separated by fences according to ownership. Another problem that appears on the horizon is the possible administrative assumption by the BLM that free recreation, hunting and fishing and free grazing for wild horses and burros are in the public or national interest. On this matter it can be pointed out that the recommendations of the Land Law Review Commission were that all uses should be compensated for and special reference is made to Section 102(a) (9) which provides that the United States is to receive fair market value for the use of the public lands and their resources unless otherwise provided for by statute. It does not blanket in historically permitted uses except where they are specifically covered by a statute.

In addition to the conflict of missions, there will undoubtedly be instances of disagreement among the three owners as to the level or amount of restoration and conservation to be obtained. This will also involve the livestock carrying capacities as they are affected by allotments for wild life, recreation, wilderness and etc. The states and especially the private landowners will be affected economically by the mix adopted.

In addition, proposals to combine small allotments will also result in disputes in New Mexico.

Where one ownership in a ranch unit is predominate and the other owner's interests are minor, the one holding the most land might, practicably, be able to dictate management policies to accommodate only its mission or desires. Yet there are still the legal remedies for trespass to the minority holders and each acts with the knowledge that the roles may be reversed in another instance involving another ranch unit. In the cases where the ownership in the ranch unit are more in balance, the ability to control or dictate policy may be at an impasse. Of course, other factors such as the location of water or operating improvements or possibly geographical factors may also affect the control.

In short, unless the three owners are prepared to figuratively "fight to the death" in each instance, (which will result in wasted effort and a stalemate in land management), the three parties must engage in dialogue and point out to each other their problems, legal and practical, and otherwise try to accommodate all three missions and desires at least as far as possible on a give and take basis. In this connection, it is obvious that the third party, being the private owners, must be made a part of the current dialogue between the state and federal agencies. Decisions on management policy must be on a joint and/or partnership basis.

If this recommended cooperative method is to be utilized, it will require some broader administrative interpretation of unclear laws, or at least liberal interpretations and when the practical limit of such action is reached it will require amending of laws. We feel that the proposed amendment will help relax the inflexible position of FLPMA to allow custodial management in lieu of mandatory AMPs at the discretion of the Secretary of the Interior, and therefore strongly urge passage of the amendment to FLPMA.

Very truly yours,

ERNEST L. PADILLA, *Attorney.*

THE RESOURCES AGENCY OF CALIFORNIA.  
*Sacramento, Calif., August 2, 1978.*

HON. DALE BUMPERS,

*Chairman, Subcommittee on Public Lands and Resources, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR BUMPERS: The Public Range Lands Improvement Act of 1978 (H.R. 10587) was recently passed by the House of Representatives and sent to the Senate. It would greatly benefit public range lands in significant areas in California. There are over 10 million acres of Bureau of Land Management (BLM) land alone in California suitable for grazing livestock. Currently over 900 permits graze some 110,000 cattle and 190,000 sheep on BLM lands in California.

#### RANGE IMPROVEMENT

The Act would be a milestone in the restoration and management of public lands for all the benefits they can provide to the nation. It would provide for considerably more than just range improvement for livestock grazing; it would provide for upgrading all the public values of these lands, including wildlife, soil erosion control, outdoor recreation, water quality and yield, and aesthetic beauty. The Act would also improve the management alternatives available to the BLM for controlling wild horses and burros, which have been a major concern to us because of the adverse impacts their overpopulation has had on many of our public lands.

#### GRAZING FEES

The Act would also provide that fees charged for livestock grazing and leases on public lands be based upon a formula that reflects annual changes in the

cost of production. On this issue, I concur with the position of Secretary Andrus and BLM Director Frank Gregg that the principle of obtaining fair market value for public resources must be followed with grazing fees as it is elsewhere, and that the bill should be amended to replace the cost-of-production formula with a formula that reflects fair market value.

The formula now in the bill is not equitable. Half of the livestock produced in the western states is produced entirely on private lands. These operators must compete with those who use public land. Further, over \$2 billion of the public's tax dollars will be spent on repairing federally owned range land over the next 20 years. It would not be fair to invest this public money while at the same time charging ranchers who use public lands for private business less than fair market value. Charging fair market value will not radically affect the ranchers either, since grazing fees constitute only three to eight percent of the average rancher's operating cost. The formula now in the bill also sets a dangerous precedent. If less than fair market value is charged for the use of one resource, the same argument may be made for use of others such as timber, gas and oil. Our natural resources are precious, finite and frail. As a nation we cannot afford to charge less than full value for their use.

#### PRIORITIES FOR USE OF AUTHORIZED RANGE IMPROVEMENT FUNDS

The bill also sets out guidelines for determining which types of range management activities can proceed without an environmental impact statement. Although these provisions reflect a commendable attempt to resolve a thorny problem, I believe as drafted they create an even worse problem. A distinction is made between "environmental impact improvements" and "nonenvironmental impact improvements." The bill exempts the latter category—a wide range of rather broadly described activities—from the provisions of the National Environmental Policy Act (NEPA). For example, "vegetative manipulation through grazing management"—which could mean just about anything—is exempt from NEPA. The terms environmental and nonenvironmental impact improvements are not only confusing, they contain implicit value judgments as to what constitutes an "improvement." Yet there is quite a public controversy as to whether some of the "improvements" listed, such as chaining, are "improvements" or should be prohibited.

I suggest a slightly different approach. Delete Section (2) (g) and (h) and Section (4) (h) of the bill and add two new sections. One section would prohibit the use of funds authorized by the Act for certain specified projects until full compliance with NEPA. The other section would identify certain types of activities as high priority and require that the funds authorized by the Act for range improvement be earmarked for these purposes. Suggested amendments are attached.

#### ADVISORY BOARDS

The Act could also be strengthened by adding a requirement that the Bureau of Land Management have a Multiple-use Advisory Board in each district, as envisioned in Section 309 of the Federal Land Policy and Management Act (Public Law 94-579).

#### CARRYING CAPACITY

Finally, Section 1(b)(1) which requires an inventory of range conditions should be augmented by a mandate to determine the carrying capacity of the land for livestock without causing soil erosion or a decrease in fish and wildlife.

With these amendments, the Public Range Lands Improvement Act would constitute a major step forward in restoring and enhancing the productivity of federal lands and resources in California and elsewhere in the West. I hope that you will support these amendments and the Act. I would be pleased to discuss this matter with you further.

Sincerely,

HUEY D. JOHNSON,  
Secretary for Resources.

Attachment.

#### AMENDMENTS

Section \_\_\_\_\_.

Funds authorized by this Act shall not be used for range improvements which involve manipulation of the environment so as to artificially alter the

natural vegetative, and ecological process and produce range conditions for live-stock grazing which could not be attained naturally until the requirements of the National Environmental Policy Act are met. Such improvements include, but are not limited to: chaining, chemical treatment (including the use of herbicides), water developments with a storage capacity in excess of 25 acre-foot stream modification projects, and seeding activities to introduce nonnative species or increase forage above the optimum conditions which could occur naturally, or through the use of nonenvironment impact improvements.

Section \_\_\_\_\_.

Range improvements designed to augment, restore, or prevent deterioration of naturally occurring range conditions or facilitate the environmentally sound management of the range shall have highest priority for funds authorized by this Act. Such improvements include:

(1) the restoration of native vegetation which does not involve chaining or chemical treatment (except for the use of organic fertilizers) where scientific evidence or prior experience shows the likelihood of success is high;

(2) fish and wildlife enhancement projects, soil stabilization projects, watershed protection projects, stream erosion control and restoration projects;

(3) fence construction and maintenance, installation and maintenance of cattle guards, water developments with a storage capacity of 25 acre-foot or less, stock ponds, water lines, spring development and wells.

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EXECUTIVE OFFICE OF THE PRESIDENT,  
COUNCIL ON ENVIRONMENTAL QUALITY,  
Washington, D.C., August 8, 1978.

HON. DALE BUMPERS,  
*Subcommittee on Public Lands and Resources, Committee on Energy and Natural Resources, U.S. Senate, Washington, D.C.*

DEAR SENATOR BUMPERS: Two grazing management bills currently before your Committee—H.R. 10587 and S. 2475—raise issues of particular concern to the Council.

First, the two bills contain references to the National Environmental Policy Act (NEPA) that would exempt or seriously affect the application of NEPA to federal actions on the public lands. The Council recommends deletion of these references. Similarly, the Secretaries of Agriculture and Interior recommend that there should be no exception from or reference to the National Environmental Policy Act (NEPA) in H.R. 10587 or S. 2475, the Public Grazing Lands Improvement Act of 1978.

We also recommend that the Congress not attempt to make a statutory distinction between "environment" and "nonenvironment" impact improvements in this legislation. Exempting "non-environment" impact improvements from the provisions of NEPA is an unnecessary and undesirable action, especially when the definitions of "environment" and "nonenvironment" impact improvements are subject to widely varying interpretations as defined in these bills. For example, the bill lists "vegetative manipulation through grazing management" as a non-environment impact activity. Over grazing of the public lands is causing serious adverse environmental impacts. This proposed exemption could result in there being no discussion of the issue of over grazing in environmental impact statements. We urge your committee to remove the remaining references to "environment" and "non-environment" in both of these bills.

Experience has revealed that one of NEPA's greatest virtues is its flexibility. It would be very difficult, if not impossible to define for all the tremendously varied areas of the public lands those actions which will and those which will not produce adverse environmental impacts.

In response to an Executive Order in the President's 1977 Environmental Message, the Council on Environmental Quality has published draft NEPA regulations which are intended to simplify, shorten and clarify the NEPA process. This streamlining should assure that paperwork and delays are reduced and that decisions which properly consider environmental factors are more readily forthcoming. We believe this new direction accomplishes the desired results of the language now included in Section 2(g) and (h) of both S. 2475 and H.R. 10587; we therefore recommend that this language be deleted.

Second, regarding the determination of grazing fees, we are aware that the U.S. Forest Service and Bureau of Land Management support the historic principle

of setting grazing fees at a fair market value which is priced competitively with private lands. This principle was confirmed in law by the Federal Land Policy Management Act of 1976. Each of the bills pending before your Committee contains provisions which deviate from this principle. Even though the formula established in these bills may have little immediate impact on the actual fees collected by the government, charging a fair market price for public resources is a principle that should not be abandoned by Congress. We agree with BLM and the Forest Service that this proposed change in policy is undesirable.

The amendments presented to you by BLM concerning the NEPA references and the grazing fees should be adopted by your committee.

The Office of Management and Budget advises that the views contained in this letter are in accord with the program of the President.

Sincerely,

CHARLES WARREN, *Chairman.*

#### STATEMENT BY THE PRESIDENT

Today I am signing into law H.R. 9757, the "Grazing Fee Moratorium of 1978." This legislation places a one-year moratorium on increases in grazing fees on public lands in order to allow Congress more time to study recommendations by the Secretaries of the Interior and Agriculture.

For many years, fees charged for the privilege of grazing livestock on the nation's public lands have been below those charged for the use of comparable private lands. However, in section 102(a)(9) of the Federal Land Policy and Management Act of 1976, the Congress clearly stated its intention that "the United States receive fair market value for the use of the public lands and their resources".

The Act directed the Secretaries of the Interior and Agriculture to submit to the Congress their recommendations for establishing grazing fees on public lands in eleven western states. Those recommendations, based on a year-long study involving extensive public participation, called for fees to be set at fair market value as determined by current land rental rates for comparable private lands. Present rates would be increased at a maximum rate of 25 percent annually to reach fair market value. Thereafter, annual adjustments would be limited to 12 percent. Under these proposals, individual operators will pay an additional \$60 per year or less on average.

I strongly believe that the Administration recommendations will result in a fee structure that is fair to both livestock operators and the United States. However, I am also aware of the importance of the fee structure to our livestock industry.

I am aware that the Congress is now seriously considering two bills, H.R. 10587 and S. 2475, which among other things, would mandate a new grazing fee formula based in part on the price of beef and its cost of production. The Departments of the Interior and Agriculture have strongly opposed any formula which is not based on fees charged on comparable private lands. While I am signing H.R. 9757 to allow the Congress more time to review the Administration's grazing fee recommendations, I expect that Congress and its committees will honor the principle of a fair return from the use of natural resources by commercial interests. I remain opposed to legislation which does not provide a fair return to the United States for the use of public resources. I believe it is unfair to provide a special subsidy at the public's expense to those 5% of all livestock operators who use public lands, while the vast majority of operators use private lands at much greater expense.

I urge the Congress to approve the Administration's grazing fee recommendations and support their implementation for the 1979 grazing year.

JIMMY CARTER.

Senator DOMENICI. Senator Bumpers, I wonder if you would mind yielding to me. I'm needed in the Budget Committee by the Chairman.

Senator BUMPERS. Go ahead. How long are you going to take?

Senator CHURCH. Ten minutes.

Senator DOMENICI. After my opening statement, he will begin to run the 10 minutes. I'll try to be brief and I'll come back. I have a very genuine interest in this.

Senator BUMPERS. I'll bet you are like a you-know-what at a family picnic on this bill. Nothing but Western Senators here.

Senator DOMENICI. Let me first say, Mr. Gregg, before we confirmed you, I vividly, recall having a long conversation with you about what I considered to be your most serious challenge and that was to reestablish some credibility between your agency and the people that your agency had historically served.

I think that I told you that in a period of 5 years, a survey of my people indicated that your department went from a 95-percent—we trust them; we think they are decent people—to 5 percent, with 95 percent saying they don't give a dam about us. I think I told you that.

I want to first thank you for your personal effort to go out and try, as you promised, to understand the problem.

Now, having said that, I'm going to hand-deliver you a piece of correspondence which I think does the exact opposite.

The U.S. Fish and Wildlife and the New Mexico Wildlife commented on a certain kind of wiring to be used out in antelope and sheep country, and, at best, they as experts concluded that certainly there was no clear indication that this was harmful, yet you issued a directive, under your signature, unequivocally that it shouldn't be done.

I'd just like you to look at that and see if it isn't the kind of thing that I have been describing about the situation when I talked with you about your confirmation.

Now, having said that, let me say that I have a map here that because of time I'm not going to use, but it is a map of the State of New Mexico, which will reflect a rather dramatic condition of intermingle lands, State-owned, fee-owned, and Federal-owned lands. It will also reflect where most of the water that people with cattle herds is situated. And it will reveal in most instances that the water is basically on fee land.

You will find that a large ranch may have a piece of Federal land; six or eight sections of State land; three, four, or five sections of fee land. Now we have the problem of your department with AMP's. You are going to put into effect this new system of better preserving this range through new range management.

Many of the times it involves turning small allotments into what they perceive as collective management schemes. And I want to say to you that the users are very worried. Some of them, believe it or not, precede not only statehood, but the United States of America. Some of their allotments were granted by the King of Spain for 30 or 40 or 50 head.

We came into the Union and we fixed that all up, and now these people get their allotments from the Federal Government. Along come your field people, under a statute that I do not read to be absolutely mandatory; that is, in every instance you prepare an AMP for every part of the Federal land in this country without taking into consideration the kinds of things I just described here: water base, intermingle lands, and extreme disparities in rainfall, which I'll explain to you in a minute as being very important. But I ask you if you would like to have your range cut into three pieces by the Government and be told for 1 year you will put all your cattle on this one-third so that the next one-third can get nice and green for next year, when you have lived four decades on that range and you suspect that next year there

may be a drought and the one you are going to move the cattle to won't be capable of handling it.

I would ask you how you would like to be a small rancher with 50 or 60 head—some very, very good bulls that you spent thousands of dollars on—and to be told your allotment is too small, so you are going to have to put those bulls and cows in with your neighbor's on another piece of land, and if you have to spend every day out there looking at them to protect them, that is your problem. And what if, to make these things work on your land, three times a year you put some salt out there and some feed, only to be told by the Government you couldn't do that any more because what they really wanted to find out was how that piece of land with nothing else but cattle on it was going to work? If you understand these things, then you understand the problem we have in our State.

Now, the State land commissioner, whose letter Senator Bumpers introduced earlier, clearly indicates that he doesn't think he's been consulted with, and that he has a constitutional responsibility with reference to his State-owned land. The Governor of the State of New Mexico, Governor Apodaca, who I believe everyone on this committee would agree is a very progressive public leader, will testify later today that he believes that this process won't work because there is no consultation between the people with different interests: in the State-owned lands, the private-owned lands, the water rights. Your people, in good faith perhaps, just go out there and decide, well, we're going to make one management unit out of this, and if the private land and State land people don't want to join in, it is too bad, but they better because we are going to do it on the Federal land in any event.

Now, having said that, No. 1—

Mr. GREGG. Well, Senator, can I make a comment here? I have been down there and looked at that situation, and I just want to make it clear that I think that the description that you have just given about extraordinary arbitrariness on the part of BLM people does not square with what I observed there. I ran into a couple of situations where I had been told that there had been no consultation, and I found all kinds of recorded consultations, including personal visits to ranches and phone calls.

The man who was just the Associate State Director of the New Mexico BLM office is in the room here today. He is Max Lieurance, who is now chief of range on my staff. And while I don't want to create any feeling here that would interfere with the discussion that is to follow, I just want to assure you that I had heard a great deal about this.

I do find that there is a lot more consultation going on than I have been told and particularly with the State land commissioner. We have done an immense amount of consultation work, and I can tell you more about that later.

Senator DOMENICI. Well, perhaps you have, but I do believe the letter that Senator Bumpers made a part of the record clearly indicates that consultation or no, the Commissioner actually feels he constitutionally is going to have a very difficult time because of the charge under our enabling law and Constitution—

Mr. GREGG. We have some real problems.

Senator DOMENICI [continuing]. You have some real problems there.

I also would implore that you read the statement of the 85 Spanish-American people from Rio Puerco that I've made part of the record. It is in Spanish, but it is interpreted, and you can read it. I think you will get a little sense of the feel of tremendous fear that these people have as to what is going to happen to them under what we all perceive to be an experimental program. It may not even work, yet these people are being asked to risk their livelihood on it, and I think that is the actual nubbin of the problem.

I do believe that there are parts of this country where AMP's obviously will work much easier than other parts. I certainly think where there are intermingled lands and water-based herds, AMP's are far more difficult to implement than where there is constant rainfall, collective use in existence as a matter of practice, and seasonal usage 3 or 4 months out of the year instead of year round. So I believe that if we are going to test it, we ought not test it in the most difficult and complicated areas in the country.

And I think we are close to doing that, New Mexico, and some parts of Arizona.

My 10 minutes are up?

Senator CHURCH. Your 10 minutes are up, and we turn now to Senator Bumpers.

Senator BUMPERS. I might yield some time back to Senator Domenici if he wants.

Senator DOMENICI. Thank you.

Senator CHURCH. I want to advise the committee that at 7 this evening, we have to go to (d) (2) hearings on Alaskan lands. [Laughter.]

Senator BUMPERS. I just wanted to ask a couple of questions. Are these permits or leases assignable or subleasable grazing permits?

Mr. McGUIRE. They can be sold, but they can't be subleased according—

Senator BUMPERS. They can be transferred—can they be assigned for a period less than the duration of the lease? If you had a 10-year lease and you used up 1 year of it, could you assign it for, say, 2 or 3 years?

Mr. McGUIRE. Senator, in the case of the national forest, the permit goes with some base property typically.

Senator BUMPERS. The property does what, Chief?

Mr. McGUIRE. The permit goes with the base property, some private property. If the rancher owns a ranch which he uses for grazing his livestock part of the year and the other part of the year he may use the public lands. Now, there are exceptions to this, especially in the case of BLM.

If the rancher sells the ranch, he will get more for a ranch that has a permit that goes with it than if he didn't have the permit, so there is some value.

But if he sells, a new permit is typically issued to the buyer of the base property.

Senator BUMPERS. Is that true of BLM also?

Mr. MARTIN. Yes. BLM allows the transfer. It could be assigned for a couple of years to a lessee of the ranch property.

Senator McCLURE. Subject to the approval of BLM.

Mr. MARTIN. Subject to the approval of BLM.

Senator BUMPERS. That was my next question.

Well, can you tell me how frequent these assignments have been made in the past? Is it a common procedure?

Mr. MARTIN. I would say that it is relatively uncommon and is not a practice. In other words, there is not, so far as I am aware, a speculative practice. The people that own the base land tend to keep those permits and hold on to them and regard them as quite valuable and don't assign them, unless they get into an economic situation for a year or two where it is in their interest to assign.

Senator BUMPERS. Can he hold that permit even though he sells his adjoining property which he privately owns?

Senator McCLORE. He has to have—

Mr. GREGG. No. More often than not, he has to have base property.

Senator BUMPERS. When you say base property, does that mean contiguous property?

Mr. GREGG. It doesn't have to be contiguous.

Senator BUMPERS. But what does it have to be to be classified as base property?

Mr. GREGG. Well, that was all sorted out during the 1930's really in an attempt to divide up the public range so that it could be managed. So it doesn't have to be contiguous, but the purpose of the Government was to try to set up an arrangement under which you would have an economic unit where the operator needed to have some use of public ranges so that together with the public land and his land, he would have a year-round operation that would be economically viable.

Senator BUMPERS. What if he leases his private property, would the same rule apply?

Mr. GREGG. Yes. I would assume that the lessor of his property could in that process also pay for and get the privilege to graze on public lands.

Senator BUMPERS. But only again with BLM's permission?

Mr. GREGG. Yes; I believe so.

Senator BUMPERS. Let me ask you this: What is the term of these leases now? What is the maximum term you grant now?

Mr. GREGG. They differ, Senator. In the Forest Service they are typically for 10 years.

Senator BUMPERS. They are typically for 10 years? What are they typically in BLM?

Mr. GREGG. Well, typically now they are for 1 year, but beginning with the next grazing season we have published new grazing fee regulations that will have us writing 10-year permits on quite similar criteria to the Forest Service.

Senator BUMPERS. So you are proposing to do what the bill, and what the Senate bill already mandates you to do; is that correct?

Mr. GREGG. That is correct.

Senator BUMPERS. Now, I want to ask you this question: On page 15 of the bill, under section 6—

Mr. GREGG. Senator, is this the Senate bill or the House bill?

Senator BUMPERS. This is the Senate bill. I'll just read the proviso—you should be familiar with this language. It is very controversial in this bill. "Provided further that the absence of completed land use

plans our court ordered environmental statements shall not be the sole basis for establishing a term shorter than 10 years unless the Secretary determines, on a case by case basis, that the information to be contained in such land use plan or court ordered environmental impact statements is necessary to determine whether a short term would be established for any of the reasons set forth in items 1 through 3 of the subsection."

My question is that if you don't use that environmental impact statement, court ordered or not, or a land use plan, how can you know whether or not it would contain information which would permit you to lease for less than 10 years?

I mean it seems to me that we have almost a "catch-22" situation here. It says that the absence of a land use plan or court ordered environmental statements will not be the sole basis for establishing a period of less than 10 years. Obviously, this is designed to sort of force you into 10-year agreements.

My question is—it says, "unless the information to be contained in such a plan or environmental statement is necessary to determine whether a shorter term is feasible or not," how do you know what is going to be in the statement if there isn't going to be a statement?

Mr. GREGG. Well, I think the way that would operate in practice, Senator, would be that if a field man of the Bureau of Land Management felt that he was being asked to issue a 10-year permit in a situation where he suspected that it would not be in the interest of sound land management then he would probably use this to argue that the information in the statement was necessary in order to permit him to make an intelligent decision.

Senator BUMPERS. Now, that's a hell of a deal, isn't it?

Mr. GREGG. I don't think it is the most precise guidance that the Congress has ever offered. [Laughter.]

Senator BUMPERS. I think that is the understatement of the year.

Let me ask you one other question: Is there any kind of an annual determination as to how many head may run on a certain permit? There is now? Is that controversial with the landowners out there?

Mr. GREGG. Go ahead, John—

Senator BUMPERS. What I am curious about, say, a man has 600 head, steers or otherwise. [Laughter.]

And you've had a bad drought, and you decide that that permit will not carry 600 steers the ensuing year without destroying the range. Can you tell him he has got to cut to 400. Now, the question is, you know, the market varies when he sells 200 head, or when he reduces his herd to 400, there's an economic problem for him. How do you resolve that? He probably doesn't want to sell them, but if he is going to sell them, he needs some flexibility as to the time to sell them, does he not?

Mr. GREGG. Yes; you know, most of these relationships here between both the Forest Service and BLM and permittees, are relationships that have been going on for years so that the sort of draconian kind of adversary relationship that you described is not customary.

In time, you know, we come to learn a great deal about the permittees range situation and his operation, and he comes to learn a lot about how the public land managing agencies operate. But there are cases where—and we went through them, some very difficult ones, Senator, in

the drought that we just had 3 or 4 years ago—in annual permit processes of BLM, and I assume, John, in tenure permits on forest land, we had to come in and say, damn it, you can't run that many next year, the range won't stand it.

And you ask how that operates, well, the first thing I would assume is that we shout a lot, and then eventually we begin to, you know, try to address the facts of the situation and work it out as best we can. But we do not have any specific process which limits us from discharging our responsibilities to the land where we have to do something like that.

Senator BUMPERS. Well that is also necessarily a rather arbitrary decision, isn't it, when you decide how many head you are going to make him dispose of, or how many you are going to allow him to run. It is not calculated to make him very happy.

Let me ask you one final question: Does the administration agree or disagree with this section I read a while ago on the environmental impact statements and land use plans being used?

Mr. GREGG. On the 10-year permits?

Senator BUMPERS. Yes.

Mr. GREGG. Well, our thesis is that this language seems to be an attempt to clarify the 10-year permit language in the Federal Land Policy and Management Act, which told the Secretary to issue 10-year permits unless the situation falls into one of three specific exceptions cited, one of which relates to sound land management. We've accepted that, and the FLPMA language is not perfectly clear, but is as clear as one can write this kind of language.

We have issued regulations under FLPMA which instruct our field people to issue 10-year permits unless there is a specific reason in the interest of sound land management why they should not. Since we have done that and the Forest Service has done that for years on 10-year permits, I guess for decades, we don't think any improvement is made in the language in this bill so we would rather it be dropped.

Senator BUMPERS. Thank you, Mr. Gregg.

Senator CHURCH. Thank you very much, Senator Bumpers. Your 10 minutes has expired.

Senator LAXALT.

Senator LAXALT. Mr. Gregg, is there any truth to the news reports we see from time to time that large numbers of wild horses have starved to death on the ranges the last 2 or 3 years?

Mr. GREGG. Well, Senator, I can assure you that all such reports that are based on information from the Bureau of Land Management can be trusted entirely, and there were some. As you know, in northwest Nevada last year, I think, on the Buffalo Hills area there were somewhere on the order of 300 or more wild horses which apparently died of a combination of starvation and unusual weather conditions.

I flew over that range in April and I think I counted, myself, over 200 dead-horse carcasses.

Senator LAXALT. That was due to lack of proper forage and a tough winter?

Mr. GREGG. And a tough winter.

Senator LAXALT. Tell me, do you have any current counts on the number of wild horses that have been placed in the adoption program?

Mr. GREGG. Yes; There are 9,000 all told since we started the adoption program.

Senator LAXALT. Since they continue under present law to be Federal property, this legislation would allow transfer of title, is there any type of inspection program to see how those horses are doing in the adopted homes?

Mr. GREGG. Senator, at the risk of sounding classically bureaucratic, we did not receive any significant number of positions or money to monitor what happens to these animals.

We do do so, concentrating sometimes—but characteristically, Senator, in response to complaints about how they are treated although we have followed a number of the large adoptions to make certain that those adoptions were for authentic purposes. So we make some effort to keep up, but we do not have good and specific information on anything approaching all these animals.

Senator LAXALT. Well, again, recognizing that under existing law they remain the property of the Government, what happens when an adopted horse becomes old and disabled? Is there any mechanism for returning that animal back to the Government or does the situation just take care of itself?

Mr. GREGG. Well, in many cases adopters of wild horses have come to us and told us that they have found themselves no longer in a position to handle the animals and have asked us to take them back. That happened quite a lot in Idaho, I think.

Senator LAXALT. And you had to do that as a practical matter?

Let me ask you something—

Senator McCLURE. Would you yield for just one note?

Senator LAXALT [continuing]. Certainly.

Senator McCLURE. If that estimate of 70,000 is high—let's take an estimate of 50,000 out there—there is some 15,000 a year addition that we can expect under normal conditions. The adoptive load of 9,000 over the history of the act doesn't measure up very well against an annual increase of at least 15,000.

Mr. GREGG. No.

Senator LAXALT. Let me pursue another line of inquiry here which I think is perhaps equally important. I have an impression from reading your statement that the amount of money that we seek to authorize for range improvement may be more than you can actually use in connection with the constraints of the court, in the NRDC case. Do I understand your statement to be to that effect?

Mr. GREGG. No; my statement was designed to reflect our judgment about the next 2 years. The only periods throughout the life of the bill where the administration and the sponsors differ is that in the fiscal year 1979 we just felt that we couldn't get geared up as far as manpower was concerned to obligate \$15 million in addition to the money that you are planning in the Appropriation Act for 1979.

Senator LAXALT. Do you need more time in terms of finishing the program?

Mr. GREGG. It takes a little longer. I think we said that beginning in fiscal year 1980 we could use, as I recall the figure, \$5 million more. And beginning in fiscal year 1981, we thought we could keep up with the full amount of the authorization.

Senator LAXALT. Tell me this: Getting back to the court suit, within the agency, do you feel that the order presents too many constraints on the effective operation of BLM?

Mr. GREGG. Well, I have to go back just a tiny bit before that. You know, the suit was brought on the question of whether BLM should be writing environmental impact statements on grazing and whether grazing has an effect on the environment, and the answer to that question is yes, it does, and we should have been doing it all the time.

I think that the restraints that are placed on us by the court have been adjudicated and there is no sense in my arguing whether they are wise or not. It seems to me that our responsibility is to take this burden, which is placed upon us by the court and to turn it to the best advantage we can.

I think that we can understate a good professionally responsible investment program in the range at roughly the level that Congress is hoping to provide money, and obligate that money. The restraints, although we will continue to feel them, are constantly declining as time goes on, as we complete environmental impact statements, and as we are able to turn more resources to on-the-ground work.

Senator LAXALT. With the money that we seek to free up for range land improvements, we have no problem with your agency other than the first couple of years, that's just a question of leadtime; is that correct?

Mr. GREGG. You not only have no problem with us, you have our agreement and our appreciation.

Senator LAXALT. Fair enough.

Now, there is another thing that concerns me. I see references about when the environmental impact statements are completed, this may result in the reduction of allotments to livestock producers. That worries me because we have already had substantial diminution of both the cattle and the sheep industry throughout the West due to other factors.

Is it the policy within BLM or within the Department that eventually we are going to carry the multiple use concept to the point that we are going to prioritize the cattle industry down further than it is already?

Mr. MARTIN. Senator, I guess my response would be this: that certainly is not a statement of the policy under which we are operating. As I see it, what is at stake here is that we are undertaking a commitment to manage, not livestock or not fish and game, but all of the resources that are publically held by the Federal Government—

Senator LAXALT. I understand that.

Mr. MARTIN [continuing]. Under a common formula.

Senator LAXALT. On a balanced basis, right?

Mr. MARTIN. Yes. On a multiple use basis. We believe that in some cases, in many cases, that will result in not only a reduction of livestock, but a reduction of wild horses and burros, and a change in use patterns. But in some cases it will result—and we have already seen evidence—in either confirmation of the existing levels or increases due to the changes in other balances. So the policy is simply to carry out that mandate.

Senator LAXALT. All right.

Now, this is necessarily a matter of livestock production, particularly cattle. It is not a matter of priority then; it is going to be thrown into the mix in connection with all the other uses, arriving finally at a balanced use of public lands and water; is that correct?

Mr. MARTIN. Yes, sir. I don't think it is singled out as a priority, but I did say, and I said intentionally and quite carefully in my opening statement, and I said during confirmation and meant it, that I think that the continued tenure of a viable and healthy livestock industry is a significant matter.

Now I might make that same statement about some other values, but I think just simply the tenure of a healthy livestock industry is important economically, environmentally, and socially in the West.

Senator LAXALT. Do you think that under existing legislation, under existing policy the livestock industry is adequately protected?

Mr. MARTIN. I think we will continually look for ways to improve that protection. I mean, the bill that we are working on—

Senator LAXALT. What I am getting at, obviously, is that I think the western livestock industry is absolutely essential, not only to the West, but to the county. Absolutely essential. We have done enough to them already, and I wonder, in my own mind, whether under existing legislation, are we adequately protecting that industry! Not in terms of impairing the environment—

Mr. MARTIN. Senator—

Senator LAXALT [continuing]. Consistent with protecting the environment.

Mr. MARTIN [continuing]. I hear you—

Senator LAXALT. Do they need additional help from us?

Mr. MARTIN. I think that is a question that we ought to explore together, and I think my conclusion is, yes, there are probably things, but let me say this: I agree with the position you are taking. I commend it and I enthusiastically support it.

It seems to me we have to be careful as we look at the overall issue. One of the things that concerns us about fees, as we look at the livestock situation as a whole, is that it relates to much more than Federal fees. It has to do with the many other things I mentioned. It has to do with imports, and more. All of these are issues, and it seems to me that it is easily a subject which we could devote a lot more time and attention to see if we are doing enough. We would sure subscribe to that.

Senator LAXALT. I think that is all I have at the moment. Thank you.

Senator CHURCH. Thank you, Senator Laxalt.

Mr. GREGG. Mr. Chairman, could I volunteer an observation before we run out of time here. I think we are about through.

Senator CHURCH. We are not quite through because I haven't had my 10 minutes. [Laughter.]

Mr. GREGG. All right.

Well, I just wanted to be certain that I got this in is what I am trying to say, that is that there is some language in the Senate bill which forces the President to request certain appropriations. And additional language which requires the Secretary to explain why he doesn't request certain things, and I want to point out here that the executive branch is feeling very, very strong about these kinds of congressional expressions directed at the executive branch. I also want to point out that the similar language was cited by the White House as a reason for the veto of the Sikes Act. I don't want to say anything more about this except to reiterate the support that we have for the bill and the hope that we

don't run into any unnecessary difficulties when we all know that the annual appropriation process is, in fact, going to determine how much money is going to be available for the program.

Thank you.

Senator CHURCH. Well, we will take that seriously into account. We have to balance that against the fact that past experience has taught us that the management of the range is nearly always underfunded. We are trying to find some way to better guarantee that the amount that we authorize in this bill will, in fact, be requested, not simply by this President whose spokesman today has endorsed the bill, but by future Presidents who may take a different view.

Now, Senator Melcher, before he left, asked me to include in the record some letters that he had received from Montana.

One from Robert N. Gilbert, the secretary-treasurer of the Montana Bull & Growers Association of Helena, favorable to this legislation.

One from Richard Owen, the president of the Carter County Sheep & Cattle Growers Association, favorable to the legislation.

And one from James Courtney, of Capitol, Mont., the chairman of the Montana Public Lands Council, also endorsing the legislation.

In the latter statement, that of James Courtney, he quotes you, Mr. Gregg, as having said recently :

The actual fees produced by the fair market approach, and the technical committee formula have been very close. In fact, 8 of the past 10 years, the technical committee formula would have generated a higher fee. So the policy question before us is not the amount of receipts collected, but the method by which these charges will be determined.

Once again, I cannot reconcile that statement with which I don't take issue. I think it is a factual statement. With the argument made by the Secretary that to abandon the current fair market value standards would be to subject the industry to the public charge that we have undertaken to subsidize.

I just don't think that you can reconcile these two statements; your statement with Secretary Martin's.

Mr. GREGG. Well—

Senator CHURCH. If you can reconcile the two for me, I would appreciate it.

Mr. GREGG [continuing]. Senator, I'm quite certain that I can't in the way in which you wish that I could. In the years of record that we have since we've had data to calculate these, it is clear that the technical committee report would have been higher in most of those years. I'm not enough of a seer to look ahead and see what the future may hold. I suppose it is conceivable that over a period of—a similar period in the future, the technical committee report could be lower.

The fact is that in any one year—in any one year and in every year for that matter, the technical committee fee is not based squarely and exclusively on the best approximation of fair market value that we can find out of classic economic theory, which is what people are paying in the private market, modified by the different operating costs on public lands.

And while it is true that the distinction may not have substantial revenue potentials for the Federal Government, it is also true that it does introduce this ability to pay factor which raises serious questions of principle if that were to be applied to other resource uses. And it

also—you know, we're talking sort of in code here, and let me be more direct.

The Office of Management and Budget feels very strongly about this and for very good reason. They are concerned about this as a matter of principle, and I think that comes very close to the heart of what we want from OMB. And the House Appropriations Committee for 30 to 40 years has been talking about the fee as a condition of its steady support for investments in range improvements.

And my argument to your good friends in Idaho, Senator, for the last 6 months has been that the technical committee fee is not in your interest. Why put a great big millstone around your neck that can be used to say that you are not paying fair market value when the difference isn't that great, and you run the risk of losing the support of taxpayers and their representatives in the East, you know, for a good steady program.

Senator CHURCH. I think that you make a strong argument, tactic argument. I don't discount it, but I do differ with you when you stress the principle, both you and Secretary Martin have suggested that this would be such a departure from normal practice in the Government that it would stimulate a great deal of opposition.

It seems to me that there are many, many ways that the Government disposes of assets, of one kind or another, property of value without abiding by the fair market value of principle. For example, sites on rivers for hydropower dams are designated without reference to that principle.

Licenses for radio and television stations are granted without reference to that principle. Rights of way across public lands are made available without reference to that principle.

Mining claims are a striking example of value located in public land that are transferred to private individuals without reference to that principle.

The land acquired under the Desert Land Entry Act from the public domain is transferred without reference to that principle. Sale of timber and cooperative sustained yield units is another departure from that principle.

Selling of electric power by the Government through the TVA and the BPA are other examples of the sale of public energy without reference to that principle.

Geothermal leases on known geothermal fields. Use of water supplied through Federal financed reclamation projects. Federal gas and oil leases. Fees for the passage of ships through Federal locks.

Senator McCLURE. Thank you, Mr. Chairman. [Laughter.]

Senator CHURCH. I think there are just a lot of examples of the departure of this principle that suddenly has become precious and unique. I simply don't think established practices of the Government bear out your case, Mr. Secretary.

Mr. MARTIN. Well, Senator, let me say a couple things about that. First, I think our respective staffs have together looked at this issue and discussed it, and I mistakenly made a statement that was overboard, not publically, but in discussions with your staff about the precedent. That set off a wave of research into exceptions that have been created.

I believe that the list you just read, with all due respect, is not a good characterization of departures in this regard. For instance, oil and gas leases, while we do not attempt to describe the fair market value, are sold competitively. We could certainly sell grazing leases competitively, but we all know what a poor idea that would be.

Similarly, timber, while it is appraised and you must reach that bottom line, it is sold competitively in almost all cases.

Senator CHURCH. Well, not in the case that I cite.

Mr. MARTIN. I understand.

In the case of minerals, there is a clear articulated rationale which has to do with the knowledge of the resources, and the need to promote exploration, and there is a rationale for making that change.

It is not a rationale even now, that this administration is supporting in terms of its revision of the 1872 mining law. I think what we are suggesting to you, in all candor, is that regardless of the exceptions that have been taken, the basic fundamental value of a fair market return for any public resource should be the general rule and has, in fact, been the general rule in virtually all of the cases which have been debated deeply.

There are exceptions; I acknowledge those. In the cases where there are, there is generally, at least, a clearly articulated rationale for that distinction.

I have never heard the rationale stated clearly in this case, particularly when balanced against the point that Frank Gregg and I and the Chief have been trying to make today. That is, in our best judgment, which may differ from yours, the technical committee fee provides, given the slight difference in the return which we acknowledge, provides a valuable weapon in the hands of those that would criticize the livestock industry over the year. And taken together, these things simply tell us that this is a path that we ought not to take now. We can only give you the benefit of our judgment, but we consider it a dangerous path that has some bad future implications for this industry.

Senator CHURCH. Well, it is judgment call.

I have one final question and then I would suggest to the Senators that are amenable, we might break for lunch and then take up the first panel that we have scheduled at, say, 1:30. It wouldn't give us much time for lunch, but we are going to have to move ahead if we are ever to get through with the testimony today.

My final question is this: Private land lease index used to calculate the Secretary's proposed grazing fee is inflated by the high rates paid by speculators, hobby ranchers, drought-plagued operators, short-term lessees. In short, it is inflated by lessees who can, or are forced to pay prices for forage and are much higher than year around public lands lessee can afford.

The Secretary's technical committee saw the need to adjust the pure private lease rate index to reflect such short-term instability and their formula which is incorporated in this legislation made the adjustment by incorporating beef prices and cost of production as factors in the overall formula.

Now, the Secretary, of course, has overruled the technical committee and the formula you propose contains no adjustment for short-run instability.

How do you justify that?

Mr. MARTIN. Senator, the view that we have held over a period of time is that the adjustment might not be as great as some have suggested. We believe it is unnecessary to include a specific provision.

A curious dynamic appears to have grown in this process. Very early, when the Secretaries made this decision on fees, they took the position that we were largely right on the merits, but also realized that there are vast improvements that can be made in the data that we are using, and perhaps even a change to address the problem you are talking about.

The curious dynamic that has arisen is that this debate has turned into something of an "all or none" exercise. I would say that on at least a dozen occasions I have made the specific offer to interests in this debate to try to redesign the fee we have proposed, while staying within fair market value concept. That offer remains open today. But, frankly this has been a difficult offer to get anyone to take up because it has become a "your way or my way" sort of debate. I am signaling you that we are certainly open to talk about it. Although we have not concluded ourselves that the adjustment is as essential as you suggest, but if it could be demonstrated, we are certainly open to working on something that does it if it can relate to fair market value, rather than an ability to pay constantly.

Our feeling is: We don't judge the lack of the adjustment as harshly as you do, but if it can be demonstrated, we will work to correct it, as well as to improve the other data. Many legitimate concerns with the data have been pointed out to us and we can accommodate them.

Senator CHURCH. What is your base—your date line? Isn't it 1966?

Mr. MARTIN. 1966 would be the answer.

Senator CHURCH. Do you think that any longer remains as a reliable base from which you calculate?

Mr. MARTIN. Well, as I understand it, both sides of this debate are now accepting that as a reliable base, and I think at least for present purposes, it is workable as something to use as a foundation.

Senator CHURCH. All right.

Senator Domenici has a final question.

Senator DOMENICI. Last year when you conducted hearings around the country and the increased fees were later found to be necessary and then came the furor; from which came these hearings, you went out into the field and asked people to tell you what they thought about the grazing fee situation. I assume that a lot of average ranchers attended, but a lot of experts from agricultural universities and economists, and others representing similar viewpoints, testified also?

Mr. MARTIN. Yes, sir.

Senator DOMENICI. Were their views taken into consideration when you finally ended up in making recommendations?

Mr. MARTIN. Yes, sir, they were. They were seriously taken into view. As you know, overruling the technical committee report was a substantial step for the Secretaries of Agriculture and Interior, but they did take those into account and were very heavily motivated by what they said.

Senator DOMENICI. So you think they had some impact on the decision?

Mr. MARTIN. The Secretaries tended to disagree with those elements of the academic and the scientific communities that supported the technical committee formula, but their disagreement was not based so much on a difference which was of a technical nature; it was basically a policy difference which had to do with the basic concept of the formula:

Senator DOMENICI. Thank you, Mr. Chairman.

[The statements submitted by Senator Melcher follows:]

STATEMENT OF ROBERT N. GILBERT, SECRETARY TREASURER, MONTANA WOOL GROWERS ASSOCIATION, HELENA, MONT.

I am Robert Gilbert, secretary-treasurer for the Montana Wool Growers Association. We endorse the passage of H.R. 10587, the Public Rangeland Improvement Act of 1978. We feel this bill will provide for better management of public rangelands, not only for users but the American public as well.

We feel the grazing formula contained in this bill will give some stability to the question of "how much for grazing on public lands." In the past, public land users have been at the mercy of the administration in power. We don't buy the administrations current concern that this bill will not return a fair market value for grazing. As grazers on public lands, we point out that many who use public lands don't pay for that use. What does the backpacker or similar recreationalist pay? We think the administration is attempting to divide ranchers on this public lands issue. The House passed this measure June 29th by a wide margin. The anticipated floor fights over the formula for wild horse provisions didn't come to light. This bill will greatly improve the rangelands of the west for all in America. There is no doubt the bill will aid the problem of over-grazing by the herds of burros and wild horses. These animals will then be managed in their best interests. We urge your support of this bill and urge quick passage this session. Thank you.

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[Mailgram]

CARTER COUNTY SHEEP AND CATTLE GROWERS ASSOCIATION,  
*Ekalaka, Mont., August 7, 1978.*

Senator JOHN MELCHER,  
*Senate Office Bldg.,  
Washington, D.C.*

SENATOR MELCHER: This association urges you to support and vote for H.R. 10587 as passed by the House of Representatives. The grazing fee formula contained in the bill approved by the House is a good compromise and should be passed in present form.

RICHARD OWEN, *President.*

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STATEMENT OF JAMES COURTNEY, CAPITOL, MONT., CHAIRMAN,  
MONTANA PUBLIC LANDS COUNCIL

My name is James Courtney, I am a sheep and cattle rancher from Capitol, Montana and serve as chairman of the Montana Public Lands Council, an organization of all of the public lands graziers in Montana.

The use of the intermingled public lands associated with our private lands in our part of Montana provides an economic benefit which makes possible a more or less economic operation for the many small operators in our part of the country. It is for this reason that we wholeheartedly support H.R. 10587, the Public Rangeland Improvement Act of 1978.

We think that this legislation will make it possible for the federal range administrators to do a more effective job of managing the grazing resource. The range improvement program in Eastern Montana has been at a standstill for several years now and this legislation would authorize the expansion of such a program over the next 20 years. These improvements add value to this national resource and the increased carrying capacity that should eventually be developed, will be charged back to those individuals enjoying that privilege. I am told that all major farm organizations are strongly endorsing this bill and the only real

opposition of which I have heard is with the Administration itself on the grazing fee portion.

I have difficulty in understanding the Administration's position charging that the fee formula proposed does not result in fair market value. Beauty is in the eye of the beholder and the term "fair" can mean different things to different people. I believe that the formula proposed by the Technical Committee, which is the formula contained in H.R. 10587, is just as fair as the Administration proposal. In fact, in recent comments made by Director Frank Gregg of the Bureau of Land Management he stated, "the actual fees produced by the fair market approach and the Technical Committee formula have been very close. In fact, eight of the past ten years, the Technical Committee formula would have generated higher fees. So, the policy question before us is not the amount of receipts collected but the method by which these charges will be determined."

Our organization as well as many others, has maintained that a fee formula in order to be fair must take into account, cost of production and prices received. The livestock industry is just now recovering from a five-year period of escalating costs and declining prices. This past period has taken its toll of small farmers and ranchers in our area and throughout the west. This is why we maintain that the word, "fair," means taking into account the situation which confronts the western range livestock user.

In closing I would like to point out the public range forage user is one of the few users who is being required to pay fair market value. The hunters, fishermen, rock pickers and other recreationists make absolutely no contribution to the land-managing agencies for their use of these resources. In setting stumpage rates for timber, even the loggers are provided with a formula which takes into account local economic conditions. Add to this the fact that the grazing land user pays for his grazing use without really knowing whether that amount of forage will be there or not. Comparing this with the individual leasing privately owned land, which leases are not entered into until there is some assurance that the forage needed is actually available.

We believe that H.R. 10587 merits your support and would like to remind you that the proposal did pass the House overwhelmingly and is merely a modification of similar legislation which has been considered by the Senate. The Administration has indicated that many of the bill's provisions are badly needed. The only argument seems to be as to which formula to accept. Members of the committee, we suggest that this bill be the vehicle by which a statutory grazing fee formula might become a fact of life and request early passage of the proposal.

Senator CHURCH. May I just announce that at 1:30 we will reconvene for the purpose of hearing the following panel. The panel will consist of Joseph Lane, Dean Rhodes, Mr. Tye Moore, Mr. Nick Theos, Mr. William Swan, Mr. Charles Lee, Dr. Gene Ross, and A. W. Langenegger, from New Mexico.

The committee is recessed until 1:30 p.m.

#### AFTERNOON SESSION

Senator CHURCH. Will the members of the panel please come up to the witness table? By my count there are eight members. Staff can give us some help in getting some additional chairs.

Now we might proceed in accordance with the listing here on the agenda. Each of you I know has a statement you would like to make. Depending on the length of the statement, whatever is said, you can accommodate the committee by summarizing. That would be appreciated. In any case, the whole written statement will appear in the record.

Why don't we start with Joseph Lane.

#### STATEMENT OF JOSEPH LANE, CHAIRMAN, PUBLIC LANDS COMMITTEE FOR NATIONAL CATTLEMEN'S ASSOCIATION

Mr. LANE. Mr. Chairman, and members of the committee, my name is Joe Lane, and I live near Willcox, Ariz., where I own and operate

a cattle ranch. I am here today representing the National Cattlemen's Association which I serve as chairman of its Public Lands Committee.

Bills S. 2475 and H.R. 10587 represent the most important legislation aimed at solving some of the problems of the Federal rangelands since the passage of the Taylor Grazing Act in 1934. Our industry endorses this legislation and urges the committee to seriously consider the many beneficial effects it would have on all public range uses and values.

This legislation recognizes that many range problems in the West cannot be solved by the Western public land operator alone. Ranchers, governmental agencies, and environmental groups have made strong efforts to improve the land but there is still a long way to go before we achieve the productivity of which the range is naturally capable.

As you know, the cattle industry in the United States has been in deep financial trouble for the last 3 years. Extreme drought and a glutted cattle market has resulted in many cattle producers being forced to sell their product far below the cost of production.

We recently completed a study in Montana which shows losses per head averaged \$47 in 1973 and this increased to \$101 in 1976. This is an increase of 215 percent in losses in 3 years. I do not think there are many industries in the United States which have suffered such losses and still survive. Even with the improved markets today, our industry is not in a financial condition to make most of the improvements on the Federal rangelands as it has done in the past.

The major provision in these bills concerns the fee for grazing livestock on the public rangelands of the Western States. The livestock industry in a united stand opposes a return to the old Udall-Freeman formula for determining such fees and for determining "fair market value." We, as an industry, do not mind paying our fair share and we have never asked for any kind of subsidy. We just do not think the administration's formula reflects fair market value.

Basing a grazing fee formula solely on the small amount of private pasture in the West available for rent for grazing will not accurately reflect true fair market value. In theory, perhaps, the value of private lease grazing land should move up and down with economic factors such as the price of livestock. But in the West this correlation does not exist. I want to emphasize this point because this point has been made over and over today, fair market value. Due to the shortage of private lease land in the West, such land always commands a premium price, a price that a buyer cannot justify on a long-term or permanent basis or as a substantial part of his ranching operations. A rancher is no different than any other businessman; he can't long endure if his cost of production is consistently greater than the price of the product he sells.

For these and other reasons, the Western private land lease rate as it is presently being determined by the administration is not always an economically justifiable lease rate, and it needs modifying factors such as the cost of production and the beef price index to allow it to come anywhere close to true fair market value.

Over 90 percent of the Federal lands outside Alaska are in the 11 Western States and about half the West is Federal. The Federal Government owns over 86 percent of Nevada; over 66 percent of Utah and

64 percent of Idaho. There are additional millions of acres in State and other public lands.

When you consider all the other uses and demands on the remaining private lands, there simply is not much suitable private acreage available for such rental purposes.

The administration's fee formula is based on private land rents plus a measurement of some of the difference between public land and private land costs. But in determining such a fee, are the private transactions surveyed really comparable to all the cost differences taken into account?

Perhaps the best way to answer that question is to quote the administration itself. In the report of the Secretaries, which I have a copy of, dated October 21, 1977, in the report of the Secretaries rejecting the recommendations of its own economists on the Technical Committee, and announcing the administration's formula, it was frankly admitted that the data on which this formula was based left much to be desired.

For example, on page 3-34 of this report it is stated that in the grazing fee study which is the foundation of the private land lease index, "There was no effort made (other than to exclude irrigated lands), to insure that the characteristics of the lands in the sample correspond closely with the characteristics of the public rangelands. Private leases which, for a variety of reasons, were not competitive were not excluded."

The Secretaries confess there is a legitimate concern about the "adequacy" of the private grazing land lease rate data and they are thoughtful enough to list in this report the kinds of inappropriate or noncomparable situations that the data includes: "(1) Recreational or hobby ranching; (2) speculative leasing (operators speculating on a near-term increase in livestock prices, basically 'inners and others'); (3) lease rates in which a special relationship exists between the lessor and lessee. . ." They also said that the data need to be examined to determine "the amount of services provided by the lessor along with the grazing."

Despite recent statements by administration officials which give the impression that they now have no doubts that they have discovered the fair market value of grazing, one need only read the Secretaries' report to realize that these officials are whistling in the dark. For in addition to the quotes already given, there are many other admissions that no one really knows exactly what the private lease data measure.

The Secretaries' report goes on to suggest that, yes, maybe it might be helpful to be able to answer such questions as: "Do private leases include a significant number of emergency situations requiring rental of grazing? Are private leases predominantly short term?"

On page 5-2 of the same study, the Secretaries' report concedes that many changes since the 1966 study of nonfee costs of public land ranchers are not accounted for, such as: "1. Costs associated with the implementation of special grazing systems and other intensive management practices; 2. costs incurred by ranchers that, in reality, benefit other users; 3. costs borne by other users that benefit grazing; 4. costs borne by ranchers that result from the use of public lands by other user groups, such as vandalism of fences, spring developments, and water troughs."

On page 5-3, a number of basic questions are restated in this way: "Were the private fee data obtained for private rangelands really comparable to public rangelands? Were all the private lease rate studies genuinely competitive? Have maintenance, predator losses, and other costs of grazing on public lands shifted appreciably relative to the costs on private lands?"

I don't wish to belabor the point, but if even the administration itself admits the private lease data are questionable, would it not be better to temper or supplement this data with factors such as the cost of production, factors which are recognized by the appraisal professional as a proper means of determining fair market value?

The hope that the private rent data will be "refined" some indefinite time in the future is not much of a justification for imposing a fee which could be disastrous to many ranchers.

We urge this committee to adopt the technical committee formula in S. 2475 and H.R. 10587 which contains factors supplementing the private land lease data. This is not the formula we originally proposed and not the formula recommended to the White House by the Secretaries of Agriculture and Interior in 1974, which we would prefer.

The technical committee formula does contain the private land lease data as the primary component, but, despite our misgivings, we are willing to accept this formula as a compromise and in the hope that this formula will, as the technical committee suggests, reflect the long-term trends in grazing values and, at the same time, account for short-term instabilities in livestock prices and production costs.

We believe that fair market value to a degree must reflect the operating margin of the lessee. In most long-term commercial leases, the cost of production and the profit of the lease are factors which at least implicitly determine lease rates. Such rates are not determined by comparisons to limited situations in which the lessors are making money but the lessees are not. The latter situation certainly is not a fair market-value situation and certainly not a permanent situation.

We, therefore, think it is appropriate that the cost of production and the profitability of a lease be considered in determining public land lease rates. After all, the value of grazing is dependent on the price received for the product of that grazing.

In addition, this legislation would limit the annual increase or decrease in fees to 25 percent of the previous year's fee. This is important since all of agriculture, and particularly the range livestock industry, suffer from a poor cash flow position.

The \$360 million in funding authorized by this legislation would go a long way toward providing the on-the-ground improvements which are urgently needed. Such improvements include fencing, water development, soil and water conservation projects, and the restoration of vegetation which would greatly benefit wildlife, livestock, and other range resources.

The bill also spells out those range improvements which can be made prior to completion of the court-ordered environmental impact statements and those which cannot. The livestock industry and the Bureau of Land Management have needed such definitions for a long time because improvement work has almost halted due to confusion about what is allowed. A legislative solution to the problem is needed since

many environmental impact statements will not be completed until 1988, or even later if there are further court challenges, which appears likely. Projects to improve wildlife habitats and other range resources cannot be made without some guidelines.

Section 6 of S. 2475 and H.R. 10587, dealing with grazing leases and permits, addresses another major problem caused by the court-ordered environmental impact statements. The Federal Land Policy and Management Act of 1976 indicated that grazing leases and permits should be issued for periods of 10 years with few exceptions. However, the Secretary of the Interior subsequently determined that 1-year permits would be issued where land use plans were incomplete. This section provides that permits shorter than 10 years shall be on a case-by-case basis rather than a blanket policy. Such a practice is vital because banks and loan associations have taken a dim view of financing operations which have the prospect of 1-year leases each year until 1988 or later. A rancher also is hampered in the sale of his operation to another rancher when he has such a short-term permit or lease—10-year permits help promote stability in the industry.

While the BLM appears to have relented somewhat on this matter, this language is still needed to make clear the intent of Congress.

The provision in these bills allowing management of wild horses and burros is urgently needed to prevent serious consequences for all range uses. Since Congress passed protective legislation in 1971, herds of wild horses and burros have been so well protected that their numbers now exceed the carrying capacity of the range in many areas. Considerable damage has been done to the range resources. There have been reports of ranges denuded of vegetation by wild horses and of hundreds of animals starved to death, which hardly seems humane.

This legislation would allow the Government to transfer title on the adopted horses after 1 year and allow humane disposal of the excess animals. These actions, along with a continuing inventory to determine where excess animals exist, may alleviate many problems. I might add that our industry would like to see a limit put on the numbers of such animals allowed on the rangelands, preferably at the 1971 inventory figure.

Section 8 of H.R. 10587 concerns a problem unique to the land ownership patterns in the Western United States. The crux of the problem is intermingled land ownership and who controls what. Many western ranches consist of Federal range intermingled with State land, private land, and, in some cases, private leases.

Writing an allotment management plan without taking into account the inputs of all owners involved in a particular area would not be fair to any owner left out and would make efficient management difficult.

The bill provides that allotment management plans should be developed in consultation with permittees and lessees the District Grazing Advisory Boards, and with the cooperation of other lessors involved on intermingled land. We endorse this concept because it would allow each landowner to have input into the plan which would result in a harmonious working relationship between all affected interests in intermingled land situations such as those with Federal, State, and private landowners.

H.R. 10587 contains a number of constructive changes and compromises made in the House. One significant compromise is that the fee formula is established for a 7-year trial period.

We support these changes and urge this subcommittee to approve the House language. We would be opposed to any further changes in this bill.

One further note. It has been alleged by administration spokesmen that the formula in this bill represents "unfair competition" to livestock producers who do not use the public lands. I want to emphasize this point. I know of no livestock or farm organization which agrees with that charge.

I might point out that the National Cattlemen's Association represents 280,000 cattlemen throughout the country covering all segments of the beef cattle industry including breeders, producers and feeders. The National Cattlemen's Association and many State cattle associations in all areas of the country have adopted resolutions in support of this formula. This legislation also is supported by the National Wool Growers Association, the Public Lands Council and all of the national farm organizations: the American Farm Bureau Federation, the National Farmers Union, the National Grange and the National Farmers Organization.

Professional groups which support the concept of the legislation are: The National Association of Conservation Districts, the Society for Range Management, the Western Universities Public Rangelands Coordinating Committee and the Western Association of State Departments of Agriculture.

Other organizations which have indicated support of the House bill include: National Environmental Development Association, Western Environmental Trade Association, Wyoming Environmental-Agricultural Coalition, Northern Great Plains Regional Sierra Club, Wyoming Wilderness Society and Wyoming Sierra Club, and the Wyoming Outdoor Council.

Thank you very much.

Senator CHURCH. Thank you very much, Joe.

I will just ask a question or two as we go along so that I won't have to try and remember what I was going to ask each panelist later. I think it is very significant that we have endorsements here not alone from the cattlemen and the sheepmen but from conservation groups and wildlife groups and the hunters and sportsmen, all of whom have a great interest in the public domain. I think that indicates that we have a pretty sound bill that addresses itself to many considerations.

Now, Joe, you have made a very strong case it seems to me for including the cost of production factor into determining what the fee should be, and you certainly have pointed out the many reasons why there is a basis to doubt whether the administration's so-called fair market value actually represents fair market value. But you heard the Secretary this morning make a plea to the members of the livestock industry to abandon this position on the grounds that this bill is too valuable to lose, and you risk losing the bill if you insist on this particular formula.

I would like to know whether your organization—and others, too, as you have a chance to speak, I wish you would address yourself to this question—is this formula, as incorporated in the bill that Senator Laxalt and I have introduced, and has been approved by the House, sufficiently important to you that you would risk the possibility of losing the whole bill by your insistence on it?

MR. LANE. Yes, sir, it is. The main reason for that is because of the point I brought out earlier in the testimony, we are being beat to death by symmetrics. I wish we could have got the three good words, fair market value, and stuck it on ours first because it appears that if you are not for fair market value, you are for subsidy or something else.

We feel that their fair market value formula based on such a short amount of deeded land in the West is not what you would call fair market value.

I would hate to go buy cars based on what the price of a car is in New Jersey, and Arizona might be a different field. Fair market value is a very nebulous thing. We feel that tying to the cost of production and tying to the beef cattle thing, then it truly reflects economic factors. As the price of cattle goes up, the price of the lease goes up. Conversely, the same way down.

I am sure grazing land in the Midwest, where it's all deeded private land, is tied very closely to the price of cattle. It just happens in the West there's so little deeded land that it always goes for a premium.

So what we are trying to say is that the whole backbone of this bill has to be a grazing fee that we can live with. And you have to remember, too, that this bill also says it's going to be a 7-year trial period. We are not married to it forever.

We think, as an industry, that after 7 years we can sit down and say we can prove to the administration that this is more fair than their bill. That's what we're trying to say. We are saying that 7 years down the road now we will know who is going to be right and we think we are going to be right.

Senator CHURCH. Thank you.

Senator LAXALT, do you have any questions?

Senator LAXALT. Just a question or two.

I was interested, Joe, in the observation that you made that the other private cattle groups, if that's the proper phrase, had no objection to the approach that we have here. In the testimony this morning from the administration people, it appears to be somewhat of an obstacle. Yet I for one haven't received one single letter from any cattle producer in this country, operating purely on private ground, objecting to this approach. But I gather that's the feeling of your group as well, confirmed by the actions, I guess, of the groups involved.

Mr. LANE. Yes, sir.

Senator LAXALT. All right.

I have one other item, Mr. Chairman.

You make reference that in relation to wild horses and burros, that we should perhaps fix the capacity of the 1971 level. Now, there's some indication here in town, and certainly out in the field, that we don't have any 1971 inventory level.

Mr. LANE. Well, I think they had a pretty good guess of what the 1971 inventory level is.

Senator LAXALT. Do we have any document on 1971 at all, the least bit persuasive or helpful?

Mr. LANE. I don't personally. Maybe Mr. Rhoads does.

Senator LAXALT. Do you know of any?

Mr. RHOADS. No; I don't.

Senator LAXALT. I think that the thing we have to remember here is that the intent of the act was that we were going to preserve the situation as of the time of the passage of the act, and what's happened since then was never contemplated by anybody in their fondest imagination.

That's all I have, Mr. Chairman.

Senator CHURCH. Thank you very much, Senator Laxalt and Mr. Lane.

[The attachment to Mr. Lane's statement follows:]

STATISTICAL ANALYSIS OF 17 RANCH OPERATIONS UTILIZING PUBLIC LANDS

	1973	1974	1975	1976
1. Animal units owned.....	1, 139	1, 197	1, 160	1, 163
2. Total cost of operation (including debt servicing and depreciation).....	\$219, 427	\$246, 693	\$226, 987	\$275, 801
3. Total income from operation.....	165, 957	175, 980	144, 478	157, 688
4. Net profit or (loss).....	53, 470	70, 713	82, 509	118, 113
5. Peak debt during year (all liabilities).....	397, 029	402, 285	413, 128	521, 277
6. Peak debt per animal unit (divide line 5 by line 1).....	348	336	356	448
7. Profit or (loss) per animal unit.....	47	59	71	101

Senator CHURCH. Our next witness is Dean Rhoads, president of the Public Lands Council.

#### STATEMENT OF DEAN RHOADS, PRESIDENT, PUBLIC LANDS COUNCIL

Mr. RHOADS. Thank you, Mr. Chairman.

I am Dean Rhoads of Tuscarora, Nev., and I am president of the Public Lands Council.

I know you have a long afternoon, and I would like to just hit the highlights of my statement, and I would like to submit it so it would be in the record. When I finish, I would like to make one observation about the private land lease raise.

We have been working on this legislation for a long time and particularly the grazing fee portion of it, so most of my information will be addressed to the grazing fee part of it.

We believe this legislation is urgently needed to improve the public range to produce its full potential for wildlife, recreation, forage, and water and soil conservation. We support the multiple-use concept and believe that livestock grazing is compatible and complementary to other range values.

This legislation is the result of many meetings and many compromises that the livestock industry has participated in over the past 2 or 3 years.

A number of changes were made in the House which are reflected in the House-passed bill to accommodate the concerns and interests of wildlife and environmental groups. These changes include a guaranteed minimum amount of annual range betterment funds, a rewrite of the language concerning when environmental impact statements are required, establishment of the grazing fee formula on a 7-year trial basis, plus many other changes.

We would like to emphasize that the grazing fee formula itself represents a major compromise as far as the livestock industry is concerned. We made many concessions when we arrived at that grazing fee formula.

And I will answer your question now. We definitely want the grazing fee formula. Without it in there, I don't know just how bad we want the bill. But we definitely want the bill.

Senator CHURCH. That's crucial to you.

Mr. RHOADS. Yes.

Despite our doubts about the reliability of the private land lease data which are included, we decided to support this formula because it has an additional adjustment factor which, to a limited extent, takes into account the ability to pay concept which must be part of any fair market value transaction. The formula recognizes the law of economics that a buyer will be willing and able to pay more for a product when the value of that product is increased, but that a seller must settle for less when the value of what he is selling is decreased.

I would like to address statements such as was made this morning by Secretary Martin and Director Gregg and what has been quoted many times by Secretary Andrus, that the formula proposed by the administration would achieve fair market value, that the formula in this legislation which we support would not. I think these statements are incorrect. The formula in this legislation is a more accurate measurement of fair market value and the economic analysis involved in it is nothing more than an adjustment factor, similar to that already used by land management agencies to determine the fair market value of other public resources.

Secretary Andrus, as well as others, has admitted that the differences between the administration's fee and the fee in this legislation would be small over a period of time. In many cases, ours would be larger. In other words, the revenue received would average out about the same.

We have already heard Director Gregg say in the last 14 years, 9 years I guess, it would have been larger.

The difference between the formulas, which is important to us because it means our survival out there, is that under this legislation the fee would go up when it should go up and go down by a 25-percent limit when it should go down. This would be more in tune with true fair market value.

Senator LAXALT. May I ask a question at this point, Mr. Chairman?

Senator CHURCH. Certainly, Senator Laxalt.

Senator LAXALT. Dean, you heard the testimony this morning. The major thrust of it was that the increases in grazing fees of the proposed formula would affect only a small amount of marginal operators and then only to a small extent.

What is your evaluation of that testimony?

Mr. RHOADS. I have that in my statement. I will not read it word for word, but the figures that we came out with, it would actually be just a hobby rancher, a rancher that probably has a service station in town, and he has 30 head of cows or 60, whatever the example was. We feel that to the real true rancher in the West that that small amount of livestock is not the ones that this grazing fee is really hurting. It's the ones that are making their living out there 7 days a week.

Senator LAXALT. Who are we trying to protect with this legislation, or who should we try to protect, Dean, in your estimation?

Mr. RHOADS. Well I think it's the ranchers in the West that have a family size operation. They are making their living out there every day. And I would like to repeat that if we keep getting the harassment that we are getting from different BLM rules and regulations and an increase in grazing fees on a method that we feel is unfair, you are going to see subdivision going on in the West on some of our best private lands that we have in our Western States. And I think that's a trend that most people do not want.

Senator LAXALT. Thank you, Mr. Chairman.

Mr. RHOADS. I would like to go into an example of the Interior Department that we feel does take in a similar type of pricing process as our proposed grazing fee.

Take timber, for example. The act of October 22, 1976 states that the Secretary of Agriculture must sell timber and forest products on national forest system lands for not less than their "appraised value." Department of Interior regulations state the same. Agriculture regulations go on to state that "the objective of the national forest timber appraisals is to estimate fair market value" and that the residual value approach to the appraisal of national forest timber is the standard approach.

So how is the value—the fair market value—of timber appraised? For standing timber the residual is computed by first establishing the value of the timber at the mill, or other marketplace. From that figure are deducted the costs of cutting, removing, and transporting the timber to market. Also deducted are the costs of land resource protection and rehabilitation, other related costs and, please note, an allowance for profit and risk taking.

In other words, the cost of production and the profitability. For such appraisals, large amounts of data must be collected on the amount and character of the timber on the land; the costs of logging methods, road building and maintenance, trucking, market prices of timber, interest rates, profit returns, and so forth.

And we feel that if this particular proposal is passed, it is not setting a precedent that in the timber industry to have a similar process going on at the same time.

In summary, if grazing is a value which should be retained on the range, then a public grazing fee should be related to the value of grazing as expressed in its ability to give the user a fair return. It should not be based on conditions which reflect a scarce limited market and land development pressures.

The grazing fee formula proposed by the Secretaries does not meet the objectives of a grazing fee system outlined in Federal legislation

and previous Federal executive policies. It would not achieve fair market value; it is not fair and equitable to the public and the users of the public lands; it is not reasonable and it does not respond to the directive of Congress to take into consideration the costs of production normally associated with domestic livestock grazing in the 11 Western States, the differences in forage values and other factors relating to the reasonableness of such fees. The administration's formula would have an adverse effect on the production of food and fiber and on the economies of many western communities.

The problem with the administration's formula can be summed up in this statement by the Technical Committee's economists:

In the case of administered prices, failure to recognize potential imperfections in the price norm results in windfall gains and losses. During periods of increasing marginal revenue, the Government would fail to receive full market value for its range resources. Conversely, during periods of decreasing marginal revenues, the Government may charge in excess of fair market value for the range resources. The equimarginal principle states that the value of a resource is determined by its value in use.

I would like to conclude by focusing in on Secretary Martin's statement on enclosure No. 5 which many of you have before you. This is a comparison of fees and private lease regs. I would like to have you look at the last column under "Private Land Lease Rate." Fair market value should have a definition that it should be tied to supply and demand. If the supply is up, the price is cheaper; if the demand is higher, the price is higher.

So what I would like to point out to you, in 1966 the private land lease rate, after they sent their survey out, determined it was \$3.65. In 11 years statistics have been doing that; the private land lease rate only went down 1 year and that year it went down 7 cents. And I think it would be impossible that over an 11-year period that if this fair market value concept that they are pushing for, it hasn't worked because in 11 years we have had some years we had a lot of rain, a lot of moisture. And if this really worked in an 11-year period we should have an up and down type of reaction. And it would be very interesting I think at the end of 1978 to see what the private land lease rate has done. Because I know after the severe drought we had a year ago, and the outstanding rain, particularly in California and some of our Western States had, I personally know of grass that was available down there a year ago for 18 cents a pound gain and they are trying to sell it this year for 11 cents a pound and a lot of it went unclaimed and there just wasn't enough cattle around.

So the lease rate index, if it doesn't really take a nosedive this time, I would say that it is really an inaccurate barometer for the Secretaries to be proposing to the people.

Thank you very much.

Senator CHURCH. Thank you very much, Dean.

We have a vote on. It might be that we could stagger our going and keep the hearing underway.

I have just one question to put to you. You have reconfirmed in your testimony the importance that you attach to this new formula for determining grazing fees. I think we should try to tie the reason for that down very closely.

As I understand your testimony, you are interested in this new formula, not because you think it's going to reduce the return to the Government or over a period of years it is going to be any less burdensome, but because you would like the fee to bear some reasonable relationship to the fluctuations in the market. If the price of meat is down, you are not as well able to pay the high fee and it's helpful in seeing you through. You have just been through 3 very lean years until this year, 3 or 4. It's very helpful in seeing you through if you don't have to pay a high grazing fee when you are not even breaking even. You are losing money on every head of cattle.

On the other hand, when the market is good and you are making money, you don't object to paying more. Is that a fair statement for the reason why you attach a lot of importance to this formulation?

Mr. RHOADS. Yes; I really believe it is, Senator. I think another reason is the fact that I believe the land agencies and the livestock agencies and the people in the West certainly get along better if we didn't have to come back here every year and discuss grazing fees. I have been back here 20 times talking about grazing fees over the last 3 years. We are getting tired of it. I think we could get along better and I think that Director Gregg and the Secretary would also.

Senator CHURCH. Fine. This is time we settled the issue and saved you a great deal of money on the side in transportation costs alone.

Senator Domenici.

Senator DOMENICI. Are you going to go vote, Mr. Chairman?

Senator CHURCH. I thought I would.

Senator DOMENICI. Fine. I just have a couple of questions. Would you like me to proceed with the next witness?

Senator CHURCH. Yes; would you, please?

Senator DOMENICI [presiding]. Dean, I wasn't here at the beginning of your testimony, but I think you are aware of the present status of AMP's under the law and the way they are being implemented, and although a group of New Mexicans, some of whom are here at the table and some of whom you know, were the first to express great concern about whether AMP's would work in the manner prescribed and at least in the manner interpreted by those in the field; would it be fair to ask you whether or not you support the amendment proposed by the House concerning AMP's?

Mr. RHOADS. Yes; I do very much so. I was on board when they introduced it and we discussed it many, many times in New Orleans and all the way back here in Washington. So I fully support it 100 percent.

Senator DOMENICI. Could you tell us why you support the modifications as proposed?

Mr. RHOADS. Yes; I believe that an AMP is an area that if you have a ranch with a lot of moisture and you've got a lot of opportunity to manipulate the range because of range improvements of some type or another, an AMP will probably work. But there is a lot of areas, and particularly in my State, Nevada, that you could spend \$3 million out there and you can't get any improvement. Most of the AMP's that have been suggested or had been approved in the past have been in areas where you could make these improvements and you could put a fence in and make it work. But there's many areas that an AMP as

most of them have been written up in the past will simply not work. And you must have the cooperation of the individual.

Senator DOMENICI. Would you not agree that for an AMP to work it must be the kind of plan that will not require the daily involvement of Federal people in implementation, inspection, and on-the-spot involvement? I propose that if you are going to implement them, you are going to have to have Federal people out there almost living with the rancher to see that all the details that are involved in making judgmental decisions are attended to. That doesn't work very well, does it, in terms of the ranchers?

Mr. RHOADS. No; I certainly agree with you. It would be quite an obstacle to overcome and I'm sure in most cases impossible.

Senator DOMENICI. Would you agree it's important that, to have an AMP with any chance of success, most of the land ownership represented in the formulation of the AMP has to be involved, that you can't have it spotted around, with some subject to the plan and some not, on a given ranch's management scheme?

Mr. RHOADS. Definitely. It has to be a full package I think. In my district up in northeastern Nevada, most of our—all the water is on private land; it's completely intermingled with Government land. And it would be quite a scary basis for us if the BLM came out and totally told us every week what to do and where to move our cows and so forth. It would be quite a rush up there in our part of the country.

Senator DOMENICI. One last question. You have indicated your support for this in your capacity. Would you tell us what kind of support there is for modification of the AMP section?

Mr. RHOADS. Yes; I represent 12 Western States. We have had three or four meetings this year with 12 States. I know of no opposition from any of these States or of members in any of the livestock organizations in the Western States. So we fully endorse that 100 percent. [The prepared statement of Mr. Rhoads follows:]

#### STATEMENT OF DEAN RHOADS, PRESIDENT, PUBLIC LANDS COUNCIL

Mr. Chairman, I am Dean Rhoads of Tuscarora, Nevada, and I am President of the Public Lands Council which is an organization of permittees who graze cattle and sheep on the public rangelands in the West.

We believe this legislation is urgently needed to improve the public range to produce its full potential for wildlife, recreation, forage, and water and soil conservation. We support the multiple use concept and believe that livestock grazing is compatible and complimentary to other range values.

This legislation is the result of many meetings and many compromises. The core of this legislation is a bill introduced by Sen. Haskell in the last Congress to improve the public rangelands which was further developed and refined through numerous meetings involving Congressional staff people, environmental groups and the livestock industry. A number of changes were made in the House which are reflected in the House-passed bill to accommodate the concerns and interests of wildlife and environmental groups. These changes include a guaranteed minimum amount of annual range betterment funds, a rewrite of the language concerning when environmental impact statements are required, establishment of the grazing fee formula on a seven-year trial basis, plus many other changes.

We would like to emphasize that the grazing fee formula itself represents a major compromise as far as the livestock industry is concerned. The formula in the bills before you is not the formula we recommended nor the formula recommended by the Secretaries in 1974 which we supported. The formula in the bills is the formula recommended by the "Technical Committee Organized to Review Public Land Grazing Fees," a panel of government economists from the Bureau of Land Management and the U.S. Forest Service. Despite our doubts about the

reliability of the private land lease data which are included we decided to support this formula because it has an additional adjustment factor which, to a limited extent, takes into account the ability to pay concept which must be part of any fair market value transaction. The formula recognizes the law of economics that a buyer will be willing and able to pay more for a product when the value of that product is increased but that a seller must settle for less when the value of what he is selling is decreased.

As mentioned by Mr. Lane, in the statement of the National Cattlemen's Association, the private land lease rate index does not adequately measure or respond to changing market values. As the Technical Committee explained, the Index of Private Land Rates alone is insufficient to measure fair market value, particularly in an environment where the value of the resource (public grazing) is a derived demand from the product it produces (beef and lamb). The Technical Committee said that its formula, provided that the private lease rate data were improved, would "reflect long run trends in grazing values while, at the same time, account for short run instabilities in either livestock prices or input prices."

I would like to emphasize that we are not asking for a subsidy such as that enjoyed by certain other users or beneficiaries of the public lands. We are willing to pay fair market value for grazing.

I would like to address statements such as those by Secretary Andrus that only the formula proposed by the Administration would achieve fair market value, that the formula in this legislation would be less than fair market value and that the formula in this legislation would create a precedent.

These statements are incorrect. The formula in this legislation is a more accurate measurement of fair market value and the economic analysis involved in it is nothing more than an adjustment factor, similar to that already used by land management agencies to determine the fair market value of other public resources.

Secretary Andrus, as well as others, has admitted that the differences between the Administration's fee and the fee in this legislation would be small over a period of time. In other words, the revenue received would average out about the same. BLM Director Frank Gregg has said that the Bureau's figures show that in eight of the past ten years the formula proposed in the bills would have generated a higher fee. (Comments on passage of H.R. 10587, July 7, 1978.)

The difference between the formulas, which is important to us because it means our survival, is that under this legislation the fee would go up when it should go up and go down (by a 25 percent limit) when it should go down. This would be more in tune with true fair market value.

I must also say I fail to follow the logic of the Administration's argument that the two fees are about the same yet the one the industry supports is less than fair market value.

The Secretary of Interior and the BLM Director worry that if S. 2475 or H.R. 10587 is enacted, then the costs of production might well be applied to the sale of coal, oil, gas and timber from public lands.

However, the costs of production concept already is generally involved in the sale of such resources. This bill does not create a precedent at all.

Take timber, for example. The Act of October 22, 1976 states that the Secretary of Agriculture must sell timber and forest products on National Forest System lands for not less than their "appraised value." Department of Interior regulations state the same (43 C.F.R. 5402, 5442). Agriculture regulations go on to state that "the objective of the National Forest timber appraisals is to estimate fair market value" and that the residual value approach to the appraisal of National Forest timber is the standard approach (36 C.F.R. 223.4).

So how is the value—the fair market value—of timber appraised? For standing timber the residual is computed by first establishing the value of the timber at the mill (or other marketplace). From that figure are deducted the costs of cutting, removing, and transporting the timber to market. Also deducted are the costs of land resource protection and rehabilitation, other related costs and—please note—an allowance for profit and risk taking. In other words: the cost of production and the profitability! For such appraisals, large amounts of data must be collected on the amount and character of the timber on the land; the costs of logging methods, road building and maintenance, trucking, market prices of timber, interest rates, profit returns, etc., etc.

Timber sales on BLM lands during fiscal 1976 amounted to over \$180 million. The value of National Forest timber sold during that year was nearly \$708

million and has since increased to over \$1 billion last year. Compare that to \$25.4 million in grazing fee receipts on such lands during 1976.

Competitive bids are sometimes involved in the sale of certain public resources but an economic analysis is made to determine acceptable bonuses, royalty rates, rental rates, etc. These appraisals take into account prospective buyer's costs and reasonable profit margins.

In the economic appraisal of oil and gas properties, the probability of the existence of a deposit of particular amounts and characteristics is calculated as well as the depth of the deposit, costs of transportation to markets, costs of development, appropriate rates of return, etc. Other factors used in deciding whether to accept the highest bid received include such things as the degree of competition for a property, the prices offered for properties in adjacent and nearby areas, etc.

Agency practices are similar in the case of other leasable minerals and geothermal resources. For example, coal leases must be sold competitively but no bonus can be accepted below fair market value.

Economic appraisals of deposits of solid minerals, whose general dimensions are more or less known or estimable, can be based on an economic model of a producing mine. Estimates are made of the investments needed, the costs of operations, the market value of the products, the risk factor, etc. From this data, a determination is made of the amount that could be paid for the minerals in place so that the net results from the operation of the mines would yield an acceptable rate of cash flow for that type of enterprise. This again is a residual concept, imputing to the ore deposit the values left after payments of the other factors of production.

Of course, not all users of federal resources or services are charged fair market value. One example would be recreational users including those who use the same lands as do livestock ranchers. Admission fees are sometimes charged for highly developed federal recreational sites but these fees are less than the costs of operating these sites. Nominal or no rental is charged by BLM for the lease of public lands to other entities for recreation or certain other purposes.

The charge for some public resources are a percentage of gross receipts.

Government agencies have administratively adopted many different standards, criteria, and methodology for appraising values and prices for property, rights and services provided by the government.

Appraisal practices depend in part on the purpose of the appraisal but the usual goal is to find out what a willing, uncoerced, knowledgeable buyer and a willing, uncoerced, knowledgeable seller would agree on in a private transaction. I might add that, because of the intermingled land situation in the West, a rancher is seldom a willing, uncoerced buyer of public forage. He has no choice but to use public lands; there are no alternatives.

Usually, this appraised value is based on the "highest and best use" of the property, that is, the economic use that would bring the highest price. But sometimes property is appraised for a specific use, which could be less than the value of the highest and best use.

One form of appraisal is based on "transactional evidence" or "sales of comparable property". Appraisers reach out and verify to the extent they can actual recent sales of property the same as, or similar to, the property being appraised. When properties are not exactly alike, the appraiser attempts to make appropriate adjustments. This is the method proposed by the Administration for grazing fees.

However, the comparable sales approach is often found thoroughly satisfactory for relatively small sales of materials, the amount and characteristics of which are relatively easy to determine. Beyond this limited area, economic appraisal methods are generally used by government agencies.

For some types of government property, the government agencies recognize that the "comparable sales" approach is deficient and must be supplemented or replaced by other types of consideration. (This, of course, is our argument with respect to grazing fees.) For example, rentals are sometimes based on a percentage of the fair market value involved, the percentage depending perhaps on public policy, or on comparison of the relationship of rentals to land values in the area, rather than on actual rentals of comparable property. Sometimes rental values are based on the amount of investment on the property or the gross or net revenues from the business on the property. The approach here is often an attempt to approximate the value of the use to be authorized or continued rather than the highest and best use of the land.

We feel, that this type of approach should be taken with respect to appraising the value of public land forage. It is impossible to arrive at fair market value solely by using "transactional evidence" when there are so few "comparable" private grazing lease transactions. The Administration itself has admitted that they are using short term private pasture rates in determining "comparable sales". In the 1977 survey of private land lease rates no data on comparable sales were used in two states because with so little private land, there weren't enough transactions to record. How can the fair market value be determined on such unreliable or non-existent data?

The Administration has attempted to depreciate the impact of grazing fees on ranching operations. Comments that the Secretaries' formula which would double grazing fees over the next four years would average only about a \$60 increase for most ranchers illustrates the lack of understanding involved in their planned fee. A \$60 increase would be for 32 cows with calves for five months of grazing on public lands. That would be a hobby rancher with additional income from other sources or a rancher with only a limited use of Federal lands, who grazes most of his livestock on private or state-owned land.

A full-time rancher in the Western States has to have at least 100 cows with calves before he can consider earning a living. A full-time family rancher running between 100 and 150 cattle would see his total fee increase \$630 each year under the Administration's formula. Those are not modest increases and as indicated in the Secretaries Report, these increases cannot be passed along to the consumer.

In summary, if grazing is a value which should be retained on the range, then a public grazing fee should be related to the value of grazing as expressed in its ability to give the user a fair return. It should not be based on conditions which reflect a scarce limited market and land development pressures.

The grazing fee formula proposed by the Secretaries does not meet the objectives of a grazing fee system outlined in Federal legislation and previous Federal executive policies. It would not achieve fair market value; it is not fair and equitable to the public and the users of the public lands; it is not reasonable and it does not respond to the directive of Congress to take into consideration the costs of production normally associated with domestic livestock grazing in the 11 Western states, the differences in forage values and other factors relating to the reasonableness of such fees. The Administration's formula would have an adverse effect on the production of food and fiber and on the economies of many Western communities.

The problem with the Administration's formula can be summed up in this statement by the Technical Committee's economists: "In the case of administered prices, failure to recognize potential imperfections in the price norm results in windfall gains and losses. During periods of increasing marginal revenue, the Government would fail to receive full market value for its range resources. Conversely, during periods of decreasing marginal revenues, the Government may charge in excess of fair market value for the range resources. The equimarginal principle states that the value of a resource is determined by its value in use."

I appreciate this opportunity to comment on this legislation and I hope that this subcommittee will act promptly to approve the House language so that constructive action to improve our public rangelands can begin immediately.

Senator DOMENICI. We will stand in recess until the first Senator returns and then start again.

[Recess.]

Senator LAXALT [presiding]. The next witnesses we have are Tye Moore and Nick Theos. Gentlemen, welcome.

#### STATEMENT OF TYE MOORE, REPRESENTATING THE NATIONAL WOOL GROWERS ASSOCIATION

Mr. MOORE. Mr. Chairman, my name is Tye Moore of Casper, Wyo., and I am accompanied by Mr. Nick Theos of Meeker, Colo. I would like to read this brief statement. Mr. Theos has some additional remarks to make.

We are here as representatives of the National Woolgrowers Association, an organization representing the sheep and wool industry in the United States, which is in full accord with the legislation before you today.

We believe that the changes made by the House of Representatives in the original legislation represent improvements and reasonable compromises, and we urge that this subcommittee approve the language of H.R. 10578 as it was passed by the House, so as to expedite action in these closing weeks of the congressional session.

This legislation is of immense importance to all users of the Federal rangelands, including livestock grazers, wildlife enthusiasts, hunters and fishermen, hikers, and to those who benefit from the watershed resources of these lands.

By authorizing badly needed funds to improve range conditions, this legislation is a commitment to achieve the full potential of these lands for all multiple uses. The bills also address other major problems which in various ways have had an adverse effect on the productive use of the Federal rangelands.

Our problem addressed in this legislation is one which has virtually halted on-the-ground range improvement work. This legislation gives some guidelines on what range improvements can be made prior to completion of the court-ordered environmental impact statements which would help clarify some of the confusion existing today. The "non-environment impact improvements" in this legislation clearly are of a desirable and nondetrimental nature which should be made without further delay.

This legislation also reemphasizes that 10-year grazing permits should be issued unless the Secretary determines on a case-by-case basis that a shorter term is absolutely necessary.

The bill makes changes in the wild horse and burro program which ranchers and most wildlife organizations agree are necessary if we are to prevent these animals, which have no predators, from destroying the range.

The bill also would statutorily define what is meant by fair market value in regard to grazing fees. In our opinion, you cannot divorce the ability to pay from any fair market value transaction. An individual may pay more than fair market value for an item on occasion for a special reason but a buyer cannot survive if he continues to pay more than he can afford to over a period of time.

No one stays in business by selling at a loss. Perhaps if a livestock rancher were able to pass along his costs and still stay competitive, he could pay whatever increased fees are proposed by the administration. But even the Secretaries of Interior and Agriculture admit in their grazing fee report that ranchers cannot do this. As they acknowledge, "Ranchers are not able, in the short run, to pass increased production costs to the purchases of their products. That is, they must accept the prices offered for their livestock when the livestock are ready for market."

The formula in these bills recognizes the market principle that the value of a resource is related to the value of the product of that resource. The value of forage depends on the price received for the product of that forage, meaning the price received for the beef raised on that forage.

Senator LAXALT. So that doesn't raise the subsidy idea.

Mr. MOORE. It certainly seems to us that it does, Senator. In no way do we feel that subsidy is involved in any way as against ranchers operating on public lands as against ranchers operating on private land. And we agree that there should be fair market value and we all started with the same figure.

We do not ask for a subsidy or unfairly low grazing fee. If beef prices go up, a rancher would have to pay a higher fee under this legislation than he would under the administration's formula. If a rancher makes money it is only fair that he pays more. But if he makes less he should pay less. Basically, all we are asking for is a chance to survive as ranchers.

The administration says that the survival of the rancher is of no concern of theirs \* \* \* at least not in regard to the establishment of grazing fees. Well, I think it should be. They have not come up with any other program to keep public range ranching economically viable.

Perhaps we ought to ask what will happen in the West if livestock grazing on the public range is discontinued because of grazing fees priced higher than the market can bear.

The economic value and contribution of Federal grazing lands to the economies of the Western States have been reviewed by a Council of Agricultural Sciences and Technology, known as CAST task force. That task force was composed of a group of well-known agricultural economists and range and animal scientists under the chairmanship of Dr. Harold F. Heady, professor of range management at the University of California, Berkeley. The article is printed in the *Journal of Range Management*, Volume 27, No. 3, May 1974, pages 174-181.

The CAST task force used statistics from Nevada, Oregon, Utah, and Wyoming to estimate production and value per AUM for range cattle operations, and those four States, plus Montana and Washington, were used to provide estimates of production and value of sheep, lambs, and wool. The value of production in 1972 was estimated at \$10 per AUM for cattle and \$7 per AUM for sheep, excluding Government payments for wool.

Cattle prices are currently returning to about the same levels as those which existed in 1972, so an estimate of value of production of \$10 per AUM would likely be valid at the present time, and conservative for the future.

Senator LAXALT. For those members of the subcommittee—and we have a few—who are not as familiar with the items involved in AUM production, could you explain the disparity between the \$10 for cattle and the \$7 for sheep?

Mr. MOORE. I don't have the total.

Senator LAXALT. Just very generally. I don't expect you to get into detail. But explain the difference, if you will or can.

Mr. MOORE. Well in 1972 cattle prices were very high against the sheep price at that time which was somewhat lower.

Senator LAXALT. So they are mainly marked as conditions differ?

Mr. MOORE. That's right.

The price of sheep and lambs is presently about double the 1972 level and price of wool about 30 percent more than 1972. At present price levels, the value of production of sheep, lambs and wool would

be about \$12 per AUM. This, of course, is gross income and does not indicate ability to pay grazing fees.

The combined total production values of cattle, sheep, lambs, and wool attributed to public lands was about \$173 million in 1972, based on the CAST task force report. At present prices, the total is probably \$190 million to \$200 million.

Gross receipts from the sale of livestock represents new money brought into the local economy. This money is respent several times within the community, which expands economic values far beyond the original amount. The multiplier effect of new money at the local level has been estimated conservatively at 2.25. If one uses a gross production value of \$200 million, the total contribution to the economy of the 11 Western States could easily be \$450 million in 1978.

Singling out two States as examples, the contribution to the economy of Wyoming could easily be \$65 million to \$70 million, and \$50 million to Nevada.

It has been estimated that today Federal lands are producing a little over 40 million AUM's or approximately 14 percent of our total AUM's of grazing. According to a scientific study, public rangelands are capable of producing 11.5 billion pounds of meat annually.

Percentages are sometimes misleading. The 14 percent of total national AUM's of grazing controlled by Federal agencies sounds unimportant. The truth is that a large percentage of our brood cows and ewes, the factories that produce feeder calves and lambs, spend some time during every year on our public lands. About 20 percent of all feeder beef calves and 50 percent of all feeder lambs come from the 11 Western Federal land States.

To go one step further, today some 35,000 farm and ranch families are grazing approximately 5 million head of cattle and 7 million head of sheep on Federal lands. This represents 8 percent of the total beef cattle and 42 percent of all sheep in the United States and amounts to about 17 percent of the total feed requirement of all beef and sheep in the 11 western States.

Livestock grazing permits on Federal land have made it possible to develop a year long supply of forage for the cattle and sheep producer by utilizing his private land along with the adjoining Federal grazing land.

Forage on Federal lands in an annual renewable natural resource which adds new dollars to our economy. At a time when we are faced with world shortages of feed grains, forages can play an even greater part in helping meet our demand for red meat. It has been estimated that each added AUM produced from range forage is the equivalent of 8 bushels of corn released for export.

Over the years, it has been demonstrated that with good range improvement techniques, coupled with good range management, forage production can be increased. Many livestock operators have cooperated in range improvement work on Federal lands with good results.

There is a great potential for increasing production on public lands if we enact a reasonable grazing fee and make the investment that this bill calls for in improving our rangelands. How can we afford not to harvest a resource that otherwise will go to waste? Can we afford to lose this economical potential for red meat production when we are faced with a world full of hungry people?

Mr. Chairman, I submit that we must address the problems involving the Federal rangelands fairly and resolve them in a reasonable manner. We must get on with the job at hand, namely, producing food and fiber for this country.

Thank you.

Senator CHURCH [presiding]. Thank you very much, Mr. Moore. Mr. Theos, did you have anything to add to that?

Mr. THEOS. Yes; I do, Mr. Chairman.

Senator CHURCH. All right.

#### STATEMENT OF NICK THEOS, CHAIRMAN, PUBLIC LANDS COMMITTEE, NATIONAL WOOL GROWERS ASSOCIATION

Mr. THEOS. I am also the chairman of the Public Lands Committee for the National Wool Growers and I've got a lot of pasts, too, but I won't go into that. But I will add to this very important piece of legislation because it tends to stabilize the livestock industry.

The Honorable Senator Haskell, from Colorado, introduced a similar bill 2 years ago, rehabilitation bill, and we came over here and testified in favor of it. However, I think the timing was wrong at that time. That was during the NRDC case, and we couldn't spend that money on range improvements anyway.

As for the grazing fee formula, we certainly go along with what the technical committee came up with. It's a real fair way to come up with what the grazing fee should be.

Private land lease rate. I think the data that they collect is erroneous. I don't think it tends to give a true picture. I compare it to—and I hope they don't charge hunters a fee of what they pay for private hunting or private fishing places. They can hunt and fish on the public lands for free, but they come and pay private land people up to \$100 or \$200 a gun to hunt and fish in their place. So this is what people do with private land.

Senator CHURCH. I think we would have a revolution on our hands out West if we charged our people a hunting and fishing license on the public lands commensurate with what the price would be for a private land.

Mr. THEOS. That's right. And this is what happens. I don't think there's a banker alive that would lend a livestock operator money to operate and pay what they come up with the figure \$6 a head a month for 12 months. They might do it for 1 month or 10 days or something, but I don't think they would do it for a year-long operation.

We certainly ask that no part of this bill, no section of this bill is amended. I feel that if any of this bill, any part of this bill is amended I think that we could lose the whole bill.

And I wanted to stress that without the grazing fee based on the livestock prices, this bill would be ineffective because livestock would be priced off of the range eventually.

In Colorado and other States we have got many areas that are in nonuse today on account of the regulations, the prices to be paid trucking in and out. And economically you can't even graze on it at the present fee.

And then who would benefit by this bill? If the livestock is priced off the land, I don't think there would be any use to spend millions of

dollars to improve it unless you improved it for the wild horses and my friends the coyotes. That's about all you'd have.

So with that, I wanted to go on to AMP's and EIS's for a minute. I think that and I have always felt that one blanket EIS was sufficient. However, the environmental groups went to court, the NRDC people, and they won their court case in making the BLM produce 212 EIS's on grazing. The AMP's I think should be flexible. I think the operator should be the one to say how he is going to graze because, after all, he or the advisory boards know more about that land than people in Washington. And I think AMP should be on a case-by-case basis.

Today we herd—and this is part of the regulations as 50-percent grade, no grazing on it, or 3 miles away from water. In the wintertime you don't need any water. They can graze on snow and you can graze 10 miles back from water. Also on steepness of areas, some of your best winter ranges are over 50 percent.

With that, that's about all I would have to add.

Senator CHURCH. Thank you very much, Mr. Theos.

I have just one question for you and for Mr. Moore. Mr. Moore, when you testified you alluded to the fact that 8 percent of the total beef cattle in this country and 42 percent of all sheep are using the public range land. Now sometimes I have heard it said that within a few years all of the cattle and all of the sheep will be handled in feed lots and that public lands for grazing purposes are really not going to, they are going to fade away in importance. And, therefore, a public policy ought to give this a very low priority since it's dying out anyway.

What have you got to say to this argument? I think you have heard it, too.

Mr. MOORE. I've heard it several times as you have and as everybody has. There are a number of reasons why. I don't think that this can be true. First off, the areas where you could, for example, raise sheep and cattle in feed lots, there's a tremendous number of other demands for that land that is going to put an awful lot of pressure and on the value of that and on the cost of those operations. They are going to get very, very expensive, and, consequently, then the product is going to be very, very expensive.

The rangelands, regardless of what they say about that, is a renewable resource. All we need is a little rain, which the good Lord has provided us at intermittent times—sometimes enough and sometimes not enough. In addition to that, the West is one of the great areas that's undeveloped. There's room for lots of the people of our population of this country. And these farms and ranches form a basis of law and order in this country. They went out there and settled it. They brought law and order to the country. They have got a basis for local government. And I think it's vital that they be kept viable. And many, many of these small communities depend entirely on the ranch operations around them. They are the only ongoing industry, business, whatever you want to call it, that can exist there today.

We don't know what the future might bring in other uses in the country besides your marrows and so forth, but those things are of a finite quality and will be eliminated in time. Grass is the only thing that's still growing there. And I believe that for no other reason, the very basis that these people are out there and have got the ground-

work laid for whatever other uses might be made for this land, that they should be kept in business.

There's one other point I would like to make, too, that I feel that the ranch people contribute to the care of these public lands that hasn't particularly been brought out.

Many of you have seen vacant lots in cities and towns that nobody really knows who they belong to and nobody really pays any attention to them, and you've seen the condition of them. I mean, there's just everything dumped there, everything is thrown out, whatever. The very fact that there are ranches out on this land, that there are people working this land to one degree or another, performs a service, that when somebody comes out there, they say well this is so and so's ranch. And they have a tendency to respect the land and to take care of it. I think that we prevent a great deal of abuse by the very fact that we are there. They know somebody is there. They see signs of our work. They see our people. And I know that at least in my particular area, time and time again we see people. We stop and talk to them. And there are a lot of things that are not done because they know that somebody is out there. But if there was nobody there, the abuse of these public lands would be something to behold.

Mr. THEOS. Mr. Chairman, one thing I would like to add. I think without your Western livestock industry, sheep and cattle, the livestock industry in America would completely be demolished because that's where the factory is. That's where most of your lambs and your feeder lambs, your feeder cattle, comes from.

Tonnage-wise, you don't get much.

Senator CHURCH. Why is that?

Mr. THEOS. Well, it's more natural for them to breed out there. It's not artificial. It's natural grass, it's no disease. It's a lot more natural and not as expensive. That's where your lambs and your cattle come from. And they come into the feedlots and feed on out.

Senator CHURCH. Thank you. It is important to get this testimony on the record because we so often hear this kind of an argument made.

Senator LAXALT.

Senator LAXALT. Just one observation I would like to address to the two representatives of the sheep industry. Senator Church made an observation to the effect that in time perhaps the sheep and cattle industry would fade away. In my estimation, that may well happen. Not because of the wishes of the people in the industry, but because of the oppressive policies coming out of Washington.

Now in my State—and we used to be in the sheep business a few years ago—our numbers have decreased from well over 1 million to less than 100,000 head. Is this same condition prevailing in other States?

Mr. THEOS. In every State in the Western States. The only increase in sheep numbers is out here in the farm crops—well—

Senator LAXALT. And those are in limited numbers, aren't they?

Mr. THEOS. Yes.

Senator LAXALT. All right.

What do you gentlemen attribute to be the principal reason for this dramatic decline, I think an alarming decline in sheep numbers in the West? What are the reasons?

Mr. THEOS. Washington regulations I'd imagine and no adequate predator control. It's disheartening to get in the sheep business when you go out there and you lose 10 to 20 percent of your sheep every year and about 20 to 30 percent of your lambs. And this is happening on the Western ranges. And we have nothing to protect them with. Our hands are tied since the Executive order. Unless we get some adequate means of predator control, the sheep industry will keep dwindling. And I think it's one industry America needs.

Mr. MOORE. I might add to that, if I may. Labor is also one of the biggest problems in the sheep business. Some of us—I happen to be one of those that have put our ranch under pasture many, many years ago, and so we don't use herders, per se, and we use the same people who work with our cattle as we do with our sheep. Of course, by the same token, then we're most susceptible to the predator problem and we have plenty of that.

But I think there are probably quite a few areas, particularly in southern Wyoming, where there are traditional big sheep areas of open range, and where they have herders and so forth. But labor is the main thing that put them out of business. Nobody is willing to go out there and stay with livestock, with sheep particularly being herded. Somebody has got to be there 24 hours a day, and they just can't find the people to do it.

Senator LAXALT. They ran out of baskos, huh?

Mr. MOORE. That's right. [Laughter.]

Senator DOMENICI. One question, if I may, Mr. Chairman. There's reference made here about new money, new operators. I don't know of any people coming in to the sheep business in the last decade as new operators. Are there any?

Mr. THEOS. No, not that I recall. There are some Arabs that are talking about buying into the sheep industry, but as yet they haven't.

Senator LAXALT. What we are essentially saying here—now I want to make this part of the record—I think that here in the Congress, in Washington, we should be supportive of the livestock industry, and I'm afraid we just haven't been. Unless we stop throwing roadblocks in the face of the sheep industry and the cattle industry, and instead open doors, we are going to find before too long that both of these industries are going to die as a practical matter and we will be in a feedlot situation, as Senator Church suggested. Isn't that where we are going, gentlemen?

Mr. THEOS. That's correct.

Mr. MOORE. It's the way it seems to be to us. And that's the reason we are spending time that's damned well needed out there, back here trying to get this story across to somebody.

Senator CHURCH. Well, this bill may open some of the doors if we can get it written into law.

Dr. Ross.

**STATEMENT OF DR. EUGENE ROSS, ASSOCIATE DIRECTOR, COOPERATIVE EXTENSION SERVICE, NEW MEXICO STATE UNIVERSITY**

Dr. Ross. Mr. Chairman, I am Eugene Ross from New Mexico State. There is some current research going on on this confinement-type

thing about which you are speaking in the West. It has been caused primarily by the things these gentlemen mentioned; namely predation, labor, and then world markets.

Now, in a confinement-type situation, you also can find your disease problem. That's one thing that hampers us, the confining-type issue. If these sheep are out on this range, you don't have nearly that kind of problem.

Second, the world market. If we can compete with Australia, or if lamb, say, goes to \$1 a pound on the hoof, it will surprise you how many people will go in the sheep business. And if we can get this predation thing established.

And then, finally, when you put sheep in a confinement-type situation, you've got to have a high cellulose-type biomass-type feed to feed them, and you have got to haul that in. And you can't go out there and clip this grass off the range and bring it in very easily, very economically. We haven't found a way to do that yet. And then again if you go into confinement, of course, you can help control your predation problem.

But I think before we go off the deep end on this thing, we had better wait and see what the future brings here because I'm just not real sure we are going to all jump into confinement-type situations, particularly in beef cattle and sheep because you've got a multistomach animal who can harvest and graze high cellulose feed. Hogs can't do that, for example. Poultry can't do it. We want red meat in this country. So I'm not so sure we are going to do it yet.

Senator DOMENICI. Mr. Chairman, would you yield?

Senator CHURCH. Yes.

Senator DOMENICI. I want to ask the doctor a question, and then I have one for Mr. Moore.

Senator Laxalt raised the question of what we in Washington are doing to make it more difficult for the livestock industry, and Mr. Moore said he ought to be back home tending sheep but he is up here trying to present his cause.

Are you familiar with the situation involving sheep fencing in the Chavis County area of New Mexico? Have you been involved?

Dr. Ross. From a university administrator's point of view, yes. Some of our people have been over there to help work with both the agency and the producers.

Senator DOMENICI. I don't want you to take more than 2 minutes, but would you give the chairman and Senator Laxalt a rough overview of how much time and effort, hearings, and money has been spent by sheep people and institutions just around that one issue of what kind of fences we ought to have to protect both sheep and antelope?

Dr. Ross. I would suspect from a university viewpoint—now, this is an estimation, Senator.

Senator DOMENICI. All right. We just wanted to get a view.

Dr. Ross. Probably 2 to 3 man-years.

Senator DOMENICI. What about people?

Dr. Ross. It cost us \$30,000 to \$40,000 at least to feed those man-years, each man-year. People—and here again, some other people in the room here can probably help me—but I would suspect 15 to 20 man-years in that case.

Senator DOMENICI. Just in a dispute over what kind of experimental fencing we ought to put up to both take care of sheep and make sure that we don't keep antelope herds from moving from one place to another?

Dr. Ross. Yes.

Senator DOMENICI. How long has that dispute gone on, as you recall it?

Dr. Ross. For 2, 2½ years.

Senator DOMENICI. With a resolution having occurred in the last 2½ months?

Dr. Ross. Yes.

Senator DOMENICI. We will go into a little more detail on that. They ended up, Mr. Chairman, agreeing that we ought to commission a university to go out and select some people who wanted to try a new kind of fencing, because there was a dispute over which fencing to use. Yet we must have had 300 or 400 people, 10 or 12 public gatherings, public administrators from all over the country, and two or three universities involved, just in an argument over what kind of fence we should put up to protect both sheep and let antelopes move. There was even a dispute about whether there was any problem with the antelopes to begin with. That's the kind of thing that people have to go through, and I think that's what you are talking about over and over in various areas.

Mr. Moore, do you support the portion of the bill that modifies and makes more flexible the AMP section of this bill, or the old bill?

Mr. MOORE. Very much so. We have even in Wyoming an additional problem that you don't have in New Mexico. A great number of our lands are also comingled and intermingled. In most cases, most of us are on Federal lands and private lands the year round. I mean, we can't pull back and just operate on our private land part of the time as many Forest Service people do.

But we have a further problem that complicates these rotation systems, particularly is the weather. We will get snowstorms and blizzards, and this sort of thing that precludes us from using an area that they say we've got to be in. And yet in the plans that are written in our country and stuff, there is no provisions made for this. They will say you've got 1 week or 2 weeks to move this livestock. And there's just been no provisions to meet this problem. They say we'll be flexible. I guess by that they mean instead of 3 days, they will give us a week. Hell, there's lots of times it takes longer than that to get there to the livestock.

Senator DOMENICI. Thank you very much, Mr. Chairman.

[The prepared statement of Dr. Ross follows:]

STATEMENT OF DR. EUGENE ROSS, ASSOCIATE DIRECTOR, COOPERATIVE EXTENSION SERVICE, NEW MEXICO STATE UNIVERSITY

I am speaking on behalf of New Mexico State University and as administrative adviser, Western Universities Public Rangeland Coordinating Committee. My role is to present objective and unbiased comments and not take any particular side on issues. In doing so, attempts will be made to raise questions and indicate consequences of alternatives.

The following comments are mine, but collaboration was obtained from Dr. James Gray, Department of Agricultural Economics, New Mexico State University and Dr. Jerry Schickedanz, Extension Range Management Specialist, New Mexico State University.

Basically, we support HR 10587. Additional reactions include:

1. The determination of grazing fees is controversial and will continue to be. It appears difficult, because of bureaucratic biases and value systems, for the Congress and federal agencies to objectively determine "fair" grazing fees.

It is hoped, therefore, that Congress in its wisdom would charge and heavily rely on its agricultural university research resources to determine fair grazing fees.

In this case, the university systems would serve as a disinterested third party, and since their professional stature depends on credibility maintenance, they would more likely furnish objective facts upon which the Congress would make its decisions.

2. Is a mechanism for arbitration needed on the local level? When agreements cannot be reached, could representatives from the District Grazing Advisory Board, the federal agencies, and the users assume the role as arbitrators? The term ". . . careful and considered consultation, cooperation, and coordination with the lessees, . . ." is used liberally in the law. In each case, "and arbitration if necessary" could be added.

A similar precedent has been set in the Department of Agriculture's Agricultural Stabilization Conservation Service Board and that local board functions very effectively.

Presently, the appeals procedures pit the user against the agency and then—if necessary—the courts. The appeals procedures presently used are contrary to the judicial philosophy that one is innocent until proven guilty. When an appeal is made, all activities and decisions on an allotment should be deferred. By the time the appeal is settled, the appeal could be mute and/or out-of-date. If arbitration could be facilitated by the user's peers and neighbors under the guidelines of the agency, then local leadership would be built, management would be improved, and followship greatly enhanced. What we are talking about, Mr. Chairman, is how we build and work with local people who use federal lands.

3. If the lessee does not have the freedom to make what he believes to be necessary market and production decisions on his economic resources such as livestock and other resources, then he will be unable to economically compete and stay in business with those having this freedom. If, furthermore, the lessee has to check with the agency on day-to-day decisions and at the same time he is unable to develop and implement long term overall management plans, including such things as range improvements and grazing rates, then he cannot compete and stay in business. Agreements with the agency, therefore, must be consistent, clearly understood by all parties, in writing and yet be flexible enough for the users to compete. This concept in this and future statutory considerations, must be maintained.

4. It is believed that the changes resulting from H.R. 10587 to make Allotment Management Plans optional will be beneficial to promote desired range management practices and cooperation because there is a built-in incentive for both parties.

Overall economic stability for both users and communities located in and around federal lands is imperative for survival of both users and communities.

5. While it is important that the highest socioeconomic environmentally sound use be made of public lands, it is extremely important that this objective be accomplished in such a way to insure socioeconomic stability for both the user and local communities.

Do we know what the impact of AMP's will be on users and communities? It is felt much more research and education is needed in these areas to help users and agencies to improve our local communities.

6. Finally, Mr. Chairman, we can all agree that Public Lands issues have been extremely controversial, but why they are controversial and how the controversy has been managed has not been adequately treated. Basically we are requiring local people to make some changes which they perceive as unfair and of which they have not been a part. Rogers states:

"\* \* \* clients must perceive a need for an innovation before it can be successfully introduced."<sup>1</sup>

Beal further adds:

"If people are to work together as a group, there must be a certain unity in interests, objectives and purposes."<sup>2</sup>

<sup>1</sup> Everette M. Rogers. "Diffusion of Innovations." New York: The Free Press, 1962, p. 280.

<sup>2</sup> George Beal. "Leadership and Dynamic Group Action." Ames, Iowa: The Iowa State University Press, 1962.

Along these same lines, Sayles and Strauss state:

"People seldom resist change just to be stubborn; they resist it because it hurts them economically, psychologically, or socially."<sup>3</sup>

The point is being made, Mr. Chairman, that the Congress, the Executive, and the agencies can make many laws with attendant rules and regulations, but unless the users of public lands are more than casually involved in the development and implementation of decisions which affect their economic, social, and psychological welfare, ensuing cooperation and favorable relationships are not likely to be maintained.

While efforts to gain cooperation and favorable relationships are being exerted, it is imperative that efforts be increased and improved.

Thank you, Mr. Chairman.

Senator CHURCH. Our next witness on the panel is Mr. Bill Swan from Idaho, representing the Idaho Cattlemen's Association. Bill.

### STATEMENT OF WILLIAM SWAN, FIRST VICE PRESIDENT, IDAHO CATTLEMEN'S ASSOCIATION, ROGERSON, IDAHO

Mr. SWAN. Mr. Chairman, I appreciate the opportunity of appearing before this group. My name is Bill Swan. I own a family operated ranch near Rogerson, Idaho. This is a cow-calf operation that uses both BLM and Forest Service lands as well as deeded property.

I am here today to represent the Idaho Cattlemen's Association, and I serve as first vice president of that group. I am also the chairman of the Cow-Calf-Stocker Council of the National Cattlemen's Association and serve on the board of directors and the executive committee of the National Cattlemen's Association.

If I could, I would like to depart just a little bit from my written statement here to address the question you asked, Mr. Chairman, as to the future of the range livestock industry.

A few years ago there was a tremendous growth in the cattle inventory and industry in the Southeast, and everybody was saying, well, there is going to be no need for the range livestock industry. We are going to put in these permanent pastures in the Southeast. We are going to fertilize them, and because of climate, we are going to produce our red meat supply in the Southeast and in the irrigated pasture lands.

That growth came to a screeching halt with the energy crisis. As the price of nitrogen fertilizer doubled, the ability and the economic ability to produce meat on irrigated pastures and in the Southeast especially came to a dramatic stop. And I think the emphasis has now returned to the development of harvesting our renewable resources on the range land of the West. In fact, a big liquidation of our cow herd that is taking place in our cycle today is taking place in that very area of the country that 7 or 8 years ago they said this is the future.

And I was at a meeting 2 weeks ago, a marketing meeting, and they said they are bringing in their whole herds and they are saying "never again." I mean, this is the end; we're going back to planting soybeans and cotton and corn and whatever they have.

But I think we've got to realize that the future of our red meat production is in the use of these renewable resources.

I happen to be on the National Advisory Council for Secretary Bergland's Forest Service Committee, and he told us about a month

<sup>3</sup> Leonard R. Sayles and George Strauss. "Human Behavior in Organizations." Englewood Cliff, New Jersey: Prentice-Hall, Inc., 1966.

ago when we had our meeting that the world food production has to double in the next 23 years. And that seems kind of funny in an area where we're concerned with farm surpluses, but it's nevertheless true. And every AUM developed on the public lands of the West releases eight bushels of corn for export to feed the hungry world and to help balance our trade situation.

With that, I'll go back to my statement.

The Federal Land Policy and Management Act of 1976 adopted a policy of retention of the public lands by the Federal Government. S. 2475 addresses itself to the management of these lands and authorizes the funding that is necessary to restore these lands to their productive capabilities.

The Idaho Cattlemen's Association and the livestock industry strongly support S. 2475 but would recommend that the Senate adopt H.R. 10587 as passed by the House, as it is a refined version of S. 2475.

We have worked with many of the conservation groups to enlist their support. We contend that anyone who sincerely wants to improve conditions on the public lands and believes in multiple use principles will favor this legislation.

The only area of controversy between the livestock industry and the administration appears to be in the section dealing with grazing fees.

Senator CHURCH. Bill, may I interrupt you for just a minute? We have a vote, but I have just been summoned to a conference between the House and the Senate, and so I am going to have to be away for awhile. I hope to get back as quickly as I can. I am sorry that this comes right in the midst of your testimony.

Senator DOMENICI, would you carry on in my absence, please? And I will try to get back just as quickly as I can. I'm sorry.

Mr. SWAN. If you don't get back, I would like to say that the people in Idaho are very appreciative of the support you have given us on this important piece of legislation.

Senator CHURCH. Thank you very much, Bill. I hope we can get it written into law. Thank you, Senator.

Senator DOMENICI [presiding]. I'll do my best. I have two other meetings. [Laughter.]

Senator DOMENICI. Let me say the reason that your junior Senator isn't here is because the Budget Committee is marking up the budget. And the reason I am going to leave shortly is because I have to go there also. But I won't leave until you get through and some of my New Mexicans get through. I don't know what's going to happen to the rest of these people. [Laughter.]

Mr. SWAN. We are glad to see that you are earning your money back here. [Laughter.]

Senator DOMENICI. Even that's a question. [Laughter.]

Mr. SWAN. Shall I continue?

Senator DOMENICI. Go ahead, please.

Mr. SWAN. I would like to read that paragraph once more. Let me state that contrary to the many statements of the administration, the livestock industry is not opposed to paying fair market value for its grazing fees.

BLM Director Frank Gregg has stated often that the grazing fee formula in S. 2475, referred to as the technical committee formula,

will often result in a higher grazing fee than the formula advocated by the Secretaries of Interior and Agriculture. In spite of this, he continues to say that their formula represents fair market value and the technical committee formula does not.

Actually, the only study that arrived at fair market value was the 1966 survey that determined that fair market value at that time was \$1.23. This is the base figure used in both the Secretaries' formula and the technical committee formula. However, this \$1.23 has been adjusted by an index referred to as Private Land Lease Index until today under this adjustment, fair market value has reached \$2.38 per AUM.

Let me state again, the conflict between the industry and the administration is not fair market value for we both agree that \$1.23 is the starting point. The disagreement is in the make-up of the index that should be used to annually adjust fair market value.

I would like to enumerate some of the reasons why the industry objects to the administration's proposal. In chapter 5, page 1, of the Secretaries' report, it is stated:

The private lease data used to determine the current level of fair market value, however, are not screened to determine just what the lessee's obligations are. This has become a matter of concern to some since the typical landlord-tenant lease arrangement is not known. Additional study is necessary in this area to determine the typical lessor-lessee relationship and the actual cost of their obligations to the lessee.

From chapter 6, page 4:

The use of private grazing land lease rates from the probability survey of SRS is recommended for use in the 1978 public land fee system. However, in computing fees for 1978 and 1979, we would continue to use the data gathered from the March farm and ranch report.

It is worth while to report that there was no data collected from Nevada or Arizona on private lease rates during 1976 and 1977, yet these two States provide 26 percent of all public land grazing.

It is from this admittedly inadequate data that fair market value has been adjusted from \$1.23 to \$2.38 per AUM. Is there any wonder that the livestock industry rejects this criteria as the sole index to establish fair market value?

Senator DOMENICI. That's the buzzer, meaning I can only make the vote if I leave now. So if you will stop, I will be right back.

Mr. SWAN. All right.

[Recess.]

Senator LAXALT [presiding]. Please continue with your testimony, Mr. Swan.

Mr. SWAN. Thank you, Senator.

Senator LAXALT. Please excuse all the interruptions. There is no way to avoid them.

Mr. SWAN. It is from this admittedly inadequate data that fair market value has been adjusted from \$1.23 to \$2.38 per AUM. Is there any wonder that the livestock industry rejects this criteria as the sole index to established fair market value?

As to the new probability survey that the administration claims will end these inequities, the Statistical Reporting Service has this to say: "The data has sufficient unexplained variations to make it inadequate

for determination of grazing charges or as a measurement of respondent bias."

The administration in the Secretaries' report and in various hearings has claimed that using the combined index—beef price and prices paid—as part of the formula introduces "ability to pay" as a consideration in arriving at fair market value.

Senator LAXALT. And what's the problem with that really philosophically? There is no problem with that, is there?

Mr. SWAN. Well, even accepting that maybe there is something wrong with it, let me go on just a little bit here. This, they claim, gives an economic advantage to users of public land and doesn't truly reflect fair market value. We feel that they have completely misinterpreted the use of this index.

As the Technical Committee stated, "The value of the resource (public grazing) is a derived demand from the product it produces (beef and lamb)." Therefore, the committee concluded that the range fee formula should include factors that measure changes in the value of the range resource. Certainly, forage that produces beef worth 60 cents per pound has more value than forage that produces beef worth 30 cents per pound.

And, to me, they miss the whole thing in arriving at what they consider fair market value. And they have taken the position that if you're not for fair market value as they define it, you're for unfair market value. When did you quit beating your wife, in effect.

There are many other factors why the private lease rate index should not be the only criteria for adjusting grazing fees. Among them are weather conditions. A drought will put unusual demands on private lands that may subside after a year.

Buildup of cattle numbers in an area will result in a temporary increase in demand for the limited private land that is available for lease. Added restrictions on public grazing often accompanied by reductions in numbers creates a demand for this land. Competing non-agricultural uses often result in higher grazing leases.

In my experience working in public land matters, I have never seen the industry more united than they are on the grazing fee question.

We urge you to retain the Technical Committee formula as an index to adjust fair market value.

I would also recommend that periodic surveys be instituted to update the 1966 study. As the Secretaries stated in their report, "Little information presently exists to indicate if the relative cost of grazing public and private lands have increased, decreased, or remained constant since 1966."

There are many other problems on public lands that need our attention. We hope that the grazing fee issue can be finally resolved so that we may address them.

Thank you.

Senator LAXALT. Thank you very much, Mr. Swan.

I think the point that you made near the end of your statement to the effect that there's really no comparability between the private land situation and the public land situation. There are too many variables.

Mr. SWAN. Right.

Senator LAXALT. And to tie that as a base makes it a very unpredictable situation.

Mr. SWAN. And as the only base.

Senator LAXALT. That's the only base that you have under the suggested administration formula. Plus the fact I think the point that's been made is what you're introducing here is a basic loss of supply and demand. Isn't that what we are injecting into this situation?

Mr. SWAN. Right.

Senator LAXALT. So if it goes well, you pay more. If not, you want the benefit of the downside.

Mr. SWAN. Right.

Senator LAXALT. Thank you, Mr. Swan.

Mr. Lee.

#### STATEMENT OF CHARLES LEE, NEW MEXICO CATTLE GROWERS ASSOCIATION, ALAMOGORDO, N. MEX.

Mr. LEE. Thank you, Mr. Chairman. So there will be no misunderstanding, all of my comments will be directed solely to H.R. 10587, if you will, Mr. Chairman. As this is clarifying legislation to the BLM Organic Act and has received broad public exposure, I will only highlight some of the major issues and concerns as I view them.

#### THE DECLARATION OF POLICY

Admittedly, the past history of the Western livestock industry is not without blemish, but, we in New Mexico feel that the public rangelands have substantially improved since the passage of the Taylor Grazing Act of 1934. Consequently, we must take exception to the all inclusive policy of findings.

#### ITEM

The range improvements are necessary to insure continuity and practicability of proper range management. We are of the opinion, however, that the permittee is the prime beneficiary of any range improvements, thus relieving the taxpayers of any additional burden.

Senator LAXALT. Excuse me. With the contentions that's been made here from time to time, and it was made here again this morning, permitting the permittee to go ahead and improve his own permit ground, presents administrative difficulties. Doesn't it make sense to give the permittees the obligation of taking care of their own permit grounds?

Mr. LEE. Mr. Chairman, in New Mexico, the permittee has footed the bill for 85 to 90 percent of the improvements on the public lands. We have lived with it for many years. And we anticipated it, as I pointed out, we are the primary beneficiaries and that we should, to utilize the public lands, bear the cost of the improvements. We always have.

Senator LAXALT. For the benefit of some of our colleagues on the committee who are unfamiliar with the West and this type of problem, you really can't isolate the public lands from the base ground, can you? It's all part of the package.

Mr. LEE. It's all part and one in the same package.

Senator LAXALT. And in a lot of the operations, I know at least in our part of the West, when you turn out into the public lands or into

the forest in March or April you're getting down to the point that many be the most important part of the package.

Please go ahead.

Mr. LEE. Grazing fees, the formula utilizing the price of livestock and the cost of production herein contained, represents a fair return to the taxpayer, as well as being equitable to the permittee.

The director's recent attack on the grazing fees formula, followed by the statement that grazing fees represent only 6 to 8 percent of the cost of doing business to the ranch operator is an erroneous statement, in my opinion.

Senator LAXALT. Do you have statistics to support that?

Mr. LEE. Just my own records, sir.

Senator LAXALT. Just out of your own operation?

Mr. LEE. Yes, sir.

Senator LAXALT. Based upon the results of your own operation, yours is an average normal operation, I would assume, or is it?

Mr. LEE. Somewhat larger than the average operation.

Senator LAXALT. A little bit larger. The 6 to 8 percent is just unrealistic in terms of your own situation?

Mr. LEE. The figure is closer for this one item. It's between 13 and 15 percent.

Senator LAXALT. Would you say that that would apply to comparable operations throughout the West?

Mr. LEE. I would say in the smaller operations it could be larger.

Senator LAXALT. Well we are talking 100 percent over the estimates that were given us this morning, the numbers given us this morning, which, frankly, surprised me that they were that low.

Go ahead, sir.

Mr. LEE. Grazing fees today are the third largest item of doing business, preceded only by labor and supplement feed expense.

#### GRAZING LEASES AND PERMITS

We strongly urge passage of the section mandating 10-year permits. By so doing, the permittee will be provided security, tenure, and stability, all necessary ingredients for obtaining adequate ranch financing as well as for future planning.

#### WILD HORSES AND BURROS

Additional management authority for the control and disposal of horses and burros should have a very high priority, due to the extensive damage being inflicted on some of our Western rangelands.

#### ALLOTMENT MANAGEMENT PLANS

This section is of prime importance for it requires the Secretaries to cooperate and coordinate their management efforts through an AMP with other entities, the State land commissioners, private landowners, grazing advisory boards and the permittees involved, all individuals who should be interested in the improvement of the range, regardless of landownership.

The present policy of devising one rotation grazing allotment management plan to fit all of Western States is impractical, unmanageable, and works to the detriment of all the lands.

Previous legislation failed to recognize that the Western States are not contiguous block Federal domain; they are extensively checkerboarded and/or intermingled with State school lands, as well as private lands. Consequently, these lands must be managed in unison, as they cannot be separated one from the other.

State land commissioners are charged under State enabling acts and State constitutions with performing certain duties that may conflict with Federal statutes. Also, private landowners have certain constitutional rights that must be protected.

We are of the opinion that men of goodwill, who seek improved range conditions for all lands, can and will under this section arrive at workable grazing systems. Extensive utilization of custodial type grazing permits may be required, where permittees have maintained acceptable range conditions and/or where landownership is comingled. The agencies' responsibility for the resource management is unquestionable; they shall continually monitor these operations and guarantee continued acceptability.

I urgently petition this committee and the Senate to take prompt action on the House version of the range improvement bill, as this bill has received input from various diversified groups.

Thank you, Mr. Chairman.

Senator LAXALT. Thank you very much, Mr. Lee. I don't think I have any further questions other than the ones that I have asked. Thank you very much.

Dr. Ross, you are next on the list, Dr. Gene Ross, from the New Mexico State University. Welcome to the hearing, Dr. Ross.

**STATEMENT OF DR. EUGENE ROSS, ASSOCIATE DIRECTOR COOPERATIVE EXTENSION SERVICE, NEW MEXICO STATE UNIVERSITY—Continued**

Dr. Ross. Thank you, Mr. Chairman. I am speaking on behalf of New Mexico State University and as administrative adviser to the Western Universities Public Rangeland Coordinating Committee. My role is to present objective and unbiased comments and not to take any particular side on issues. In doing so, attempts will be made to raise questions and indicate consequences of alternatives.

Our job at the University basically is to help both users and managers, and our relationship, Mr. Chairman, between ourselves with BLM, the Forest Service, and the livestock people is and has been very good.

The following comments are mine, but collaboration was obtained from Dr. James Gray, Department of Agricultural Economics at NMSU, and Dr. Jerry Schickedanz, extension range management specialist, at New Mexico State.

Basically, Mr. Chairman, we support H.R. 10587, which, in addition to indicating this to you, I think also answers Senator Church's basic question. Additional reactions include—and I'll go through some

of these, Mr. Chairman, and just skip over some of the rest of them because it's already been talked about—first of all, the determination of grazing fees is controversial and will continue to be. It appears difficult because of bureaucratic biases and value systems, for the agencies, the ranchers and the Congress to objectively determine fair grazing fees.

It is hoped, therefore, that Congress in its wisdom would charge and heavily rely on its agricultural university research resources to determine fair grazing fees. In this case, the university systems would serve as a disinterested third party, and since their professional stature depends on credibility maintenance, they would more likely furnish objective facts upon which the Congress would make its decisions.

Mr. Chairman, I can't keep from digressing for just a minute. Dr. Gray has put together a 22-page critique of the "Study of Fees for Grazing Livestock on Federal Lands," a document there that Mr. Lane has, and I would like to quote one piece of the critique to you since this notion of recreation came up.

It is ironic that other users of the Federal lands favor fair market value for grazing fees. Why not fair market value for all uses? Using their logic, if grazing fees are low as specified in section 102(a) of the Federal Policy and Land Management Act of 1976, and recreation fees approach zero, then obviously grazing fees more nearly approach fair market value than recreation fees.

On this basis, the recommendation should be made that grazing use should increase and recreation use decrease.

Second, is a mechanism for arbitration needed at the local level? When agreements cannot be reached, could representatives from the District Grazing Advisory Board, the Federal agencies, and the users assume the role as arbitrators? The term " \* \* \* careful and considered consultation, cooperation, and coordination with the lessees, \* \* \*" is used liberally in the proposed law. In each case, "and arbitration, if necessary," could be added.

A similar precedent has been set in the Department of Agriculture's Agricultural Stabilization Conservation Service Board—that is, the ASCS—and that local board functions very effectively.

Presently, the appeals procedures pit the user against the agency and then, if necessary, the courts. The appeals procedures presently used are contrary to the judicial philosophy that one is innocent until proven guilty. When an appeal is made, all activities and decisions on an allotment should be deferred. By the time the appeal is settled the appeal could be mute and/or out of date.

If arbitration could be facilitated by the user's peers and neighbors under the guidelines of the agency, then local leadership would be built, management would be improved, and fellowship greatly enhanced. What we are talking about, Mr. Chairman, is how we build and work with local people who use Federal lands.

Third. If the lessee does not have—my third point—the freedom to make what he believes to be necessary market and production decisions on his economic resources such as livestock and other resources, then he will be unable to economically compete and stay in business with those having this freedom. If, furthermore, the lessee has to check with the agency on day to day decisions and at the same time he is unable to develop and implement long-term overall management

plans, including such things as range improvements and grazing rates, then he cannot compete and stay in business.

Agreements with the agency, therefore, must be consistent, clearly understood by all parties, in writing and yet be flexible enough for the users to compete. This concept in this and future statutory considerations, must be maintained.

Fourth. It is believed that the changes resulting from H.R. 10587 to make allotment management plans optional will be beneficial to promote desired range management practices and cooperation because there is a built-in incentive for both parties.

Overall economic stability for both users and communities located in and around Federal lands is imperative for survival of both users and communities.

Five. While it is important that the highest socioeconomic environmentally sound use be made of public lands, it is extremely important that this objective be accomplished in such a way to insure socioeconomic stability for both the user and local communities.

Do we know what the impact of AMP's will be on users and communities? It is felt much more research and education is needed in these areas to help users and agencies to improve our local communities.

Six. Finally, Mr. Chairman, we can all agree that public lands issues have been extremely controversial, but why they are controversial and how the controversy has been managed has not been adequately treated. Basically, we are requiring local people to make some changes which they perceive as unfair and of which they have not been a part.

Rogers states: " \* \* \* clients must perceive a need for an innovation before it can be successfully introduced."

Beal further adds: "If people are to work together as a group, there must be a certain unity in interests, objectives, and purposes."

Along these same lines, Sayles and Strauss state: "People seldom resist change just to be stubborn; they resist it because it hurts them economically, psychologically, or socially."

The point is being made, Mr. Chairman, that the Congress, the Executive, and the agencies can make many laws with attendant rules and regulations, but unless the users of public lands are more than casually involved in the development and implementation of decisions which affect their economic, social, and psychological welfare, ensuing cooperation and favorable relationships are not likely to be maintained.

While efforts to gain cooperation and favorable relationships are being exerted, it is imperative that efforts be increased and improved.

Thank you, Mr. Chairman.

Senator LAXALT. Thank you very much, Dr. Ross.

Mr. Olguin, Southeastern New Mexico Grazing Association. Welcome.

Mr. OLGUIN. Thank you, sir.

#### STATEMENT OF MICHAEL OLGUIN, DIRECTOR, WASHINGTON OFFICE, SOUTHEASTERN NEW MEXICO GROWERS ASSOCIATION

Mr. OLGUIN. I am Michael Olguin. I am director of the State of New Mexico Office here in Washington, and I am here on behalf of

Dr. William P. Stephens, Secretary of Agriculture for New Mexico, and the Honorable Jerry Apodaca, Governor of New Mexico.

We are grateful for this opportunity to present our views relative to H.R. 10587, the House version of proposed legislation under consideration by this subcommittee.

The Governor strongly endorses this legislation. In particular, Governor Apodaca strongly supports the concept of H.R. 10587, which gives State land agencies and private landowners equal status with Federal agencies in developing allotment management plans. This concept is most essential in that at present most ranches in the State of New Mexico with Bureau of Land Management leased lands are intermingled with State and private lands. And in many areas of New Mexico, the acreages of State and private lands exceed that of BLM land.

The bill presently before this committee, H.R. 10587, will ensure the Governor of New Mexico that individual rights—this includes property rights—as guaranteed by our State constitution and which the Governor swears to uphold, are not in jeopardy of being violated by the Federal Land Policy and Management Act of 1976.

Under existing law, if a rancher has intermingled Federal, State, and private land, he does not have equal status with the BLM in deciding on an allotment management plan on all of these lands. In essence, Mr. Chairman, the Federal Government can dictate how lands in the ranch—Federal, State, and private—may be used and developed. An example of this might be the construction, location, and design of fences, or the development of a windmill for stock water.

As we interpret H.R. 10587, it allows the State land commissioner to exercise his responsibilities and charges as promulgated under the State Enabling Act. The Enabling Act directs the land commissioner to manage and obtain the highest returns feasible, under good management, for numerous beneficiaries of our State lands. It must be kept in mind that since most New Mexico ranches with BLM land have intermingled State and private land, that an AMP, out of necessity, must be for the entire ranch.

Therefore, as an example, the Federal Government dictates the stocking rate and other management practices, the land commissioner could not manage State lands. In that case, the value of State lands for leasing and other purposes would be lower and income from State lands may be reduced. A reduction in revenue to State land would reflect on the budget of such institutions as the School for the Visually Handicapped, the Carrie Tingley Hospital for physically handicapped children, in addition to other common schools in New Mexico.

In general, the Governor of New Mexico endorses H.R. 10587, but, in particular, support is given to (1) "Rangelands Inventory and Management," section 3(a), directing the Secretaries to obtain, develop, and maintain an inventory of range condition; (2) "Range Improvement Funding," section 4(a), authorizing appropriation of additional funds for range improvement. This provision can have a direct beneficial affect on lands in all ownership, as well as an indirect affect on our local rural economies; (3) section 8, "If the Secretary concerned elects to develop an allotment management plan for a given area, he shall do so in careful and considered consultation, cooperation, and coordination with the lessees, permittees, and land-

owners involved . . . and any State or States having lands within the area to be covered by such allotment management plan."

Mr. Chairman, in addition to the specific support, there is one section in which the State objects and would like to bring to this committee's attention.

The objection is with "grazing fees," section 5 (a). "For the grazing years 1979 through 1985, the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public grazing lands which Congress finds represents the economic value of the use of the land to the user, and under which Congress finds . . ."

The State of New Mexico prefers, instead, the language as stated in the original H.R. 10587, namely, "The Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public grazing lands which was recommended by the Technical Committee to Review Public Land Grazing Fees for Grazing Livestock on Federal Land, a report from the Secretary of the Interior and the Secretary of Agriculture, dated October 21, 1977 . . ."

We in the great State of New Mexico, and in the West, are deeply concerned about the actions of Federal agencies relative to agriculture. Specific instances are: Federal stand on water rights and water quality control; the 160-acre limitation on Federal irrigation projects; and police powers as authorized under the Federal Land Policy Management Act of 1976.

Mr. Chairman, I thank you for allowing me the opportunity to present some of the views of New Mexico State government on proposed legislation, that if passed with amendments, could be extremely beneficial to the citizens of New Mexico, to our local rural economies and to the livestock industry, with implications for State energy policy, wildlife management, the oil and gas industry, proven land and range management practices, the ecology and economy of the State, and the general welfare of the people of New Mexico. Thank you.

Senator LAXALT. Thank you very much, Mr. Olguin. I, for one, and I am sure that my views are going to be shared by the remaining members of the committee, welcome the thoughts and views of the State government of New Mexico and the Governor as well. Having been a Governor myself, I know how strongly he feels about these issues, which I'm afraid, too often intervenes in the domestic affairs of our States.

Are there any more observations from the panel that you would like to make? If not, on behalf of the Chairman, I would like to thank all of you for attending. And I apologize for the absence of the other members of the committee. It is not lack of interest. They are strung out in a hundred different directions around the Hill. Thank you.

All right. We will proceed now then with the statements from the next panel.

Mr. LANGENEGGER. Mr. Chairman, I think I was scheduled to appear.

Senator LAXALT. Oh, yes; here you are, sir. All right, sir. We have one slight problem. I am informed by Mr. Callison that he is running late for an airplane. Would you mind if he took a couple of minutes or do you have a time problem as well?

Mr. LANGENEGGER. No; that would be fine.

Senator LAXALT. I will have you immediately thereafter, sir.

Mr. LANGENEGGER. Thank you very much.

Senator LAXALT. All right.  
Would you proceed, Mr. Callison?

**STATEMENT OF CHARLES CALLISON, PRESIDENT, PUBLIC LANDS  
INSTITUTE, DENVER, COLO.**

Mr. CALLISON. Yes, sir, Mr. Chairman, my name is Charles Callison. I am the president of the Public Lands Institute with headquarters in Denver. I thank you very much for this consideration. I have got a running chance of catching that plane.

I was asked by Mr. Daniel Poole, president of the Wildlife Management Institute, to insert his statement in the record. He couldn't stay this late this afternoon.

Senator LAXALT. It will be so filed.

Senator DOMENICI. Mr. Chairman, might I ask unanimous consent that a statement prepared by David McGee, dated February 1, 1978, "A Critical Analysis of Proposed Grazing Fees on Federal Lands," be made a part of the record at the termination of the previous panel?

Senator LAXALT. Without objection, so ordered.

Senator DOMENICI. I thank the chairman.

Senator LAXALT. All right, Mr. Callison.

Mr. CALLISON. Mr. Chairman, we support and urge the adoption of H.R. 10587, this legislation in the form that it passed the House, with one additional amendment. I will say that we also endorse the amendments that clarify the rather confusing terminology about nonenvironmental impact improvements and environmental impact improvements. The rest of the amendments recommended by Mr. Gregg this morning, we would endorse those. We think that is a confusing part of the bill. However, we thought that section of it was an improvement by the House.

The additional amendment that we would like to see has to do with the make up of the District Grazing Advisory Boards. At present, those are strictly single interest boards required by the BLM Organic Act to be made up entirely of grazing permittees and lessees. We think it would serve the livestock industry itself, the community, and the Bureau of Land Management or the Forest Service, respectively, if those were altered to be made multiple-use boards, multiple-use advisory boards.

And my statement contains such an amendment, the language for such an amendment. And you will note that we are proposing in this draft that a simple majority of each advisory board shall be livestock representatives who shall be lessees or permittees, and that the other members of the Board to be appointed by the Secretary concerned would represent the other major public uses of the public lands.

We think this would be generally beneficial. It has been suggested by some that the section of the BLM Organic Act that authorizes the Secretary on a permissive basis to appoint multiple-use advisory councils might be made compulsory. But it seems to me that if we had those on a compulsory basis, plus the District Grazing Advisory Boards, also required by law, that we would have a redundancy of advisory committees.

So our recommendation is that the District Grazing Advisory Boards, which are now mandatory, be simply broadened to make them represent the views of the multiple users of the public lands.

We hope you will consider this. We think this is good legislation.  
 Senator LAXALT. It will be known to the other members of the subcommittee.

Mr. CALLISON. And I thank you very much for your consideration.

Senator LAXALT. I thank you for your observations, Mr. Callison.

Senator Domenici.

Senator DOMENICI. I have no further questions.

Senator LAXALT. Please hurry on. And good luck.

Mr. CALLISON. Thank you.

[The prepared statements of Messrs. Callison, Poole, and McGee follow:]

STATEMENT OF CHARLES H. CALLISON, PRESIDENT, PUBLIC LANDS INSTITUTE,  
 DENVER, COLO.

The Public Lands Institute, a non-profit, publicly-supported organization, was founded to work for good management and better husbandry of the public lands of the United States. As the members of the Committee know, the lands held by federal agencies constitute about one-third of the total area of our country. It is self-evident that how well those lands are managed, and how wisely their resources are used and their productivity maintained, will influence greatly our national economy and environmental quality—not only in the near future but for generations of Americans yet to come.

Any prudent farmer knows that if he overgrazes his pastures and lets his meadows run down by failing to restore the fertility that he removes in annual cropping, he is placing his own future in jeopardy by eating into his most important capital, the soil and its productivity. The government, who is the big farmer of the National Resource Lands and National Forests, has not always been a prudent manager. The public grazing lands are a particular case in point. They have been over-grazed, neglected, allowed to run down, because the government has been too stingy to re-invest properly in rest and rotation, re-seeding, soil and water conservation, and other measures to restore and maintain productivity.

The Public Lands Institute supports the purposes of H.R. 10587 and urges its passage with the amendments adopted by the House with one additional amendment that I shall recommend and explain.

The principal purpose of H.R. 10587—its main thrust—is to assure better husbandry of the public grazing lands. If the funds authorized by this legislation are actually appropriated by future congresses, it would more than double the government's re-investment in range improvements. While this may seem like a big increase it is nevertheless conservative legislation. To maintain and increase the productivity of the land is far more conservative than a policy of stealing now from the future by exploitation and soil depletion now. It is no coincidence that the words conservation and conservative derive from the same root stem.

We urge the Senate also to approve the amendments to Section 4 of the bill that were adopted by the House to assure that the requirements of the National Environmental Policy Act will not be by-passed—even for range improvements defined as “non-environment impact”—if the Secretary determines their impact on the environment would indeed be significant.

While we do not know the solution of the grazing fee controversy—we have it under study—we do not object to the provisions of Section 5 of H.R. 10587 as it passed the House.

We endorse and support Section 7 as it would amend and clarify the Wild Horse and Burro Act.

The new amendment which we urge you to consider and to add to this legislation has to do with the make-up and functions of the district grazing advisory boards as mandated in the Federal Land Policy and Management Act of 1976. These advisory boards are a carry-over from the Taylor Grazing Act, but in the evolution of the later legislation, the boards became more narrow and constricted in their composition and purpose. They now reflect multiple-use interests in the public lands even less than before. Under the Taylor Grazing Act, there was one member appointed to represent wildlife interests, although all the others had to be “local stockmen” representing the grazing users of the public land.

Under the Federal Land Policy and Management Act, there isn't even a wildlife representative. All must be "livestock representatives who shall be lessees or permittees' within the district. Their function is limited to offering advice and making recommendations on "the development of allotment management plans and the utilization of range-betterment funds."

The existence of these single-use advisory boards, Mr. Chairman, tends to create an unfortunate polarization between the grazing permittees—the livestock interests—and all the other groups who have a legitimate interest in the uses and management of the public lands.

Further, they deprive the Bureau of Land Management and Forest Service of balanced recommendations that could be arrived at on a board made up of diverse viewpoints and representing not only the grazers but also those interested in wildlife management, mineral development, recreational opportunities, and even those members of the public who have no special axe to grind except good land use and community betterment.

The present system deprives the community and BLM, or the Forest Service, of an opportunity for discussions and study leading to harmonious views and integrated planning for the public lands. We propose a new Section 9 be inserted in H.R. 10587 to read as follows:

"Sec. 9 Section 403 of Public Law 94-579 is hereby amended to read as follows:

"Sec. 403(a) For each Bureau district office and National Forest headquarters office in the eleven contiguous Western States having jurisdiction over more than five hundred thousand acres of lands subject to commercial livestock grazing (hereinafter in this section referred to as "office"), the Secretary and the Secretary of Agriculture shall establish and maintain a resource management advisory board of not more than fifteen advisors. The number of years an adviser may serve shall be determined by the Secretary concerned in his discretion.

"(b) The head of the office involved shall consult with and consider the recommendations of the resource management advisory board in the development and revision of land use plans pursuant to section 202 of this Act or section 5 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (88 Stat. 477; 16 U.S.C. 1601). Any allotment management plan for the district involved shall not be finally approved until the head of the office has submitted the plan to the advisory board for comments and recommendations. The advisory board may offer recommendations on the principal or major uses within the district and shall make recommendations concerning the utilization of range-betterment funds. Should any recommendation by the advisory board not be accepted, the head of the office shall explain his reasons in writing.

"(c) A simple majority of each advisory board shall be livestock representatives who shall be lessees or permittees in the area administered by the office concerned and shall be chosen by the lessees and permittees in the area through an election prescribed by the Secretary concerned. Other members of the board, who shall not be lessees or permittees or otherwise engaged in the livestock business, shall be appointed by the Secretary and shall be selected as representative of other multiple uses as defined in this Act, and the general public.

"(d) Each advisory board shall meet at least once annually.

"(e) Except as may be otherwise provided in this section, the provisions of the Federal Advisory Committee Act (86 Stat. 770; 5 U.S.C. App. 1) shall apply to resource management advisory boards.

"(f) The provisions of this section shall expire December 31, 1985."

Sections 9 and 10 of H.R. 10587 should be renumbered accordingly, and wherever else in the Act the words "grazing advisory board" appear, these should be changed to "resource management advisory board."

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STATEMENT OF DANIEL A. POOLE, PRESIDENT, WILDLIFE MANAGEMENT INSTITUTE

Mr. Chairman, I am Daniel A. Poole, president of the Wildlife Management Institute headquartered in Washington, D.C.

We do not believe the enactment of S. 2475 or H.R. 10587 in their present forms would be in the overall public interest. Upon invitation, a number of conservation groups worked with the House subcommittee staff to attempt to develop a sound proposal that we could support. Some of our recommendations were accommodated, but the House-passed bill remains objectionable. The clear purpose of

H.R. 10587 and S. 2475 is to improve rangelands for livestock grazing. The bills' purpose for wildlife and other resources is vague. Overall, their thrust is not compatible with the Federal Land Policy and Management Act, which, as a matter of national policy, calls for a balanced natural resources program on BLM lands.

From our appearance at the BLM 4-year authorization hearings and other contracts, I am sure the committee is aware that we support well-managed livestock grazing on public lands. As we have noted before, certain seasons, intensities and kinds of livestock grazing are harmonious with wildlife management and other public land objectives.

But the hundreds of millions of acres BLM is directed by law to manage for livestock grazing, wildlife, recreation, watersheds, forests, and other uses should not be designated "grazing lands" as depicted in S. 2475 and H.R. 10587. They are not wildlife refuges either. They are public lands capable of sustained output of a variety of products and services. It would be undesirable to label the important multiple-use lands in law as single-use areas.

The bills' definition of "allotment management plan" would restrict consideration in developing such plans to domestic livestock with input from lessees and permittees. Forage allotments must include wildlife and feral horses and burros. Otherwise, overgrazing is a certainty. The definition, in effect, is counter to the bills' stated purposes and to FLPMA.

The definitions and use of terms "environment impact improvements" and "non-environmental impact improvements" are another case in point. They are oriented toward livestock grazing. To say the least, they are confusing. They probably would lead to more misunderstanding and litigation in getting a good range management program underway.

"Range improvement" is the necessary goal of any bill to help the public lands. That activity should be given a broad definition and used in legislation. It would allow BLM the flexibility to design programs that will benefit the broad array of resources dependent on rangelands.

The "Range Improvement Funding" sections of the two bills, in essence, are excess baggage. The Federal Land Policy and Management Act contains authorizations for this purpose, but they have not been funded adequately. We cannot visualize this shortcoming being affected by additional authorizations.

H.R. 10587 and S. 2475 would institute a grazing fee formula that is clearly not in the public interest, if the public is to receive "fair market value" for its forage. Any formula which bases the price of one production factor on the difference between the price of the final product and cost of all production factors is a pretty good guarantee that long-range increases in the price for the one production factor will be less than under the free market system.

The reason for this is that as the overall cost of production factors increase in a free market so does the price of the final product. At any level, the difference between the two fluctuates around an average. The cost of production and the price of a final product do not move apart indefinitely, as would be required to get any sustained increase in grazing fees under a formula based on the difference between the two. Such a formula, therefore, would be nothing more than a guarantee that grazing fees would not rise to fair market value. It would be a pure and simple subsidy to permittees grazing public land, giving them an unfair advantage over that majority of the industry not privileged to graze on public lands, while at the same time denying all the owners of those lands a fair return for public resources used for private benefit. We urge that the Committee not abrogate the principle of fair market value.

The grazing advisory boards provided for in FLPMA and in Section 10 of H.R. 10587 are anachronisms from the days that accompanied substantial overgrazing on public lands. If the Congress feels compelled to retain advisory boards for BLM, we urge that they be expanded to "multiple use" boards which consider all resource values on the national resource lands.

H.R. 10587 and S. 2475 contain one provision which we believe to be completely in the best interest of public land resources. That provision would give much-needed flexibility for agencies to manage federal horses and burros. We support that provision. It is time for Congress to ease the harmful restrictions imposed in the Wild Horse and Burros Protection Act.

Otherwise, H.R. 10587 and S. 2475 appear to be livestock grazing proposals, not unlike the Anderson-Mansfield Act of 1949, which historians say delayed range improvements on national forests for at least 10 years. That Act provided

for an influx of money to restore rangelands. The Forest Service was lulled into thinking that money alone would solve the problem. It didn't because the problem was too many livestock on the land. Thus restoration of many overgrazed national forest areas was delayed 10 years, according to one published report. We see no value in repeating the historic mistake of that Act.

As an alternative to H.R. 10587 and S. 2475, we recommend that the committee turn its attention to drafting legislation that would make the Bureau of Land Management a full participating partner with the U.S. Forest Service in the Forest and Rangelands Renewable Resources Planning Act (P.L. 93-378). The inventories, assessments, planning, programming, budgeting and justifications that such responsibility would require would provide both the Congress and the Executive with the information needed to make informed decisions enabling BLM to move toward becoming a truly multiple-use management agency. This will give the Congress and the Executive the blueprint each desperately needs to set the BLM on the road to improved public land management. An initiative of this kind, we believe, would be widely appreciated by the public, in addition to being the most logical step Congress can take to improve public land management in the public interest. It would give congressional committees a program against which they could check BLM accomplishments as well as consider budget requests with much more understanding.

We have had too many "quick fixes" in the past. BLM land resources are much too valuable for more of that same approach.

This committee's interest and leadership in BLM lands is well established. Chairman Jackson introduced the first BLM Organic Act. It was twice passed by the Senate before being enacted as the Federal Land Policy and Management Act of 1976. That was a great first step. As a second step, we believe the committee should make BLM a partner in the Resources Planning Act and bring that agency into the modern-day era of natural resource management.

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STATEMENT OF DAVID W. MCGEE, ROSWELL, N. MEX.

A CRITICAL ANALYSIS OF GRAZING FEES ON FEDERAL LANDS

*Introduction*

On November 23, 1977, the Department of Agriculture and the Department of Interior placed in the Federal Register a proposed rule stating their intentions in regard to grazing fees on public lands. These intentions were based on a "Study of Fees For Grazing Livestock on Federal Lands" prepared by the Secretaries and dated 21 October 1977. This study was an outgrowth of the Federal Land Policy and Management Act of October 21, 1976, which reads as follows:

Sec. 401. (a). The Secretary of Agriculture and the Secretary of the Interior shall jointly cause to be conducted a study to determine the value of grazing on the lands under their jurisdiction in the eleven Western States with a view to establishing a fee to be charged for domestic livestock grazing on such lands which is equitable to the United States and to the holders of grazing permits and leases on such lands. In making such study, the Secretaries shall take into consideration the cost of production normally associated with domestic livestock grazing in the eleven Western States, differences in forage values, and such other factors as may relate to the reasonableness of such fees. The Secretaries shall report the result of such study to the Congress not later than one year from and after the date of approval of this Act, together with recommendations to implement a reasonable grazing fee schedule based upon such study.

The proposed rule making of November 23 states, "Fair market value of livestock use of public lands will continue to be based upon the Western Livestock Grazing Survey of 1966, as updated annually of the percentage change in the private grazing lease rates for livestock grazing."

The Western Livestock Grazing Survey was made to establish the fair market value of government grazing land. Various costs of grazing federal land versus the grazing of private land were recognized and credit was given. The fair market value of federal grazing was then established after deducting these costs, which is the base fee today. To update this base fee, an index was established. This index consisted of determining the average private grazing land lease rate for the period 1965 to 1968, then taking the percent change from the present

private grazing land lease rate and multiplying the index times base value. The fees on federal lands have yet to reach these government appointed values due to planned escalation of fees, moratoriums, and continued escalation of the government's estimate of the private grazing land lease rate.

I am presently engaged in the ranching business involving the use of federal grazing land, and my entire life has been spent in the agricultural area. I feel qualified to make comments on the Secretaries' actions. Enclosed for your convenience is my resume.

The subject of grazing fees is vast and has many ramifications. The arguments for and against the report are limitless. I have attempted to expose the most important errors that have been made. I will also attempt to show the effect that the present policy will have on the federal grazing land users. This aspect was not considered in the study, and I feel it was a most important oversight as equity to holders of grazing permits and leases was an explicit goal of the Federal Land Act. The last part of the report will consist of recommendations and a request for political action to stop this injustice by a bureaucracy to a large segment of the western livestock community.

In the proposed rule, the Secretaries have closed the door on further questioning of their actions by declaring that no economic or environmental impact statements are necessary. I cannot understand their reasoning. What is a major economic proposal for if the fees are raised until all permit value is gone. The loss in the eleven Western States will be over 343 million dollars. The increase in fees will take another 22 million over a three-year period. To me that is of major economic impact on the Western States. If the economic impact is such that the federal grazing land users cease their operations, and range improvements are abandoned, water will become a problem for the wildlife. This certainly would have an adverse environmental impact.

I have reviewed the Proposed Rule Making and the Study of Fees For Grazing Livestock on Federal Lands and feel that the Secretaries have not followed the mandates given them in the Federal Land Policy and Management Act, and the arbitrary action that they have taken could prove disastrous to a large percent of federal grazing land users.

#### *Fair market value*

Since fair market value is the criteria that must be considered in setting the fees for use of public lands, the Secretaries have attempted to arrive at this value. There are several basic flaws in their reasoning process that renders their fair market value meaningless. The first error is the incomplete definition of the term "fair market value". The Secretaries' definition of fair market value is as follows: (page 1-8, paragraph 3)

Fair market value is defined as the agreed price between a willing buyer and a willing seller, both having full knowledge of alternatives.

The correct definition is:

Fair market value is the worth of a property measured by the price arrived at in free and open negotiation between a well informed seller who is able, willing, and under no compulsion to dispose of his property and a well informed buyer who is able, willing, and under no compulsion to buy the property in question.

Each of the underlined terms in the definition must be given consideration to arrive at a "fair market value". To be equitable to both the government and user of public land, each term should be reviewed and if an inequity is found, input must be made until the term is applicable to each. I would like to review the terms in the context of this discussion.

1. Well informed seller.—Enclosed is a copy of a news release by the Amarillo Daily News, dated December 30, 1977. The Department of Interior's error in the data releases ranged from 47 percent to 170 percent. An error of only 10 percent in figuring grazing fees for 6.2 million animal units is quite significant. There are many areas of the report, used by the Secretaries to determine fees (Study of Fees For Grazing Livestock on Federal Lands) that show not only bias but is erroneously reported. For instance, on page 4-32, paragraph 3, and page C-61, Table 1, it is stated that New Mexico state lands lease for \$2.32 per animal unit month. This was computed by taking the total leased acres, dividing this by the acres per animal unit, giving the animal unit months available for grazing. This figure, when divided into the total dollars collected, gives the lease rate per animal unit month (\$2.32). The average state land stocking rate in New Mexico is not 10 acres per animal unit month (5.33 cows per section year long) as reported.

Enclosed is a map of New Mexico prepared by New Mexico State University, showing the various areas of the state, broken down in grazing capacities. Colored in red, green, and black are the only areas of the state that a cow requires 10 acres per animal unit month or more for grazing. Actually, the acreage stocking rate of the state lands is approximately 5 acres per animal unit month. Inserting the correct figure in the Secretaries' calculations gives a leasing rate of \$1.16/AUM, not \$2.32.

In arriving at what the private grazing land lease rate is, the Secretaries have used strictly subjective information. "Hearsay" (subjective information) is not admissible in any court of law, yet this type of information has been used to establish one of the most important inputs in the FMV calculation since 1969. Throughout the entire report the Secretaries continue to refer to private grazing land lease rates as an average of the amount for which private grazing lands are leased. This is incorrect as it is only the rate that individuals think it leases for and that rate is not substantiated by data from any actual transaction. It is interesting to note that the only objective data collected (1977 June Enumerative Survey—Weighted Rate Question, page C-22, 23, 24, of the report) was given no consideration on the grounds that "the data have sufficient unexplained variations to make it inadequate for determination of grazing changes . . ." Would it have been rejected had it shown a \$2.60 AUM increase rather than decrease based on the subjective data collected in the same survey? At least, this discrepancy should have posed questions as to the validity of the subjective material.

Responses concerning private leases by individuals who are actually a party to the pasturing of private lands should be the criteria for building a FMV. To use values built on "hearsay" is legally indefensible.

It is interesting to note that in Appendix C, Part 3, Competitive Bid Data, McGregor Range, New Mexico, data which concerned 241,000 acres involving 4,425 cattle and leased for an average of \$5.43 AUM in 1976-77 season was given 5 pages of discussion, while a unit not located in the Western States, Soldier Creek Management Unit, Nebraska, concerning 7,498 acres and involving 400 cattle for 4 months grazing, but leasing for an average \$13.88 AUM, was given 20 pages of discussion. Any accepted method of appraisal would require that the Soldier Creek Management Unit lease be completely disregarded as not comparable in geographic location, size, type, or term (4 months only) to the year long selling of grazing privileges on 283 million acres of federal land.

2. Able.—The Secretaries state that it is not of their concern if the permittees are able to pay the fees. They argue that it has no reflection on market value, yet the ability to pay is an indispensable part of all transactions; therefore, it must have an effect on fair market value.

Economic illiteracy is demonstrated in the statement in which ability to pay is divorced from fair market value. Are the Secretaries attempting to refute the Laws of Supply and Demand?

3. Willing.—I assume that if the situation is such that a reasonable fee is charged to use the public lands, the users will continue to be willing to use them. If, however, the fee is over the FMV and unreasonable, the users, if they have a choice, will not be willing to use them.

4. Under no compulsion.—Due to the intermingling and interrelationships between the private, state, and federal lands and their dependence on the improvements to make a viable unit, the users are under a survival compulsion to lease the federal grazing privileges. There are very few users that would be able to relinquish the government permits involved without suffering substantial economic losses in values of associated private properties. For this very reason, the fair market value must be a "true" fair market value, not arbitrarily imposed by the used of inadequate data.

The Secretaries have failed to give proper consideration to the terms in the definition that gives meaning to "fair market value".

#### *Improper comparison of subjective data*

In arriving at FMV for the public land, correct appraisal techniques dictate that only bona fide sales of private leases be considered. Even in the 1966 grazing fee study, which is the basis for the lease rate today, non-bona fide transactions were used. (See page 3-34, paragraph 3.) The only leases that were excluded were livestock grazing leases on irrigated land.

Since subjective data have been used to arrive at the private grazing land lease rate, it is understandable that no actual adjustments could be made to make the rate comparable to the leasing of federal grazing rights. However, analysis of the values reported based on the states reporting them would give an indication as to the validity of the comparison, and whether economic adjustment should be made to compensate for unrecognized differences.

The private grazing land lease rate is unrealistic when applied to year-long grazing. The \$8.88 per AUM in California cannot be a year long lease for  $\$8.88 \times 12$  months is equal to \$106.56 year long. A yearling grazing on typical western pasture land will gain an average 200 pounds over a 12 month period. If you divide 200 pounds into \$106.56, the cost of gain is 53 cents per pound. This exceeds the average cost of gain in most feed lots by over 10 cents. The reported fee of \$8.88 is only economical over a period of three to six months on lush improved pasture that will produce a gain of 1 to 1½ pounds daily. A dry land cultivated pasture such as wheat in the wheat belt will produce this type of gain, and a definite positive correlation exists between states with the largest wheat acreage and the highest lease rates. From this analysis, an assumption could be made that the private grazing land lease rate, as reported by the Secretaries, is composed of mostly short term (3 to 6 months) temporary leases on cultivated pasture or improved land. There is certainly a difference in the value of grazing on improved cultivated pasture that will produce an assured gain over a short period of time and grazing an unimproved range site on a year long basis, with no assurance of livestock gain. If accepted methods of appraisal are to be used, then not only the irrigated lands but all cultivated lands should be excluded as not comparable to any federal grazing lands under consideration.

In calculation of the present fees, an attempt has been made to adjust for this discrepancy by the use of an index (percent change of private grazing land lease rate base to the present rate) multiplied times the 1966 base fee, but the results are arbitrary. Are these arbitrary fees appropriate if users cannot afford to pay them?

As supporting data for increased fees, the Secretaries have presented material concerning several small tracts of government grazing land lease by competitive bidding. McGregor Range, in New Mexico, is the largest of these tracts consisting of 241,000 acres and leased for an average bid of 5.43 per AUM for the grazing season 1967-77. This objective data was referred to several times throughout the report as an indication of value of other non-bid federal grazing privileges. There is, however, a vast difference between the value of grazing on McGregor Range and the value of grazing on other federal lands. These differences should certainly be pointed out to avoid giving a distorted impression of the comparison.

The first and major difference is that all improvements are furnished. An analysis of the improvements on McGregor Range shows a reconstruction cost evaluation of approximately \$350 per animal unit. This investment has been made by the government and is not a required expenditure by the lessee. The Secretaries state that improvements have no value to the leasing of grass, yet on this unit they spent \$84,061.90 on improvement construction and maintenance in fiscal year 1977. If they are not a necessary part of a viable unit why this expense? On most other federal ranges these improvement costs are borne by the lessee and should be given ample monetary recognition in the appraisal process.

The second difference is the length of the grazing period. The average grazing period on the range is 8.3 months. It begins after the growing season and ends prior to the rainy season the next year. With no grazing during the growing season there is ample forage for the livestock units during the winter period and little supplemental feeding is necessary.

The third difference is the understocking of the range. The average grazing rate as bid is 70 acres per unit or 9.1 units per section year long. The normal carrying capacity for the area is about 53 acres per unit or 12 units per section year long. Understocking allows the animals to graze only the most nutritious grasses and forbs thus furnishing a higher level of nutrition with less supplemental feed that is normal on a year around properly stocked range.

The fourth difference is lack of a maintenance requirement for any of the improvement except the fences and that is minimal. On other federal ranges the lessee or permittee must do all the maintenance and at times this can be quite expensive.

The fifth difference is the uniqueness of the Range. There are very few areas of the Western States that grassland can be leased by the public bid process and be available on this basis every year. This attracts speculators, non bona fide livestock operators, individuals with outside income, drought-affected ranch operators needing emergency forage and others who can, for one reason or another, afford to pay above an economic value for the Range. An indication of this phenomenon can be found by analyzing the repeat percent of the users of the Range. In the 1977 season, only 2 out of the 12 awarded bidders had previous experience on the Range and of these 2, only one had experience of more than one previous year. Since the inception of the Range in 1967, 75 percent of the total persons awarded bids were on the Range only once while only 10 percent used the Range for three years or more. This could certainly be considered an unstable situation.

To compare McGregor Range lease rate to federal grazing fees is similar to comparing a lot in a community with pavement and utilities to an unimproved plot of land in the country. Significant adjustments must be made.

In most leasing of private lands, the lessees receive the rights of the owners, that is, (1) the right to exclude others, such as hunters, sightseers, rock hounds, snowmobilers, off-road vehicles, fishermen, etc.; (2) the right to control the movement of their livestock; (3) the right to control predators; (4) the right to supplemental feed their livestock; (5) the advantage of the conditions of the lease, such as kind and class of livestock, fees, number of livestock and conditions all remaining the same until termination of the lease. The Secretaries state that these amenities have no economic value to a lessee and are retained by the federal agencies when grazing permits are issued on federal lands. If they have value to the public, wouldn't it seem logical that they have value to a lessee that could be expressed monetarily in a private lease? Trespassing rights on private land are a highly valued asset expressible monetarily, and consideration of this fact should be given when comparing private grazing leases to the grazing of livestock on federal lands.

The greatest discrepancy of comparing private leases to federal grazing is the refusal to recognize that grass by itself does not constitute a grazing unit. There are at least two other inputs that must be made to make a marketable grazing unit; water and fences. Here in the Southwest, very few units have any other type of permanent water except wells. The wells range in depth from 25 feet to over 2,000 feet and can cost, fully equipped, up to \$35,000 each. All units must be fenced, and, depending upon terrain and type of fence, can cost up to \$3,500 per mile. Comparison of the value of unmarketable grass to a viable grazing unit without giving value to the improvements violates all accepted appraisal methods. Yet this method of appraisal is being used annually by the Secretaries and its use has had a profound effect on the improper development of the government's so-called FMV. The Secretaries argue that they have recognized this by giving an 8¢ per AUM credit for improvement depreciation. That is less than a \$1.00 per year per animal unit and is completely inadequate compensation.

#### *Income approach ignored*

If a fee based on fair market value is to be set by the Secretaries to capture the permit value, it must be a true fee. With the ranching community caught between the squeeze of rampant inflation and the depressed livestock prices, every increase in fees is the death knell to some ranching operation. The Secretaries have made it clear that this is not their concern, and fair market value is their only criteria.

The most valid test that can be made to prove that the Secretaries' fees are not above FMV is the answer to the question—can the grazers of federal lands afford them? Most of the individuals using the public lands are experienced, qualified livestock operators who have kept their operations intact through many hard times; and if they can't afford the fees, who can? The large syndicates and corporations? High income individuals looking for tax shelters? The speculators? Is now another qualification of being able to graze on public land that you must be wealthy with outside income? And how many of these individuals are there around? If the proposed fees are implemented as planned the small operators with a large percent of federal land will be forced to sell or discontinue operations. This can be prevented by arriving at "true" fair market value based on accepted methods of appraisal. The ability to pay the fees must be considered. The operator whose unit is 100 percent federal land

must be able to pay the fees just as well as the one whose unit is only 10 per cent federal land.

The Secretaries have rejected all income approaches to either arriving at value in the analysis of private leases or for inclusion in computation of grazing fees.

If they had followed the correct appraisal techniques and calculated an income value for the leasing of private land, they could not help but realize that the fees subjectively reported and combined to produce the private grazing land lease rate are unrealistic when applied to year-long grazing.

Accepted principles of appraising recognize that an approach to value can be made through the income approach, using the rent value of various properties concerned. If this approach is taken where the government furnishes the land and the permittee and improvements, and the unit is then leased to a third person at the fair market value, the government then receives all of the income and the permittee receives none for his input in the unit. It is ironic to note that the Secretaries realize that improvement costs borne by the government should be recovered for they have proposed to add a surcharge to the FMV for recovery purposes. Will the increased charge then be fair market value?

#### *Consequences of use of public grazing land lease rate*

The production of livestock to the slaughter house floor usually consists of inputs by three different levels of operation. Each level has a different set of economic parameters and attempts to equalize these parameters result in some inequities. The first level of production is the producer of young livestock; the breeder. He is in the business usually in one location year in and year out. His operation consists of breeding animals that are retained in his herd until they are no longer productive. These animals must be maintained year-long regardless of lack of feed due to drouth or adverse economic conditions. This level of operation is very inflexible, and little control is possible over the necessary inputs. If the production unit contains lease land, this acreage must be leased every year regardless of the quality of forage or the price. There are many years that the forage quality is so low that maintenance of his basic herd is his only concern. He has the option, during drouth periods of either selling his livestock or leasing additional grazing land, if available, at inflated prices. This is one reason that the private grazing land lease rate is what it is in California today. If public land is involved, is it fair or equitable to raise the lease rate for this individual when he actually has less forage than normal? It is a vicious circle. He is forced to pay an inflated private rate due to increased demand and lack of forage and this higher rate is used to raise the rate of his drouth depleted public grazing unit. He has the other option of drastically reducing the number of animals in his herd at a depressed price, then repurchasing breeding stock when forage becomes available. It is difficult, however, to replace the quality of animals that are sold, and the replacement prices will be greatly inflated. Usually a breeder will feel that it is more economical to pay an inflated fee for a short period of time that would be completely uneconomical over a long term to keep his herd intact. The public land users basically fall into this first level of operation.

The second level of production is the yearling operator who is completely dependent upon the breeder. This yearling operator is very flexible and may or may not have long-term grazing commitments. He very seldom owns the same livestock over a year; therefore, he is in a position to judge the cost of his inputs and estimate the value of his outputs and act accordingly. At different times he can economically pay inflated prices for grazing privileges for a short period due to the possibility of quick gain or rise in livestock value. His operation may not be limited to the pasture of yearlings, but can also include the use of bred animals to be sold as pairs. In this group of people, besides the legitimate operator, is the speculator, the part-time operator, and the non-livestock individual with large outside income looking for tax advantage. This segment of the industry plus some drouth-affected breeders, is the group that heavily influences private rangeland lease rates and eventually public permit grazing fees. The number of individuals in this group are few, and to arrive at a FMV using this data for most of the federal grazing lands which can be classed in the first level is highly questionable.

The third level is the feed lot operation. This level is supplied directly from the breeder (first level) or from the product of the second level. As the feed (grain, hay, protein supplements) increases in price, the cost of grain in the

feed lot will also increase, producing an increase in value of grazing in the second level. This increased value will produce a rise in value of the government's private grazing land lease rate, thus increasing fees on public land. If there is some price resistance by packers or retailers then prices paid for calves and yearlings will decline. At this point the breeder is faced with a rising grazing fee and a reduced price for his product. Another inequity is produced by using the private grazing land lease rate. The Secretaries should have questioned this rate and analyzed its effect to see if it was going to produce a "true" fair market value for federal grazing.

#### *Consequences of fees above fair market value*

Fees above fair market value for the federal grazing privileges will result in a decrease in value of deeded land and improvements. The Secretaries acknowledge that there is a permit value created by charges for federal grazing below the fair market value. If this is true, then conversely, charges above the fair market value will create negative permit value. Due to the integrated lands and improvements, the users do not have the option of refusal; therefore, additional input is necessary. The first input is additional funds for the grazing use. The second input will be a discount in the value of the users' private land and improvements. No prudent individual will pay market value for improvements and integrated private lands if the associated government grazing permit is above market value. He will discount these values to the point that the loss due to the overcharge of grazing fees can be compensated for in the discounted value. Overcharge of grazing permits actually results in confiscation of private property without due process of law.

No consideration has been given to this confiscation phenomenon since a single rate is to be used as fair market value throughout the eleven Western States. This will result in one-half of the users being overcharged and one-half undercharged. With weighted fees in 1976 ranging from a low in Arizona of \$1.55 to a high in Montana of \$2.37, the variances began to take on importance. The base fee in that year was \$1.94. In Arizona the overcharge was \$0.39 AUM or \$4.68 per animal unit.

Let's see how the overcharge would have affected Arizona's real estate if the Secretaries' FMV had been reached at that time. As an example, let's take a 500 animal unit ranch, 70 percent federal land, 30 percent deeded. Ranches that are 100 percent private land will sell for approximately \$2,000 per animal unit with a generally accepted ranch income capitalization rate of 2 percent. Consider that the 30 percent deeded land will pasture 30 percent of the animal unit or 150 head, the government land pasturing the remaining 350 animal units.

The grazing fee overcharge will result in the government receiving \$1,638 above fair market value. ( $39¢ \times 12 \text{ months} \times 350 \text{ animal units equal } \$1,638$ .) The net income from the deeded land can be estimated at \$40.00 per animal unit or \$6,000 ( $150 \text{ AU} \times \$40 \text{ equals } \$6,000$ ), and \$6,000, when capitalized at 2 percent gives a \$300,000 income evaluation. It also compares with the \$2,000 per AU comparable value ( $\$2,000 \times 150 \text{ AU equals } \$300,000$ ). The government grazing privilege has a negative evaluation of \$81,900. ( $\$1,638 \text{ capitalized at } 2 \text{ percent equals } \$81,900$ ), so the ranch value has been discounted from \$300,000 to \$218,000 due to the overcharge of federal grazing.

#### *Profile of an actual ranching unit*

This unit which has been in the same family for almost forty years is located in Southeastern New Mexico, approximately 45 miles southwest from Roswell and is typical for the area. The land status of the ranch is 70 percent federal lease (BLM), 17 percent deeded, and 13 percent state lease. There is a total acreage of 31,676 acres, with a BLM permit of 736 animal units year-long, or 8,832 animal unit months.

The improvements on this unit are not excessive and typical and consist of: Fences: 31 miles outside, 32 miles inside (pasture fences). Reconstruction costs: \$81,000, contribution \$40,000. Permanent waterings: 4 windmills, 1 submersible pump, pipelines and water facilities.

Reconstruction cost \$94,000, contribution \$46,900. Headquarters: Residence, bunkhouse, storage barn, livestock shed, corrals and scale house.

Reconstruction cost \$61,450, contribution \$15,000. Grand total, \$236,450.—\$101,900.

The land ownership of the ranch is such that no practical division can be made and still have an economic ranch unit. All improvements have been constructed or

purchased by the owner and are all located on private or state land with the exception of the fences and pipelines as they cross the federal lands. If during the operation of the unit the permittee is unable to stay in business due to an overcharge for the federal grazing permit, what are his options? He can sell the unit by discounting his private land and improvements or he can relinquish the BLM permit. Suppose he relinquishes the permit and decides to use only his private and state land. What is the outcome? To begin with, he will be held in trespass by the Federal government if he places any animals on the unit regardless of the ownership of the land. The only way for him to use these lands is to fence them out of the federal acreage. This is contrary to state law. If the Federal Government was subject to the state law, it would be required to erect the fence before the original permittee could be held in trespass. However, after a new grazing permit is issued, the new permittee will not only have the privilege of grazing his livestock on the federal land but on the lands of the original permittee until such time as they are fenced by the owner.

If a new permittee is found, he must make certain improvements before the unit can be utilized for livestock grazing. First, and most important, there is now no permanent water on the unit. A minimum investment in water facilities would be \$100,000. The government is authorized to contribute one half of the cost; however, the title then remains with the United States, to most investors this would not be satisfactory.

The new permittee will also need to consider the matter of fences. He can use his neighbor's outside fences to retain his livestock on the allotment. They, incidentally, are owned jointly with the original permittee and the adjoining neighbors and will be left in place, so the new permittee and the BLM have captured their use. Cross fences he will be required to construct to meet the BLM allotment management plan. Add another \$50,000. He will also need a set of corrals, a residence of some kind, and a storage barn for feed and equipment; add another \$50,000. This minimum investment is now \$200,000. The small credit given for development depreciation (8¢/AUM) in the present base fee will certainly not start to recover these costs, so he must recover them out of operation. Let's see if this is possible. This ranch has been under the same management from 1941 to 1973, at which time the manager died. A review of the financial statements of the period from 1968 to 1973, five-year period, shows an average annual income of \$11,521. If the BLM fees were increased to what was then considered FMV, it would subtract an average of an additional \$4,478 per year from his income, giving him a net average of \$7,043 per annum. In this net figure, there is no interest charge, no labor charge for the operator, and no recovery to capital. This is not an unusual situation, and verification can be made through various New Mexico State University publications concerning the economics of livestock production during that period. Since that time, profitability of the livestock industry has declined.

I do not believe any of the above terms are acceptable to a prudent individual, so the land will sit unused, unleaseable, and have no economic value. What is the status of the ranch today? Upon the death of the owner, the Internal Revenue Service placed a value on the BLM permit of \$450,000. This value caused inheritance and gift taxes of \$110,000 to be assessed against the property. The funds to pay these taxes came from borrowing, using the unit as security for the loan. At present, the loan is virtually the same, with only interest payments being made the past three years due to the adverse economic condition of the livestock business. With the BLM fees being increased from 78¢ per AUM in 1973 to an estimated \$2.72 in 1980, a 249 percent increase, the debt cannot be serviced and the ranch is for sale. The permit value, as appraised by the IRS, of \$450,000 will be gone, and there is some concern that enough value will be left to retire the debt incurred to pay the taxes.

#### *Concluding statements*

The Secretaries are charged by Congress to be a neutral agent in arriving at FMV. The report is not neutral; it is biased throughout in favor of the government. This is understandable, however, when you realize that the Secretaries, so to speak, are the sellers of the federal grazing privileges. The natural tendency of all "sellers" is to get the best price that can be had for their product. In selecting the method of arriving at fees for federal grazing privileges, the Secretaries rejected proposals from the Technical Committee, which was a joint committee composed for personnel from their respective departments, the House Interior and Insular Affairs Committee, the American Farm Bureau Federation and the

American National Cattleman's Association. All of these rejected proposals recognized that the prices of inputs and value of outputs of the ranching unit have a measurable influence on an equitable fair market value. It is interesting that after applying these other considerations that all three proposals resulted in a lower fee. Would the proposals have been rejected if they resulted in a higher fee?

The proposed rulemaking of the Secretaries, notwithstanding, does contain a major proposal requiring preparation of an economic impact analysis. With the loss in value of equity of \$43 million spread over half of the lands of the eleven Western States and an additional cash loss of \$22 million projected over the next three years, there will not only be a dire impact on the individuals concerned, but also on the associated agriculture lending agencies and local communities. The effects of this loss must be analyzed prior to the instigation of the proposed action.

The Secretaries have ignored the fact that grass by itself is not a marketable item. Improvements in the form of waterings and fences are necessary inputs that must be made to create a marketable product. If there are different owners for any one of the three inputs, income received from the lease of the unit must be allocated. Improvements are a consideration in all private leases and should be considered in arriving at fair market value for the leasing of federal grazing privileges.

The present data used to project fair market value is inadequate as it is strictly subjective. If a true fair market value is the object of the United States Government, then only recognized and acceptable methods of appraisal that can be legally defended should be used. To settle for anything less is certainly not being equitable to the government of the user of public grazing privileges.

The data in their report shows that one fee for all the Western States is not an equitable solution. In all of the data collected, more than half of the states reported private land lease rates that were less than half of the average. Land values vary from state to state; commodity values vary from state to state; living costs vary from state to state. Is it equitable for public land grazing fees to be the same throughout? This position cannot be successfully defended by the Secretaries.

A true test as to the validity of the Secretaries' fair market value is the ability of the users to pay the fees. The fact that they ignore this hypothesis is found in their incorrect definition of fair market value. In the correct definition is found the term "able". In almost all cases competitive bidding for the public grazing privileges is physically impossible; therefore, a simulated situation must exist to arrive at the desired fee. If all the public land were put up for competitive bid, no user, either present or future, will pay more than he could afford for the privileges. At times there may be temporary advantages of paying a grazing fee that the income from the land will not support, but this advantage is lost over time. If all of the public grazing privileges are to be sold at a "true" fair market value, then income from the land alone must be adequate to pay the fees. If this is not a consideration of the Secretaries, they have economically created another qualification for the grazing of public lands, and that is the requirement of having outside income. I do not believe this was an intent of laws passed by Congress. Ability to pay is a necessary part of fair market value.

Due to the interdependence of the different ownerships of land and improvements, a fee in excess of fair market value for federal forage will result in a negative permit value. This can be measured by capitalization of the surcharge. Additional input is then necessary by discounting the value of associated land and improvements. The charging of fees over the "true" fair market value will be disastrous to users of public land in direct proportion to the percent of public land in the unit.

The users of public grazing lands have never asked for subsidies in the form of less than fair market value grazing fees. Before 1969, the term "fair market value" was not used in relation to fees charged on federal lands. Prior to then fees were based on either the cost of administering a reasonable fee or a fee adjusted by change in the value of livestock.

There were valid reasons for the government to base fees as above. During those early years the public ranges were without fences and water. Roads were almost non-existent and inhabitants were few and far between. By encouraging the use of the federal lands, private individuals would establish viable grazing units by making the necessary investments in the form of improvements.

The government attitude then was based on the idea that the general public would also benefit from such improvements. These benefits would occur in the form of increased wildlife habitat, increased access, establishment of small family-type operations, increased income to surrounding areas, protection of the range better livestock use, and stability of ranching units and communities. Over half of the land in the Western States has been developed under this auspice; however, these benefits would have never been realized if the fees for public grazing then were arrived at in the manner that they are today.

In the past individuals engaging in the activity of buying or selling ranches containing federal land relied on this government attitude regarding the grazing privileges, and a market value was created. The Internal Revenue Service recognized this value, so sales, inheritance, and gift taxes were levied. Lending agencies recognized the value and included grazing permit values as security for long-term loans. An individual purchasing a ranch containing federal land paid for the federal grazing privilege, and even though the fees were below fair market value, it was not considered a subsidy, but a purchased equity.

The change in government attitude in 1969 has created many hardships on the users, such as loss in equity of the unit, loss of borrowing power, steeply increasing grazing costs, lack of ability to pay long-term loans, and disruption of the family ranching unit. The legal right of the Secretaries to increase fees to the point of capturing this government-created value has been established and is not questioned here. What is being questioned is their disregard of Section 401. (a) of the Federal Land Policy and Management Act of October 21, 1976, which states that the established fee is to be equitable to holder of grazing permits and leases on federal lands.

#### Recommendations

1. That the Proposed Rule Making of 3410-11, Department of Agriculture, Forest Service (36 CFR Parts 222-231) and 4310-84, Department of the Interior, Bureau of Land Management (43 CFR Part 4100) be rejected on the grounds that the requirements of the Federal Land Policy and Management Act of October 21, 1967, Section 401. (a) have not been met for the following reasons:

A. The proposed fee is not equitable to holders of grazing permits and leases on federal lands.

B. Proper consideration of the cost of production was not made.

C. Proper consideration of the differences in forage values and such other factors as may relate to the reasonableness of such fees was not made.

2. Upon rejection of the Proposed Rule Making, a moratorium be placed on grazing fees until such time that fees can be based on accepted methods of appraisal.

3. To better simulate an actual free market transaction, a committee should be set up composed of public land users acting as agents for the lessees and Department personnel, as lessors to review the fair market evaluation and recommend to the Congress a fee reasonable to both parties. In the event that the committee fails to reach an agreement, a third party independent of either group should be appointed to hear the arguments and recommend accordingly.

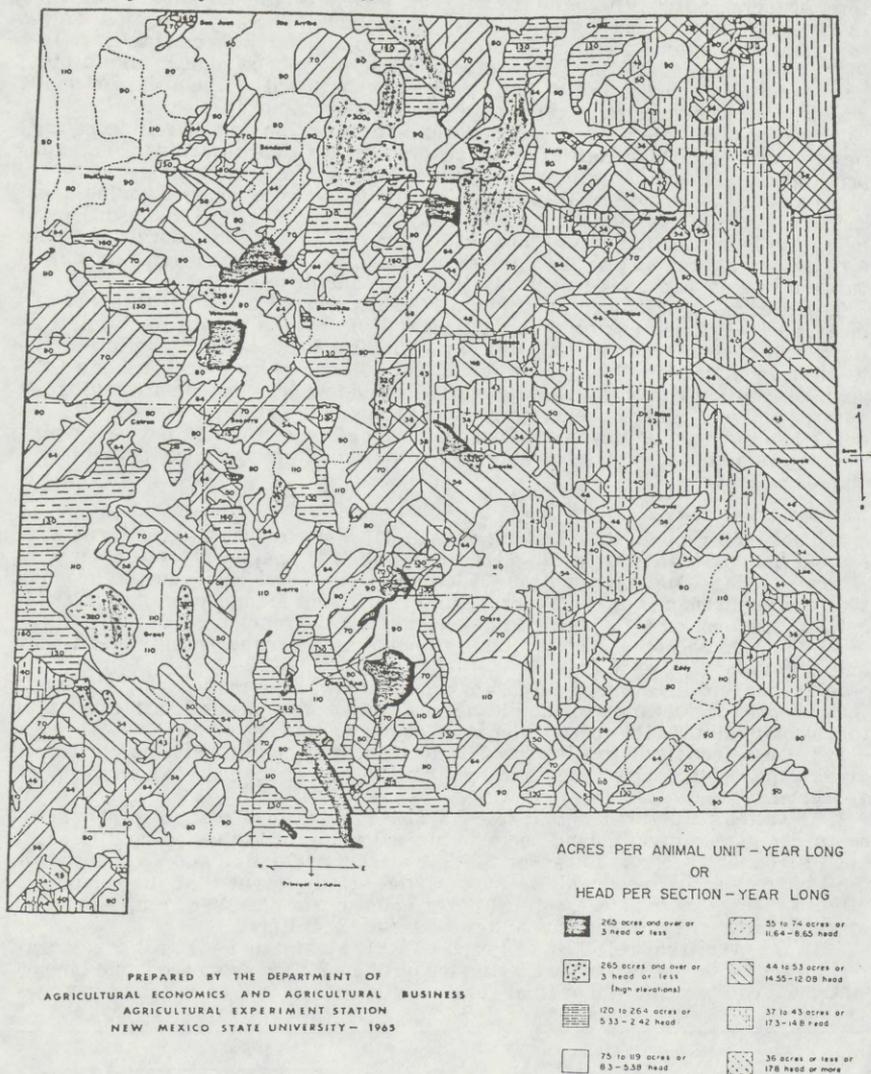
4. In the event that rejection of Proposed Rule Making is not possible, a moratorium should be placed on the grazing fee until such time as an economic impact statement can be made and evaluated.

	Millions		
	Interior Department survey	Verified figures	Percent exaggeration
1975:			
Angler's licenses, tags, stamps.....	287.8	141.6	114
Hunter's licenses, tags, stamps.....	277.5	154.9	47
Total.....	565.3	296.5	90
Number of duck hunters.....	4.8	12.4	100
Number of sheep hunters.....	35,000	12,949	170
Number of goat hunters.....	25,000	12,197	105

<sup>1</sup> Number of stamps sold.

<sup>2</sup> Number harvest tickets and licenses issued.

Fig. 1. Grazing capacities under average rainfall and management conditions based on reports by public land management agencies in New Mexico



## PAST AND PRESENT EXECUTIVE POSITIONS: DAVID W. MCGEE

President of D. W. McGee Co. (ranch and farm management), Board of Directors of J. P. White Industries (feed manufacturing concern), Board of Directors of Pecos Valley Compress (cotton compress), Advisory Board of Directors—Security National Bank, Roswell, N. Mex.

Advisory Board—Bureau of Land Management, Department of Interior, President of Ladder Ranch Co., President of Agricultural Loan and Real Estate Inc., Chairman of Board of Directors of Chaves County Cattle Corp., Chairman of Board of Supervisors—Roswell Soil and Water Conservation District.

Member Board of Supervisors of Macho-Roswell Natural Resources Conservation District, Zone Chairman—New Mexico Soil and Water Conservation District, Member Board of Directors—New Mexico Wool Growers Association, Member Board of Directors—Southeastern New Mexico Grazing Association, Member of Planning and Zoning Commission—Roswell, N. Mex., Chaves County School Budget Commissioner, and Estate Appraiser for Chaves County.

Senator LAXALT. All right. Mr. Langenegger, it is a pleasure having you.

Senator DOMENICI. Mr. Chairman, before Mr. Langenegger addresses the committee, I want to say that as president of the Farm Bureau of the State of New Mexico, there is no New Mexican more informed on issues both general and specific as they apply to farming and ranching in the State of New Mexico as he is. And I personally consider it a privilege if he would come up here and testify today. I am certain he will contribute immensely to our deliberations. And I thank you personally for coming here.

**STATEMENT OF A. W. LANGENEGGER, PRESIDENT, NEW MEXICO FARM AND LIVESTOCK BUREAU, LAS CRUCES, N. MEX.**

MR. LANGENEGGER. Thank you very much. It is certainly my pleasure to be here. I appreciate the opportunity to present our views.

I am representing here today the American Farm Bureau Federation. We have 2.8 million member farm families.

In the interest of time, I don't think that I will read the statement that we have filed for the record.

Senator LAXALT. I would appreciate it if you would summarize it if you will.

MR. LANGENEGGER. I think that I will just comment orally, and if there are any questions with regard to the statement or my oral comments, I will be most happy to make them.

I also want to say that I am going to try to not act like a bureaucrat, that if you ask me a question I will give you a simple yes or no answer. I will not beat around the bush for about 15 minutes and still not tell you anything because I sat here and listened all morning to bureaucratic answers.

I want to say, of course, at the outset that we are certainly concerned about these problems, and that we are in support of H.R. 10587 as it came out of the House. We would hope that this Senate committee and the Senate could see fit to go along with this proposal and avoid a time-consuming conference and so forth.

I want to point out that the livestock industry is in a little different position than many other industries. Your commodity is perishable, maybe a little bit slowly but it is a perishable product. I will comment briefly on your fair market value for fees. And there are a number of

reasons, and some of them have been enumerated, why this is not an equitable and practical way to arrive at a fee.

Now the first thing we need to realize is that in many cases your private leases are leases paid by an owner to lease additional lands. He has increased the size of his unit, making it more economic, and he then has a more efficient unit and operation, and he can afford to pay a little bit more than he would otherwise. If he didn't already have his own unit, he could not pay that kind of a lease.

In addition to that, we all know that land is being used as an inflation hedge, and the people that own the land, either absentee owners or otherwise, they're not operating themselves, are extremely anxious to get as much return on investment as possible. This is only good business. But they are forced to this because their land does not pay a return on investment. You can check the sale values of fee land, not only in New Mexico but in the other Western States, and you make an effort to get a return on investment and it's a pretty lost cause. The return is in owning that land. Inflation keeps making the land worth more. Land that was worth \$20 an acre 15 or 20 years ago is \$75 or \$100 an acre now.

So they have a return on their investment but not in the form of cash income. So they are really striving to get more cash income.

I think that this is a very significant reason why fair market value is not a real good criteria to use. Now if you study Dr. Gray's report which Dr. Ross alluded to, you will be able to see immediately—and I don't believe anyone can really tear Dr. Gray's report apart—that there are a lot of weak spots in the technical report. And I would like this report made a part of the record.

[The report follows:]

COLLEGE OF AGRICULTURE AND HOME ECONOMICS

DEPARTMENT OF AGRICULTURAL ECONOMICS  
AND AGRICULTURAL BUSINESS  
Box 3169/Las Cruces, New Mexico 85003  
Telephone (505) 646-3215



December 23, 1977

Mr. Dean A. Rhoads  
President, Public Land Council  
Suite 1020  
425-13th Street, N.W.  
Washington, DC 20004

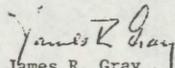
Dear Mr. Rhoads:

Enclosed is a critical review of "Study of Fees for Grazing Livestock on Federal Lands". I hope the review may be of some use to you.

In reading through the enclosure, you should first read the particular paragraph in the Secretaries' report being referred to in my review. I made little or no attempt to repeat the material in the Study.

Copies of the enclosure are being sent to members of the Ad Hoc Committee and, at their request, Senator Domenici, New Mexico Farm Bureau, and a miscellaneous group of educators, ranchers, and writers.

Sincerely yours,

  
James R. Gray  
Professor

re

Encl.

CRITICAL REVIEW OF  
STUDY OF FEES FOR GRAZING LIVESTOCK ON FEDERAL LANDS

The plan for this review will be to comment on material in the "Study of Fees for Grazing Livestock on Federal Lands" without discussion of the materials. Each review comment is followed by a reference to the location of the material in the document. Part paragraphs at the top of the page are counted as full paragraphs.

Is the fee level equitable to holders of grazing permits and leases if the holders ability to pay is ignored?

Ex. Sum, par 1

Private rental rate data can only be used if contractual arrangements on private and public lands are similar.

Ex. Sum, par 2

The provision of limiting changes to 25 and 12 percent is arbitrary. Would consumers accept a 25 percent increase in prices?

Ex. Sum, par 2

Why limit variable fees? If there is justification for variation, then fees should be variable.

Ex. Sum, par 2

The conclusion that the seven proposals have deficiencies that make them less suitable than FMV is an opinion that ignores most of the facts. The proposals consider various realistic conditions that are ignored by FMV.

Ex. Sum, par 4

It is unfortunate that various factors were considered and then rejected. Do the facts and logical interpretations justify their rejection? Are the Secretaries consistent throughout the report in recommending FMV without consideration of the consequences, and rejecting other alternatives, because of their consequences?

Ex. Sum, par 5

Public grazing in Nevada, Idaho, Utah and New Mexico is not a small segment of the livestock industry of these states. Can this statement be regarded as a somewhat callous attitude of the authors of this report? Why do the Secretaries extrapolate their conclusion to the range livestock industry of 50 states when the land involved and the legislation they cite deals only with the 11 western states?

Ex. Sum, par 5

The Secretaries are obviously inconsistent in that they state that they are bound by the Federal Land Policy and Management Act of 1976 to collect "fair market value" despite the consequences, and yet they cannot include permit value as part of the cost of grazing on public lands, because of the consequences.

Ex. Sum, par 6

Please cite the source of data and analysis for the statement that physical characteristics do not have a direct correlation with market values. I have published a study that contradicts this statement. What is the reason for variation in private lease fees, or is the claim being made that there is no variation?

Ex. Sum, par 7

Do the current regulations limit increases to 25%? If not, are the Secretaries mixing current regulations with a provision of the proposed 1978 Public Land Fee System?

Ex. Sum, par 8

If Section 401 (a) states "that the Secretaries shall take into consideration the costs of production normally associated with domestic livestock grazing in the eleven Western States", do the Secretaries have the authority to a) include the differential in costs between public and private lands as justification for an increase, while b) excluding current differentials in cost of production on the two land ownerships? Under any system, can the 1966 situation be considered representative of the 1977 situation?

1-1, par 1

What was the number of responses indicating that fees were too high or too low? The term "many" is not meaningful.

1-6, par 2

The statement regarding permit value is biased. Livestock operators who favored including permit values were identified as livestock operators. Those opposing the inclusion of permit values were not identified. Who were they?

1-6, par. 4

Can a recommendation that fee levels can be adjusted in any one year up to 25% of current levels and still "Promote stability for ranching operations and surrounding local communities" be regarded seriously and realistically? Which segment of the work force in the U.S. or which community would regard a 25% adjustment, particularly downward, as a program of stability?

1-7, Item 2

The Federal Executive Policy promulgated by the Bureau of the Budget Natural Resources User Charges Study, defines fair market value in an incomplete manner. A complete definition includes the price offered and accepted by both willing sellers and buyers with both having full knowledge of alternatives and both being relatively free of unusual pressures. The last portion of the definition has been deleted in the Federal Policy. If a fee is to be charged which ignores the ability to pay, with consequences perhaps being liquidation of the enterprise, can the buyer be considered as being relatively free of unusual pressure? As used in this report, there is some question as to whether "fair market value" is actually fair.

1-8, par 3

What is the present return on public lands to the public? Please cite sources for your answer. How can the fee, which is only part of the return, be considered equitable unless other kinds of returns on public lands are included? Ranchers

are using a public resource in which part of the benefits are fugitive (cannot be captured by the owner-user). None of the benefits from public resources are fugitive to society. If equity is to be based on fees similar to the charge made when the resource is privately owned, all fugitive benefits accruing to the public should be subtracted from the private lease rate. If wildlife benefit from range improvements installed for domestic livestock purposes, ranchers capture little if any benefit from wildlife. In fact, wildlife may be a negative benefit. On the other hand, society captures all of the benefit. Consequently, if public lands are to be managed for multiple uses, as opposed to the single or exclusive use of private rangelands, all other uses except grazing domestic livestock should be valued and subtracted from grazing fees.

1-8, Equity

The term "changing economic conditions and values" should include consideration of costs of production and prices of livestock as well as private lease rates. On what bases were some economic conditions excluded and others included?

1-8, Prevent

Is the value of an AUM of forage from FS ranges equal to the value of an AUM of forage from BLM lands? If an exactly equal fee is to be charged per AUM by both agencies, then the answer to this question must be "yes". As a matter of fact, are not the ecosystems largely different from each other, and differ to a large extent from those in private ownerships? If this is true, then fees cannot be exactly equal and still reflect actual value. Further, a uniform policy does not specify equal fee levels.

1-8, Common

"Feasibility" is a relative term incapable of definition, particularly when coupled with "administratively". In effect "administratively feasible" means whatever an administration chooses to define it as meaning.

1-9, Administrative  
par 1

What is a "direct interest"? Does this mean user and manager, excluding all others?

1-9, Administrative  
par 2

How can regular adjustments be made that would account for changes in value without extensive reoccurring data collection and computation activities? Surely the Secretaries are not going to use a series of data not designed for the purpose of determining permit values as their basis for these values?

1-9, Administrative  
par 3

How much is a significant increase in the cost of administration? What is the present cost and what is considered as being significant?

1-9, Administrative  
par 3

What is "compatible ... with other management needs" other than whatever the Secretaries choose to define it as being?

1-9, Administrative  
par 5

Why must the Secretaries use available data series, particularly when there is a question as to whether these series are a) adequate, and b) appropriate? Are multi-million dollar decisions by government necessarily limited to available data series?

1-9, Use, par 1

Different areas have different characteristics, and data requirements must vary to accurately reflect these conditions. If lease contract specifications and fees in one area are radically different from lease contract specifications and fees in another area, how can the data be common to all areas?

1-9, Use, par 2

There are several other complications not mentioned. They are wars, drought, ranchers resistance to change, inconsistent agency programs and interpretations, and contradictory legal decisions. I doubt if the legislative branch is totally responsible for the difficulties.

2-1. Introduction

The Western Range presents one side of the situation. A publication by F. E. Mollin presents the other. Was the conclusion in The Western Range representative of a situation unique to the 1934-36 period, i.e. the drought of the 1930's?

2-1, FS, par 1

It is interesting to note that Circular A-25 defines fair market value as a fee based on economic value of the use of the land to the user ... as well as ... a fair return to the Government and equitable treatment to the user. Does the Secretaries recommendation, which ignores consequences to the user, constitute equitable treatment?

2-13, 1964 Study  
items 2 & 3

The description of the methodology used in the 1966 Western Livestock Grazing Survey (1966) and Analysis (1969) is not adequate when limited to 6½ lines of text. This is the major data base that is to be used to determine fair market value. Questions about this study that should be answered are: How were the 10,000 individuals providing 14,000 questionnaires selected and interviewed? Were they personally interviewed by trained enumerators? How many questionnaires were eventually used and how many were discarded? Were questions asked that the respondents could reasonably be expected to have sufficient information to provide accurate and precise answers? Can the Secretaries use this study as a basis for any recommendation unless these questions are answered in full in this report?

2-17, Western

Earlier studies dealt in detail with the permit value. The discussion of the 1966 study does not mention that this cost was included originally. If a complete history is to be presented without arbitrary editing in the Secretaries' report, the events regarding permit values should be included. It is my understanding that the original study did include permit value. Where in this report of the study is this mentioned?

2-19 to 21

Have there been any significant changes in the sizes of permits in either agency since the 1966 study? If permit size was the most significant factor, and permit sizes have changed since 1966, then the conclusion made in the report may no longer be valid.

2-20, Items 2 & 4

The Technical Committee report failed to recognize a difference between private land lease rate and the rate for pasturing cattle. This item appears numerous times throughout the report. An attempt will be made to identify and report the discrepancy each time it occurs. Leasing land and pasturing cattle are not the same thing.

2-23, last par

An appropriations bill can hardly be considered an authoritarian document regarding a complex subject such as grazing fees. What is meant by "significantly lower"? What were the reactions of the Congress to this bill?

2-25, last par

Apparently the Secretaries are taking a narrow interpretation of the FLP&MA of 1976. Taking into consideration the cost of production differences in forage value, and reasonableness based on a 10-year old study is, in effect, paying lip service to the requirements. Why are not these factors considered as of 1976 to be included in a "fair market value" for future grazing fees?

2-26, par 2

What is the Secretaries interpretation of "from time to time" phrase in the Taylor Grazing Act. Surely they are aware of changes occurring since 1966? Are any current federal programs based on 10-year old studies, particularly programs involving fees and/or charges, appropriate?

2-26, par 4

Mr. Ash is exhibiting economic ignorance if he believes that value as a long-run measure is independent of profit (unless of course he is adopting the Marxian definition of the labor theory of value). The value of grazing is based on the price received for the product of the grazing. Divergences of value and profit occur because of speculation. Are the Secretaries proposing, by rejecting profit, to base public grazing fees on speculation?

2-27, par 1

It is noteworthy that we are now given two more pieces of information not previously revealed in the description of the 1966 Western Livestock Grazing Survey (pp. 2-17), that it was a two-year study and it was conducted by SRS. I do not believe that the SRS in 1966 was geared up to conduct personal interviews of respondents--most of their statistics were based on mail questionnaires. What was the response rate for the 10,000 ranchers, and how was the non-response checked? Why are not full details given in the report about this crucial study?

2-27, par 2

The Report does not discuss the ERS series of "average monthly rate per head for pasturing cattle on privately owned land". As this series becomes the sole basis for adjusting "fair market value" fees each year in the fee formula being recommended, a complete discussion of this series, including definitions, is much more important than discussions of various studies and legislation.

2-27, par 4

Is the "private land lease rate" mentioned in this paragraph the same thing as the "monthly rate per head for pasturing cattle on privately-owned land", mentioned on page 2-27?

If so, why the change in terminology? If not, what is the difference and what are the consequences of the difference?

2-33, par 2

The statement is incorrect that levels of income by producers of cattle and sheep (in the public land states) have declined below the returns of other business enterprises. This implies that they have been above the levels of other enterprises at some time in the past, which they have not. It is correct to state that levels of income have remained below the returns of other business enterprises almost constantly for the past 50 years.

3-2, par 2

Cattle and sheep ranchers may not have all periods of low incomes at the same time -- only about 80 to 90 percent of the time. The statement is misleading.

3-2, par 3

The direct quote is incomplete. The equity condition should be added to the statement.

3-2, par 4

The federal government is a monopoly in its control of grazing on public lands. The federal government's position should be that of a party neither subsidizing nor gouging ranchers with a monopoly price. Has an analysis been made of the degree of competition involved in public and private grazing fees? What programs do the Federal Government plan to initiate to phase out subsidies to other segments of the economy? Or do they plan to ignore them?

3-2, par 4

If there are many other users of the federal domain in addition to the grazing permittees, are they to be subject to the same conditions of paying fair market value for their uses? When will reports similar to this one be prepared for each of these other users? Obviously, to charge one class of user a fair market value while ignoring fair market value for other classes of users is arbitrary, capricious, and discriminatory. I find nothing in the report to indicate fair market value concepts are to be applied to other kinds of users despite numerous citations in this report that this will be the policy of the federal government for public domain lands.

3-3, par 1

It is ironic that other users of the federal lands favor fair market value for grazing fees. Why not fair market value for all uses? Using their logic, if grazing fees are low as specified in Sect 102 (a) of the Federal Policy and Land Management Act of 1976, and recreation fees approach zero, then obviously grazing fees more nearly approach fair market value than recreation fees. On this basis the recommendation should be made that grazing use should be increased and recreation use decreased.

3-3, par 1

Will the issuance of 500 free use permits overcome the instability of "major reductions in the size profitability of the industry" on rural communities? How much economic relief relative to the total? What is the purpose of this ungrammatical paragraph?

3-3, par 3

It may not be realistic to expect the federal agencies managing public lands to overcome instability in the industry. At the same time, the federal agencies should have an obligation of not adding to it. How instable is the index for fees for pasturing cattle on private lands? A goal of stability in supply is only part of the problem. Stability in price is an equally important one. Have public grazing land fees been stable? An examination of price changes since 1967 reveal that public grazing fees have increased twice as much as any other major commodity used in ranching, and five times as much as the all commodity paid index in agriculture. The federal programs are not aiding in the solution to the problem of instability -- they are a part of the problem.

3-3, par 4

How can the Secretaries conclude that "the permittees using Federal lands in the Western States are an important part of the livestock industry in the U.S." (par 1), and conclude that low grazing fees would be ineffective "because it reaches only a small portion of the livestock producers" (par 2)? The statements contradict each other.

3-5, par 1 & 2

The term "for one reason or another" is too vague to be acceptable. Is the decline in forage production due to domestic livestock, wildlife, recreation, climate changes, or what? I can find no agreement on this in the scientific literature. Too frequently, the simplistic decision is made to overcome declining forage production without being fully knowledgeable about the cause of the decline. Why was no section included in this report dealing with "Tenure and Ranch Stability as Related to Improving Rangeland and Increased Livestock Use"? Failure to include both aspects indicate bias of the authors. Has the federal agency programs to improve rangeland over the past three-quarters century been failures?

3-5, par 3

The paragraph is not meaningful because the end of it has been deleted.

3-5, last par

The paragraph is specious in that only one of two situations are presented. Costs may have been lower before the reduction and they also may have been higher.

3-6, par 1

The last sentence demonstrates the massive misinformation accumulations and indifferences of the two departments towards one segment of an industry. How can the efficiency and profitability of the livestock operation be the responsibility of the permittee when he is dealing with a monopoly not subject to the Sherman Act? Can permittees be responsible for efficiency and profitability in an allotment management program, which involves all lands in the ranch unit regardless of ownerships? If the reader of this review is unfamiliar with allotment management planning concepts presently being mandated by a major federal agency, I suggest he investigate the areas of management being assumed by the federal agency involved.

3-6, par 2

The permit may specify the number of animals as well as seasons of use to be permitted on public lands, but the allotment management plan specifies much more, including seasons of use, improvements, supplemental feeding, and pasture sizes on federal, state, and private lands. Why is this program not discussed in this report since it is directly related to fair market value as defined by the Secretaries?

3-6, par 4

These two paragraphs are a good example of a balanced discussion of an issue, unlike a majority of the report.

3-7, par 2 & 3

The statement is incorrect in that public grazing land permits cannot be sold. The base property is sold on an animal unit basis. The total number of animal units is based in turn on both private and public land. This is exactly the same situation of a landowner selling land next to a new interstate highway for a motel complex. The term "large premium" is an overstatement and indicates bias. The sale price per animal unit of deeded land is larger than the price per animal unit of a combination of deeded land and public grazing.

3-7, par 4

It should be noted and emphasized that the reason that permit values were not included as a cost is because of the stated consequences. This fact should be remembered when considering the Secretaries final decision on the grazing fee. In the former case, the consequences are the basis for rejecting permit values. The fact that Mr. Hughes is incorrect in his statement that inclusion of permit values would "forever preclude the public getting what seems to be its equity". His statement is correct only if permit values are accurately and continuously measured by buyers, grazing fee levels are correlated completely with ranch profitabilities, estate taxes are completely inflexible over time, and a whole host of other impossible accuracies, rigidities, and conditions. As a matter of fact, grazing fees increased from five to six times before the issue of permit values was considered, and several times after it was considered. Each increase in grazing fees without a comparable increase in livestock prices and ranch profitabilities will reduce permit values.

3-9, par 3

The statement is incorrect. Some agencies of government argue that permit value should not be included in fees that concern it (Forest Service and BLM), and other agencies of government insist that permit values must be included in fees that concern it (IRS).

3-9, par 2

Why does one branch of government insist that permittees have no property rights when using public lands (Forest Service and BLM), while another branch of government insist that permittees do in fact have a property right (leasehold) that must be taxed (various state governments)?

3-9, par 2

It is inconsistent to state that permit values exist and then insist that they are non-existent in determining grazing fees.

3-9, par 3

It is unrealistic and reveals ignorance of the real estate market to conclude that a one-year increase in grazing fees will be reflected immediately in permit values. It is unclear as to what years are being referred to as "this period". Apparently, no distinction is being made between price as a short-run phenomenon, and value as a long-run phenomenon. Whatever the period being considered, if the prices received for livestock advanced, the demand for real estate eventually shifted to the right (higher prices paid for real estate). Higher real estate costs will result eventually in higher costs of production. Adding higher grazing fees because of higher livestock prices would result in another increment to costs of production. The conclusion by DeNio et al. appears to be naive, precipitous, and simplistic.

3-9, par 3

It appears that the PLLRC is much less certain of the permit value question than are the Secretaries.

3-9, par 4

The logic for including permit value is, obviously, that permit values occurred originally because of the failure by government to charge a price reflecting value. This failure occurred partially because of the dependency and comensurability requirement originally specified for grazing permits. The failure of government to charge fees comparable to those on private rangeland resulted in some ranch investors allocating part of their capital to acquire public grazing permits. In 1973, the courts apparently have made the decision that the federal government has no obligation to pay for this mistake. The argument that this kind of investment is no investment at all and those with grazing permits are receiving favored treatment is not correct. Private landlords customarily adjust rental rates depending on how much they and the leaseholders have invested in a property. This is equivalent to the rental rate on a furnished and unfurnished house. Including permit value in a grazing fee calculation would not guarantee a return on this or any other type of ranching investment. There are no guarantees of returns on investment in ranching.

3-9, last par

For the reasons stated above, the summary paragraph is based on incorrect and unrealistic reasoning.

3-10, par 1

A serious flaw in the 1966 Western Livestock Grazing Survey and subsequent analysis is that the study violated a cardinal rule in research. That is, respondents cannot give accurate answers to questions when they do not know the answers. Few ranchers cost account ranching enterprises. I know of none that cost account a particular enterprise based on land ownership classes the animals are grazing. I suggest that the SRS people involved in this study be contacted about this matter (those involved in 1966-67).

3-10, par 2

The list of other users is incomplete.

3-10, par 2

Several questions can be raised about the Liefstritz and Schumacher report. (This report is not available at our University library.) Questions include: 1) Did leaseholders realize any income from the listed recreation activities, 2) permit the general public to recreate on the leasehold or restrict entry to selected individuals, 3) experience a reduction in use because of any of the recreation activities, and/or 4) incur increased costs because of any of the recreation activities? Is the situation on private lands in North Dakota comparable to the situation on public lands throughout the west?

3-10, par 3

Why do permittees seem to "argue" in section after section of this report, while the government never seems to argue. Rather, in the latter context, very unclear conclusions are prefaced with such phrases as "it is clearly established" Is the wording used by the writers of this report demonstrating bias?

3-10, last par

The last two sentences are contradictory. If all forage sources are equally valuable, they must be both equally demanded and supplied. Scarcity varies for different seasonal ranges, e.g. scarcity of summer ranges in Nevada and scarcity of winter ranges in Idaho. How can the Secretaries acknowledge a wide market for forage resources and then attempt to rationalize the situation in a local area.

3-11, par 2

Did the 1966 Study include consideration of these services, and will the 1977 study include them? If not, why not?

3-12, par 4

The last sentence in this paragraph does not make sense.

3-13, par 1

The differences between intensive grazing management systems on public and private rangeland are: 1) On private rangelands, the ranchers bear the consequences of both their correct and incorrect decisions, while on public rangeland, the ranchers bear the consequences of both someone else's correct and incorrect decisions. 2) Intensive grazing management decisions are not adopted on private lands until the decision-makers are almost certainly assured of a profit, while grazing management decisions are adopted on public lands with only secondary considerations as to whether a profit will occur. 3) The length of experience of public and private land managers is believed to be vastly different (most ranchers seem to have 25-40 years of experience whereas most district rangers and range conservationists seem to have less than 10 years before going into state or national offices). 4) Cost is a primary consideration in private land decisions and is secondary in public land decisions. 5) Risk is a primary consideration in private land decisions whereas in public land decision-making, risk is regarded favorably as "doing something different". 6) The consequences of a wrong decision in private land management may be bankruptcy. So far, none of federal land agencies appear to be near bankruptcy based on their wrong decisions. The list can be extended to differentiate between public and private sectors in many more different dimensions. As they are not comparable, efforts and consequences on public lands cannot be compared to efforts and consequences on private lands. Why is the term "may be incurred" included in the same sentence as "are usually direct compensatory"? It could be concluded that the terms should be reversed.

3-13, par 2

Livestock management costs have increased on public lands because of numerous governmental programs and policy changes since 1966. Comparable programs and policy changes have not occurred on private lands. Additionally, livestock management programs on private lands have been concerned almost exclusively with increasing range productivities for domestic livestock, while management programs on public lands have had multiple use goals until quite recently. The costs per unit increase in domestic livestock production are not believed to be comparable.

3-13, par 5

How can an average allowance be determined without including the costs of individual permittees? If costs of individual permittees have already been accumulated and defined, why not use them. The argument used in this paragraph is valid only to the extent that the base FMV would in fact have to vary if these costs were included. What are the items not now accounted for elsewhere? Have no fences been built anywhere since 1969 on the public domain?

3-14, par 3

Fence maintenance may be included in the 1969 fee structure, but will the amounts of fence maintenance in 1969 and the present be comparable. If the same fence exists in 1977 as in 1969, fences will be eight years older. Older fences require more maintenance than new fences.

3-14, par 3

The list of factors is incomplete. There should be added to this list items such as land ownership patterns as well as recreation. The land ownership pattern factor is important, particularly in the water base states, where ownership patterns are scrambled and ranchers have been required to fence off private lands from public lands. In the open range states (11 western states), government lands seem to have an arbitrary and privileged status not available to other land ownership classes.

3-15, par 3

The Secretaries ought to add that a large body of economic theory exists regarding variable rents by land qualities (see any economic text and read section on Ricardian Rent).

3-15 to 3-16

The Secretaries ought to add to their report that not only is there a lack of an accurate measurement of the economic value of forage quantity and/or quality, there is also a lack of an accurate measurement of forage quantity and/or quality. Without the latter, the former is impossible.

3-16, par 3

While Kearn is an excellent economist, I don't think he qualifies as an expert in animal nutrition. The source should be one of the professional committees in animal nutrition.

3-17, par 5

Most definitions of an animal unit is "the amount of forage required to support a cow with calf at side over a 12-month period". The animal plus calf is equal to 1.0 animal unit. The shift to defining a dry cow as an animal unit would result in a 20 to 40 percent inflation in the definition. If the forage used by a non-lactating cow is counted as 1.0 animal units, with the forage being used mainly for maintenance, then what AU value will be required for a springer (pregnant heifer) with forage being used for both maintenance and growth?

3-18, Item 3

The Secretaries should add that compounding the difficulty of determining and counting cattle by age class is the fact that neither of the agencies hire professionals with degrees in animal science. There is little expertise in either agency regarding animal husbandry.

3-19, par 2

Has the relative difference in improvements from 1969 to the present remained the same? Apparently the Secretaries do not know whether they have or haven't. Additionally, some states are or have assessed taxes on these improvements in recent years. Are these taxes included in the 1969 fee structure?

3-20, par 1

It is my impression that one cause of increased death losses on private lands is the sanctuary aspect of public lands for predators. In effect, the Secretaries are concluding that losses on both land ownership classes have increased, but failed to recognize that they are increasing mainly because of either the ban on interstate shipments of effective poisons, or to the increase of predation because of predators on public lands following domestic animals onto private lands.

3-21, par 3

An important portion of the section on "Credit for Wildlife Use" has been left out on the bottom of page 3-21 and top of page 3-22.

3-21 and 3-22

The statement is too strong that range developments are a tradeoff with wildlife habitat and recreation. They tend to compensate only in part for costs of wildlife habitat and recreation.

3-21, par 2

The logic is correct regarding allotment management planning only if the public agencies are willing to compensate the permittee for a) actual costs borne by the permittee of improvements that were not correctly designed or located and b) both actual and opportunity losses resulting from the plan when it encompasses non-federal lands. There seems to be little data to support the claim that AMPs will increase forage production for domestic livestock.

3-22, par 5

The cost-price squeeze has not made it imperative for livestock producers to ... increase ... livestock production. The imperative is to reduce costs per unit of production. Increased production has a negative impact on livestock market price, a fact generally ignored in this report.

3-22, last par

Who edited this report? The bottom of page 3-22 contains another incomplete statement. Consequently, the top of page 3-23 is not understandable.

3-22 and 3-23

Are ranchers in non-federal areas supporting the same numbers of wildlife and suffering the same levels of predator losses as those in the federal areas? Incidentally, how much have ranchers in non-federal areas invested in permit values? Lower grazing fees will discriminate against ranchers in non-federal areas only if they have this investment.

3-23, par 2

Does the Society for Range Management define a cow with nursing calf as 1.1 to 1.3 AUM? If so, why is a cow with nursing calf being proposed as a basis for establishing a variable fee, using 1.2 to 1.4 as the value? Another and equally logical manner of interpreting the 1966, 1969 and present definitions being proposed by the federal government is to regard a fee based on 1.1, 1.2, 1.3, or 1.4 values for a cow and suckling calf to be a 10 to 40 percent inflation of what has been traditionally used. What is the most common livestock unit in a beef cow herd? It is a cow. Is the cow usually pregnant or nursing a calf? It is. If this is the basic unit, why doesn't it have a value of 1.0, the value normally reserved for the base?

3-23, last par

Please cite the source or sources for the statement that herds are being divided into appropriate units in which cows with calves and yearlings are grazed separately? In our state, this might be a little difficult to do, with large numbers of ranchers with less than 30 head of total cattle. What is the source of data used for the concept running through this section about increased intensity of livestock management?

3-24, par 3

The comment made in the last paragraph of page 3-23 also applies to this paragraph. The most numerous age and sex class of livestock on western ranches is a pregnant or nursing cow. Is this the same thing as a cow without calf? Does a cow with calf consume 18% more forage than a pregnant cow? These items should be discussed in the report.

3-25

We now find that the Secretaries have broadened their definition of "fair market value" to include the concept of "current market value". They are confusing value with price and misdefining value. Value is the long-term worth while price is short-term expression in the market.

3-27, last par

There is no published index of the prices paid for leasing private lands. The report is not correct in labeling the rate for pasturing cattle as a private land lease rate. This discrepancy appears throughout the report.

3-29, par 3

Cattle prices were not frozen for a time preceding 1974. Data for the 1972-74 period show a sharp increase and a sharp decline in prices. Beef carcass prices were frozen.

3-29, last par

Please cite source of "the private grazing land lease rate index. This series cannot be found in the literature.

3-32, last par

Not only are fewer services provided in a private grazing land lease than those provided when cattle are pastured, the published series includes all categories of land except irrigated land. Private land lease rates and cash rent for pasturing cattle are not comparable for a number of reasons. The private lease rate is usually negotiated for a number of years while the cash rent for pasturing cattle is usually negotiated for a period of months, seldom exceeding a year. A landlord will demand a higher rent for a shorter period than for a longer period. A private lease contract usually specifies a lease rate that remains relatively unchanged for the period of the lease. Frequently these leases are for as much as ten years. An index based on a short-term cash rent will increase more rapidly than a lease rent in an inflationary period (note the changes in cash rents in the various states in recent years). A comparable situation is average mortgage interest rates of loans outstanding (long-term lease rate), and the current mortgage interest rate for new loans (short-term cash rent). The two systems should not be confused.

3-33, par 4 &  
last par

The McGregor Range is a unique situation that should not be used as a basis for extrapolations to any other public lands in the West. Rents are usually for short periods, mostly seasonal, and are not typical of year-long public grazing throughout the Southwest. There is usually a different herd composition of animals on McGregor Range than on public lands in the Southwest. These and numerous other differences were mentioned at a meeting in Roswell, NM with Senator Domenici. The Secretaries should include these differences in their report before attempting to extrapolate the McGregor experience to all public lands. For example, who installed and maintains the improvements on McGregor Range as compared to those on nearby public lands?

3-35, par 1

The bidding process ideally might provide current "value" in the market place. However, demonstrations of competitive bidding in the minerals and timber industries indicate that it has not. It is anticipated that the seasonal requirements for range forage, plus the geographical advantage of permittees with base properties intermingled with public lands, would create even greater distortions in current value (if they do indeed exist) than those present in the above two-mentioned industries. (This assumes, or course, that the multiple use concept is not to be abandoned and the federal lands closed to domestic livestock grazing).

4-1, par 2

Why must the fee system use a reliable and available data series for the determination of fair market value in grazing permits? Does the Forest Service use the same criteria for fair market value for stumpage? I understand that the Forest Service prepares its own cost of production series in order to permit competitive bidding on stumpage.

4-2, Item 6

The term "grazing" is not included in the reported ERS series. It is correctly included in the top section of of page 4-5 and incorrectly included on this page.

4-2, Item 3 bottom

There must be a typo error in the statement in that a 1965 to 1968 period (and even including 1968) cannot be a five-year period.

4-5, par 1

The top line again uses the term "private grazing land lease rate". It is a rate for pasturing cattle on privately-owned lands. They are not the same thing!

4-8, top line

Of the 990 persons responding, how many reported a rate for pasturing cattle? Was the response for this item considered statistically reliable? What efforts were made to check the non-response?

4-8, last par

The Secretaries failed to discuss the reasons for the variations in the average rates for pasturing cattle among the various states in Table 4. If this much variation exists in averages for the various western states, how can the Federal Government establish a goal of a single rate per AUM for all of the states? The rate in California is 60 percent higher than the rate in the neighboring state of Oregon.

4-13, Table 4

If the garbled sentence is interpreted correctly, the conclusion is incorrect. The special PPI does not require judgements any more difficult than any other statistical price series.

4-21, par 3  
last sentence

As long as a comment is made about the rate of increase, why does the rates per AUM vary widely among the various states? How accurate is the AUM estimate in the values? How is AUM defined in the series? Has the land quality remained comparable, with less than half the land leased in 1976 as was leased in 1966? There are too many unanswered question on BIA leases to permit acceptance of the averages without answers to the above questions.

4-25, par 2

As the Report rejects the variables as basis for charging variable fees, then why the variation in fees among McGregor, Ft. Meade, and northwest Nebraska leases? Is this a case of rejecting variations in one situation, and using them in another to prove a point. In scientific circles, this is called deliberate bias.

4-29, par 1-3

The statement is incorrect regarding a competitive bid would result in FMV. It would probably more nearly reflect a monopoly price, depending on the minimum price to be set by a monopoly.

4-31, par 1

Who is to determine the minimum and what bases are to be used? Since federal grazing is unique, there are no known bases for this class of land. It should be pointed out that some units of McGregor Range were not bid on in some years. Why? What happens in competitive bidding if none of the bids exceed the minimum? As pointed out in the Journal of Range Management article cited elsewhere, lack of grazing can be damaging to the vegetative cover.

4-31, par 2

What does "integrity of the FMV" bid mean other than whatever the Secretaries tend to define it as meaning? Integrity is like pregnancy, either you have it or you don't. It is unlike pregnancy in that it exists only in "the eye of the beholder". The statement is nonsense.

4-31, par 2

The proposal that permittees might be required to perform necessary fence and development maintenance, along with a minimum bid price, cancels out the opportunity of bidders to consider all variables before offering a bid. Either the bidder meets the minimum bid price plus an unknown cost of maintenance, or he rejects it. In many cases, if he rejects it, he is out of business. This is a classical case of a monopoly (seller). Will permittees also be forced to

also pay for environmental impact statements on proposed developments?

4-31, par 3

Would the government be willing to authorize payment for improvements that would have useful lives only for the permit period. If not, they could require extensive improvements and then confiscate them either before or at the end of the permit period -- another monopoly action.

4-31, par 3

Who is to determine "basic resource damage", and how will the causes be determined by domestic livestock grazing, deer and wild horse populations, recreationists, etc.? This proposal appears to be a blank check written in favor of the government.

4-31, par 4

The SRS 1977 survey was not for grazing cattle, it was for pasturing cattle.

4-32, par 1

What is the basis for the estimate of "Short-term Landlord Services" in Figure 4-4? There appears to be no questions in the SRS survey to deal with these values. Were these based on McGregor Range values? If so, were all services performed by Federal employees on McGregor Range comparable to all services performed by private landlords on private lands?

4-33, Fig. 4-4

The basis for FS and BLM fees are not the same for any of the other fees and thus are not comparable. Public land FMV is not a fee charged, but is merely a proposal by the Secretaries.

4-32, par 3

If varification is not available, how can it be concluded that the quoted market rates of \$7 to \$8 appear reasonable?

4-32, last par

How were landlord services determined?

4-35, par 1

Private rates are not the PGLLR. See numerous previous comments.

4-35, par 2

The conclusion "that low rates in some states may be explained by the dominance of Federal grazing lands with low fees setting the market price" is not warranted. State lands are more closely associated, geographically and economically, with private rangeland than federal range.

4-35, par 2

Competitive bidding is not the most effective systems for measuring FMV in the present circumstance, particularly when an unknown minimum value is to be set by unspecified means.

4-35, par 3

The report does not contain any valid information to indicate the FMV of leasing private rangeland. Without this information, terms such as "clearly below" is based on a biased conclusion. The conclusion that the 1969 fee system is reasonable is also incorrect.

4-35, par 3

Competitive bidding is not an equitable system unless the minimum price (reservation price) proposed earlier is eliminated.

4-35, par 4

The public cannot be expected to receive the same price as "if they were private individuals" unless the public is willing to regulate grazing to the same extent as a private individual landlord.

4-35, par 4

Private individuals pay a price based on what they can afford to pay. The rejection of the income criterion demonstrates that government does not recognize an "afford to pay" criterion in its own bidding operations. Government is advocating a competitive bid procedure, but is rejecting a key prerequisite of it, i.e. the ability of the bidder to base his bid on his ability to pay. This is not surprising, however, when the history of government contracting activities are examined in any detail.

4-35, par 4

As the report rejects ability to pay as a component in competitive bidding, obviously it will reject a cattle price component. It is absurd to conclude that the value of the product can be unrelated to the cost of production. The first is related to cattle prices; the latter is related to FMV.

In this paragraph the report is deficient in not also indicating that competitive bidding will tend to eliminate dependency, commensurability, and priority in public grazing permits. Any decline in dependency and commensurability will result in decreased efficiency of affected ranch units.

4-36, par 2

In neither Table 13, Figure 4-5, nor anywhere else in this report are the private grazing land rental rates reported.

4-36, par 3

New Mexico is a range state. Yet only 12 percent of a recent hay crop was sold directly to ranchers. The reference to hay price and price of grazing land having some relationship is not correct. Hay prices have both increased and decreased over the past 10 years, while the rates for pasturing cattle have increased.

4-36, par 3

Indian lands, McGregor and Ft. Meade are not representative of public lands throughout the west. Changes in rates on these lands are not comparable to either private land rate changes or rate changes on other classes of land. The basis used for rejecting the alternative procedure is not correct.

4-36, par 3

The conclusion that the alternatives would result in FMV are not correct.

4-38, par 3

There are no guarantees in the western range livestock industry, despite any fee level or procedure that the federal government may select.

4-38, par 3

The grading is arbitrary and are not either supported with adequate data, or are based on inaccurate data.

4-38, par 4

There are other factors impacting on permittees besides the amount of the fee. They include timing of the payment, form of the payment, non-payment costs of grazing, costs of improvements, alternative sources of feed when permits are reduced, etc.

4-38, last par

The statement that the permittees' only feed cost on public land is fee, salt and supplements is probably not correct, and certainly not in year-long grazing areas. The "probably" in the above is based on what definition is used for "supplements." Additionally, few ranchers graze all of their livestock yearlong on federal range. Feed cost is almost universally a standard cost item in western livestock ranching. To ignore this cost is incorrect.

4-39, par 3

If \$2.15 is repeated often enough as the FMV, I suppose some readers will eventually accept it as being FMV. It is not!

4-39, par 4

How much of the total grazing by the group representing 1.5 percent of the permittees and 26 percent of the federal grazing, is federal, state, and private? How many and what proportion of this group get all of their grazing from federal lands? Without these statistics, the statement on "only feed source" is not meaningful.

4-39, par 5

If paragraph 4 of the report on page 4-49, the FMV is stated as being \$2.15 in 1977. In paragraph 6 on the same page it is stated as being \$3.12. Apparently the authors also are having difficulty in determining the FMV of federal grazing.

4-39, par 4 & 5

The statement on economic advantage Vs disadvantage is incorrect without inclusion of two factors -- investment cost and risk costs. Otherwise, advantages will occur only if fees are actually less than an accurately-measured FMV. Nothing in the report indicates that FMV can be accurately measured, only approximated.

4-41, par 2

Numerous "selective judgements" have been demonstrated in this report. Why is now selective judgements to be used a criteria for rejecting variable fees? The statement demonstrates bias of the authors of this report.

4-43, par 1

Larger animals may consume more forage than smaller animals. It cannot be stated that older animals necessarily consume more forage than younger animals. Two and three year old ewes and cows consume more forage than six to nine year old ewes and cows because of growth requirements of the former.

4-45, par 4

Kearl and Liefstritz proposal was 1.00 for cows and 0.30 for calves. The reasoning used to rate a dry cow as 1.00 and an unweaned calf at 0.3 is obscure and not in the Kearl-Liefstritz citation. All but one age group in the proposal (yearlings) is an inflation of the Kearl-Liefstritz proposal. Incidentally, by what means does the government propose in its determination of dry cows (term used in the report). Does the government propose to pregnancy test each cow, which is the only acceptable means of determining whether a cow is dry or pregnant?

4-46, par 1 & 2

The proposal of basing fees on weight gains ignores the seasonal characteristics of ranges and seasonal requirements of domestic livestock. Would a winter range such as in Nevada where weight losses in the herd customarily occur require a free use or payment by the government to compensate for losses? This proposal ignores the realities of range and livestock conditions in which part of the forage used is for maintenance and part for production.

4-47, par 1-3

The physical feature section is arbitrary as stated. The statement ignores the fact that range developments can modify to varying degrees the physical features of rangeland. Steep terrain can be modified by trails, and sources of water by water developments. An even more important feature is ignored, the vegetation, which itself can also be modified.

4-48, par 1-2

The list is incomplete. At least three additional are 1) uncertainty of tenure and risk cost, 2) federal management control of other ownerships, and 3) inappropriate improvements specified by inexperienced federal range managers (inappropriate in terms of kinds, sizes, and locations).

4-48, last par

At one point in this report the variance between fees per acre and fees per AUM is waived aside by the claim that a fee per AUM automatically adjusts for less and more productive areas. Now a proposal is being made that a surcharge be made for range improvements that would increase productivity per acre, a condition or quality previously denied.

4-49, par 4

The statement is not correct that the proportion of public grazing land varies directly with the duration of the grazing season and the percent of private lands within grazing areas. It may well vary directly with the length of season, but it definitely varies inversely with the percent of private land.

4-50, par 4

Earlier (p. 4-39) it was stated that "those permittees whose only feed source is the public land", etc., where now it is conceded that the high point is 90%. Which statement is correct?

4-52, par 1

Why use the argument of whether an option has economic value or not as a basis for a decision, when earlier the ability to pay or economic value argument was rejected? This is an inconsistency in the report.

4-52, par 3

Competitive bids were proposed despite feasibility. Why are variable fees now rejected based on infeasibility? One is as infeasible as the other. Another inconsistency.

4-52, last par

The meaning of the last sentence is not clear. What is the difference between "variable fees" and "distribute the incidence of a fee's application"?

4-52, last par

The argument is biased in that an upward adjustment of fee for high quality resources is just as clear and understandable as a downward adjustment of fees for low quality resources.

4-53, par 2

The use of AUM conversion factors in this report are not a common usage. The common usage is that the forage requirement for a cow, wet or dry, is one AU.

4-53, par 3

Do the cost estimates include the costs for AMP? If not, they should be included as part of the base.

4-53, par 4

The only economic justification is that the marginal additional cost of administration should not exceed the marginal additional fee collected.

4-53, par 5

The appraisal value quoted is about 100 percent above that charged for individual appraisals. A contract for 500 appraisals should be negotiated relatively easily for less than half of the 1 million estimated. Additionally, if 4% capitalization rate is too high, a lower rate would result in a higher permit value. Capitalization rate is inversely related to capitalized value.

4-54, par 3

On what basis will a minimum appraisal price be set? Will the price be equitable? The objection to other alternatives appear to be minor compared to the changes, including new legislation that would be required for competitive bidding. What would be the role of dependency in a competitive bid? The proposal does not appear to be well thought through. What would be the entire cost, based on the procedures used to estimate the costs of the alternatives apparently not favored by the writers of this report? If there were a cost of \$0.10 per AUM, with 18.9 million AUMs currently being permitted on public lands, the cost of this alternative would be \$1.89 million, plus a periodic market study costing \$500,000. It is unclear how often this market study would be needed. At any rate, the initial cost would be \$2.39 million in the first year, or 139 percent more than the other prior alternatives.

4-54, par 4 & 5

A bias is indicated in the discussion of the variable fee option. If fees are truly variable and unless the government arbitrarily increases fees substantially for all permittees, a variable fee option should decrease costs to some permittees and increase costs to others. The paragraph only discusses increased costs to all permittees.

4-55, par 1

Are you suggesting that the forage quality and nutritive value basis may cost several millions of dollars? How many million in comparison to the \$2.39 million for competitive bidding?

4-55, par 3

If animals lost weight on the allotment, what would be the fee level?

4-55, par 4

What is the basis for the statement that "the small number of livestock that are presently being trucked to and from the allotments"? Isn't the exact opposite the true situation; that is, only a small number of livestock are being trailed to and from the allotments? Most are trucked.

4-55, last par

Pregnancy tests are not available at the price of \$0.025 per AUM. See prior comment on this matter. Also, how expert are public land managers in determining livestock ages. The writer of this report obviously is not familiar with herd management techniques.

4-56, par 3

The term "some other form of verification checks of age groups" just won't wash. It is too vague to be meaningful.

4-56, par 4

Elimination of current maintenance and depreciation allowance in a 1966 study would be feasible only if the original determination of the allowance was accurate (and there are some major questions about this subject). Also, there is some evidence that maintenance prices since 1966 have increased at a faster rate than the general price level. How would this accelerated inflation factor be included? Lastly, what interest rate level would be chosen?

4-56, last par

A prior proposal was mentioned that the permittee would be required to sign over his equity in range improvements at the termination of his permit. Isn't this discussion of variable fees based on the share of construction costs immaterial if the government can terminate a permit at its pleasure.

4-57, par 1

Why are these variable fee factors labeled as "subjective", when all of the variable fee factors are equally subjective? For that matter, any determination of "fair" in "fair market value" is subjective. Does application of the term subjective in some situations and non-application in others reveal biases of the writers of this report?

4-57, par 3

It is interesting to note that the bidding proposal has an annual cost that is twice as high as the annual cost of any other alternative.

4-58, Table 15

Is the discussion of permit values based on consideration of inflationary or real (deflated) values? Is there really a question as to whether real values of grazing permits have declined or not? I suggest that someone in the Secretaries' offices contact a district Federal Land Bank official in the western region if they have some doubt about this matter.

5-3, par 2 & 3

Chapter 5 of the report appears to be an excellent summary of study needs. It is difficult to understand how a change in fees can be contemplated in 1978 when this large a need for information exists.

Chapter 5, 5-1 to 5

The recommendation and conclusions are merely a summary of the foregoing materials, with the weaknesses noted in this critical review.

Chapter 6, 6-1 to 7

The weights used to reflect prices paid are not representative of western ranching operations. Specifically, and based on an ERS study in the Southwest, the SRS weights are too heavy in the report for machinery and equipment (9.6 versus 2.0), machinery (11.2 versus 3.7), and equipment (27.1 versus 6.4). Completely left out of the list of costs to be weighted in both the Cost of Production Indexes and the SRS price indexes were property taxes, livestock purchases other than veterinary, feed and lease costs. These latter four costs were 43.8 percent of total costs on Southwest ranches in 1972. A price index series that excludes 40 to 50 percent of the costs is not meaningful, but rather is misleading.

C-5 & C-9

COLLEGE OF AGRICULTURE AND HOME ECONOMICS

DEPARTMENT OF AGRICULTURAL ECONOMICS  
AND AGRICULTURAL BUSINESS  
Box 3169/Las Cruces, New Mexico 88003  
Telephone (505) 646-3215

March 9, 1977

*Gray the Public Land Review Report*

Dean A. Rhoads  
Assemblyman  
Nevada Legislature  
Tuscarora, NV 89834Patricia Hooper  
Information Specialist  
Public Lands Council  
425-13th St., N.W.  
Washington, DC 20004

Dear Assemblyman Rhoads and Pat:

In response to your letters of February 1 and 16, enclosed is my critique of the technical committee's "Review of Public Land Grazing Fees".

In my view, any indirect approach such as those explored and recommended in the committee report is arbitrary and subject to challenge. Please note my critique. Only a direct approach is valid. The direct approach involves subtracting the additional costs per AUM of grazing public lands from a bona-fide per AUM long-term private western rangeland lease rate. The technical committee recognized some but not all of the weaknesses in both the cash rent for pasturing cattle and the combined index, and then used them incorrectly in their recommendation anyway. They did not recognize any of the weaknesses in the 1966 grazing fee study. Their report is incomplete without an analysis of their recommendation comparable to their analyses of other recommendations.

I hope the critique will be helpful.

Sincerely,

*James R. Gray*  
James R. Gray  
Professor

re

Enclosure

CRITIQUE OF  
REVIEW OF PUBLIC LAND GRAZING FEES

The organization of the comments will follow the page and paragraph number of the review enclosed with the letter to Jack Horton, Assistant Secretary of USDI, dated November 15, 1976.

Page 7

The discussion is incomplete without some discussion of consumer surplus.

Page 8

The equation is incorrect for several reasons.

1. Subtracting the price of the output  $P_x$  from marginal revenue of the  $X_{ith}$  output would result in a value close to zero, meaning all prior equalities, including marginal cost being equal to zero--an obvious mistake.
2.  $P_x$  is usually defined as the price of the input, not output. As the price of the input, it is equal to MC. Graphically outputs are y (dependent variable), and inputs are x (independent variable). Suggest you re-examine your equation and definitions and straighten them out.
3.  $MVP_a \neq MVP_b$  unless each is divided by the price of the input, or

$$\frac{MVP_{x_1}}{P_{x_1}} = \frac{MVP_{x_2}}{P_{x_2}} \quad \text{with } x, \text{ referring to}$$

inputs.

Page 14, Paragraph 1

The definition of an AUM is not the definition now being used by BLM and FS. Does this definition constitute a policy change?

*See W, p 6984 of Fed Reg.*

Page 15, Last paragraph

Why exempt individual or group activities primarily for personal enjoyment from paying fees? What is the Golden Eagle passport? As exclusive users in some areas, this policy toward recreationists violates the original OMB directive.

Page 16, Paragraph 2

An increase in any single cost would have a limited effect on the weighted average, according to a definition of weighted average. In effect, the committee is acknowledging that they do not know of the effect, so it is safe to ignore it.

Page 17, Paragraph 1

The committee failed to mention the tendency of some states to charge a tax for the value of improvements on tax exempt lands. Indeed, some of them have attempted to charge a tax based on the leasehold value of a grazing permit.

Page 17, Paragraph 2

The concept of fugitive resources should be discussed in this paragraph. Benefits do accrue to society, but disproportionately.

Page 19, Paragraph 3

Were there any other conclusions to the 1966 grazing fee study. It was the opinion of SRS personnel who were administering the study that the basic research design was faulty on two counts: a) Since ranchers do not cost account their operations based on land ownership, they were being asked questions to which they did not know the answers, and b) there was respondent bias which could not be eliminated.

The weaknesses of the study were not included in the committee report.

Page 21, Paragraph 1,  
Page 26, Paragraph 2,  
Pages 27-28,  
Pages 35-36

The cash rent for pasturing cattle is not the same as the private rangeland lease rate for several reasons. When cattle are pastured, the landowner may provide all labor, materials for maintenance of improvements, travel to inspect stock, and even some feed or medicines if required in the contract with a term of one year or less. On the other hand, most private rangelands are leased in which the leaseholder provides all inputs including, in many cases, the property tax, maintenance and in some cases

replacement of improvements, labor, feed, travel, etc. Public grazing permits resemble private rangeland leases more than cash rent for pasturing cattle. Cash rent in my state is two to three times more per animal unit month than private rangeland leases.

Page 21, Paragraph 2,  
Line 8

Change "imputs" to "inputs". Price changes should be proportional between costs and product value. If gross income (product value) is 3, and costs are 2, the price of cattle should be weighted 3, while costs are weighted 2.

Page 22, top section, and  
Page 31

Prices paid by farmers is distorted when applied to ranch costs. The farm cost index is weighted too heavily for equipment, seed, fertilizer, and labor, and not heavily enough for feed, livestock, and taxes. Why not use some of the ERS indexes of prices paid and received by ranchers?

Pages 27-28

The suggested questions should be reworded to reflect information on leases of privately-owned rangelands, rather than cash rent for pasturing cattle. Additionally, questions should be included to determine the values of the inputs supplied by the land owner that are normally not supplied by the Forest Service and the BLM. These should be deducted from the reported lease rates.

Page 31, Line 9

Arithmetic treatment of index numbers (adding, subtracting, multiplying, or dividing) can lead to distortions. Statisticians should be consulted on these procedures. Normally we do not use index numbers as variables in statistical analyses because of the distortions.

Pages 35-36

This is not an adequate discussion of lease versus rental. See comment on page 21.

Page 35, Paragraph 2,  
lines 10-11

What is an equi-martinal principle? At the beginning of the paragraph, it is not an Index of Private Land Lease Rates. It is an index of the Cash Rent for Pasturing Cattle.

- Pages 36-37
- Is the committee suggesting that the Index of Beef Price is not a reflection of the competitive market? It is granted that the Prices Paid Index is not a reflection of a competitive market because it is a Monopolistic competitive situation. It is suggested that the committee review historical price trends for both prices paid and received by ranches, particularly prices paid for non-farm produced inputs.
- Page 37, First full paragraph
- Does the committee suggest that a 1% or less return on capital in ranching demonstrates an efficient agriculture?
- Page 37, Second full paragraph
- What is the cost of alternative or substitute inputs for range forages? Surely the committee is not suggesting alfalfa hay? The differences are enormous.
- Page 38, First full paragraph
- What agricultural commodity does reflect the inflation rate? Is the committee recommending that the public will require an inflated rent from a segment of the economy that is incapable of inflating its prices to maintain real income because of the national policy on food prices?
- Page 38, Second full paragraph, lines 2-4
- The meaning of this sentence is obscure. What sectors of the supply-demand model are being referred to, beef prices and prices paid? If these are the elements included, why were they included in the recommended formula?
- Page 38, bottom
- Why was not the "private land lease rate" subjected to the same competition analysis as the combined index?
- Page 39, Paragraph 2, Lines 8 to end
- Forage quantity does affect the cost of harvest in times of improvement cost, bull cost, labor costs, and machinery costs per animal unit. Suggest the committee review the Ricardian Theory of Rent.
- Page 39, Paragraph 3, Item 2
- The statement does not make sense. Interallotment differences....are just as variable as interallotment differences.
- Page 39
- The committee assumed that acres required per animal unit month means forage quantity without any qualifications. They then

objected to the unqualified forage quantity concept with points 1 to 4. Forage quantity is but one factor in the acres required per animal unit month. Others are competition from other uses, variations within allotments, livestock water distribution, seasonality in grazing, etc.

Please indicate how these four factors are included in the "Private land lease rates index" being proposed as the base for the committee recommendations, in that cash rents for pasturing cattle vary widely, based mostly on the quantity of forage available.

Page 40

The heterogeneity in western livestock ranching is well documented. The fact that statistical analyses were performed merely indicated that variability was so large that the difference in the sample means was not reliable at the level of significance chosen. The fact that no statistical evidence was discovered to support differences in the mean may or may not permit the conclusion that no differences exist. See an earlier comment of the 1966 grazing fee study.

Pages 40-41

The inequity is created not by the cost per AUM, but by the net returns per AUM on low and high productive land. Value is more directly related to net benefit than cost, unless you are supporting the labor theory of value.

Pages 42-44

A major objection to the treatment of index numbers in the formula is that the index of cash rent for pasturing cattle reflects the upward influence of beef cattle price increases, but seldom reflects the downward influence, somewhat similarly to the national inflation (stagflation) rate. Also those who have pasturage for rent on a short-term basis tend to be price setters--those who rent pasturage tend to be price takers. Otherwise prices would both increase and decrease.

Another objection is that by adding two indexes and dividing the result by 100 will result in a factor with a value having the base of 2 rather than 1.

A third objection is that to the extent that the index of cash rent for pasturing cattle is a reflection of beef price increases, including beef prices as another element in the index (combined index) results in double counting of beef prices.

Lastly, the selection of a 5-year index base and a 25-percent limit is arbitrary. Why not a 3-year, 4-year, or 6-year base? There is more support, based on the national inflation rate, for a 10 percent limit.

Senator DOMENICI. Mr. Langenegger, on fair market value—perhaps Senator Laxalt is already aware of this, but let me see if we might put this on the record—it is my impression that family ranches and family farms are lost on date of death of the old folks that have been running them because of the fair market value under the Internal Revenue Code, which takes its basis from speculators and spot sales around. One of the biggest reasons why farms have to be sold by estates is because there is no way that that farm really yields what the fair market value of an appraisal indicates it is worth on date of death. Is that true?

Mr. LANGENEGGER. That is absolutely correct.

Senator DOMENICI. And that's what you are basically saying, that for purposes of other than yield, fair market value is irrelevant?

Mr. LANGENEGGER. That's correct.

Senator DOMENICI. Thank you very much.

Mr. LANGENEGGER. I would like comment on Mr. Martin's statement; he says, "We note that question of considering the cost and value of grazing permits as a factor in determining fees is not proposed by the industry." This is an inaccurate statement because in the American Farm Bureau Federation statement that we have presented to the committee, and I'll quote, on the first page, item (h), we say, "An equitable fee structure, including recognition of a return on the capital investment in a permit as a factor in annual operating costs and incorporation of the price of marketable livestock and the cost of doing business in the grazing fee formula."

Now, we have stated in the first part of that, of item (h), that we do consider that. So his statement was inaccurate in that regard.

Some mention was made about—by the way, I neglected to say I am a farmer and a rancher and a cattle feeder. A mention was made that maybe we would quit running livestock on grasslands and raise them in a feed yard or drylot. And I have been down that road, and there are many reasons that this is not feasible. And, of course, whenever you take the rangelands of a country, whether they be public lands or other lands, and you have a crop on those lands in its draft, and the only thing that can harvest that crop is a ruminant animal. And if you don't harvest that crop, we are going to be in short supply of food.

By the way, statistics show that in this world today, if you cut off the production of food, that the existing supply of meat animals would last the world 42 days and the existing supply of cereal grains only 21. So we do have a very important thing here for consideration. It's the food supply of the world, to some degree. So we think we need to keep that in mind.

Now, these grasslands are the incubation area for the feed yards and the finishing lot and the growing out problems. And we have to incubate these calves and lambs.

I know that if you try to run a cow-calf operation in a feed yard—and I have—that your death loss of your baby calves is out of this world. There will be 15 or 20 cows gather around a cow when she calves, and you don't know the night she is going to calve; you can't tell. I'm not that smart. So it just isn't practical.

Now, I think that we need to really realize the importance of flexibility in allotment management plans, and H.R. 10587 does allow some flexibility.

I want to point out that in the arid areas of the West that we have drought years and good rainfall years, and we have drought areas and good rainfall areas within the same year. And I personally have been exposed many times to where I had one pasture that received pretty good rainfall all year, and a pasture within 2 miles of it practically no rainfall.

Now, if you have an influx in the allotment management plan that says I can't graze this particular pasture this year—and yet I might have good grass—I can't graze it. And my other pasture is dry. Then we are in real trouble.

Now, we have to maintain our basic cowherds because you spent years trying to build up the quality of the herd, and you are not going to let those cattle get away. You are going to do something to maintain that basic herd. And within flexibility, you've got real problems. With reasonable flexibility, which I think H.R. 10587 would allow, I think would be very, very helpful. And I can't emphasize too strongly how important I think this point is.

Now, in regard to wild horses and burros, of course, I grew up with wild horses and burros. I was born in New Mexico. And I think that there's certainly a place for wild horses and burros and the esthetic value, but I think it needs to be tempered with economic values and situations, and I think the bill would allow the flexibility and the decisions of the proper people to do what needs to be done with regard to wild horses and burros. And if you don't change it, we have been exposed to it already, and we know, in fact, New Mexico has been through the Supreme Court on a wild horse and burro case, so we have been there and we know how unwieldy it is. And we don't have any State control, none whatsoever. And it's a pretty bad situation.

We need to realize that in most cases that your BLM lands are interspersed with State lands and fee lands. And most of the waterings and the most improvements are on your fee lands.

As a practical economic, the rancher went out and improved the land that he controls.

Now our ranchers supply salt and supplemental feed and water for the game animals and all at no cost to the hunter or the sportsman. And yet there's not much consideration given.

Senator DOMENICI. Do you think it is reasonable to prohibit supplemental feeding under one of these new management plans as some are suggesting? Is that a reasonable approach to range conditions in New Mexico?

Mr. LANGENEGGER. Absolutely impracticable.

Senator DOMENICI. You are aware that, in some parts of the State, that's what's being proposed, are you not?

Mr. LANGENEGGER. Yes, sir, I am.

Senator DOMENICI. Well, why would they propose such a thing?

Mr. LANGENEGGER. Well, I can't speak for anyone else. I assume the idea is, two things. No. 1, the thought has been advanced that when you put out supplemental feed, that where you put the supplemental feed out, you do abuse the range. I mean, you are going to have concentration of cattle, for example, picking up the cake, and you are going to tromp the grass in a very small area.

No. 2, I think the theory has been advanced that we need to know what this rangeland will carry without any supplemental feed whatsoever.

Now in the arid West, this is an impossibility because rainfall is so varied, it just is not practicable. But still it's put to us. And that brings me to the point that, well, we have asked for consultations and we have had consultations with the BLM and the forest people. We can talk to them. I mean, they don't refuse to visit with us. But we surely haven't had much influence. They will listen and, you know, I am reminded of the cartoon that says "My mind is made up. Don't confuse me with the facts." And they will talk to you, but they might as well not have talked to you because they do whatever they cottonpicken please. And this is rather frustrating, because you feel like you have wasted time and effort. You go 200 or 300 miles to a meeting to visit with them. New Mexico is a large State in miles. And we live a long ways apart. And we will go and visit with them. If we have a State meeting, you go to your local office. And we don't feel a sense of duty because they are in the driver's seat and they do as they please. And we think that this needs changing, and this bill would give us an opportunity to have men to discuss it; it would be a cooperative thing.

And I am a great believer in cooperation. If we all get our shoulder to the wheel and work together, we can improve these lands, we can do better. However, I don't agree that the land is steadily going downhill. I recall very well when the Taylor Grazing Act was passed in 1934, my father was what is known as a nester, Senator. I believe you probably know what a nester is: A man that had a little claim right out in the big open country. And we were in a 400 section pasture. There was not a fence for 20 miles each way. Everybody turned their cattle out, or horses, whatever. And it was tromped into the ground. And it's much better now than it was then.

It's not good. There's room for a lot of improvement. I want to emphasize it. I'm not satisfied because I want to see these lands improved to the optimum point that's practical and they're not there yet. And we do need to improve them, and I'm for it. But I don't think we are going to get it done with bureaucratic dictation. And their attitude disturbs me.

Well, I have taken up enough time. I would certainly be happy to attempt to answer any questions that any members of the committee might have, and I will be at their disposal. Senator Domenici knows that if I can be helpful in any way, I'm available at any time.

Senator LAXALT. Thank you, sir. We appreciate that. Senator Domenici.

Senator DOMENICI. I would assume that one reason for supplemental feeding is the range conditions or weather conditions or the like—it's just basic feedstock, something that they need for nutrition. But isn't there a secondary motive, that in supplemental feeding you add some nutrients that are not otherwise available?

Mr. LANGENEGGER. Yes, sir. You see, in the wintertime when our grass is driest, we are short of protein.

Senator DOMENICI. Right.

Mr. LANGENEGGER. And we supplement. Maybe we have plenty of dry, cured grass, but we don't have ample protein. Now if an animal

is short of protein, they don't have the energy and the will to get out and harvest that dry grass because their diet is lacking in protein. We supply the protein and then they will harvest the rest of the grass. So that is one of the basic reasons for supplemental feeding, and it's very important. And whenever we are prohibited from supplemental feeding, I mean it's just like tying one arm behind your back if you are getting in a fight. You can't do the job.

Senator DOMENICI. Now, Mr. Langenegger, let's say you had a sizable ranch in New Mexico where the weather conditions and rainfall were as you described, and the Government cut your land up into three pieces and said this year you are going to graze this piece and let the other two grow. Isn't it possible that weather conditions the next year would be bad and the one you were supposed to move your stock to would not have good grass?

Mr. LANGENEGGER. It certainly is possible. Now, you know, that hitting this thing, but I have seen it happen. It's not just possible, it can happen because I've had it happen. This year you get good rainfall on one pasture, and the next year it may be just the opposite. You know, the meteorologists give us an explanation for this. They tell us that before you get the first rains in the spring, if you have green grass, as the clouds pass over you have a cooling effect, and the clouds above will deposit moisture where the green grass was. And it seems to work that way. And yet that's what we are exposed to if you have even a flexible plan.

If I might say, I know of a situation where a young rancher decides to sell his ranch to four neighbors. Each one was going to take a portion. Now this particular ranch already had an allotment management plan. And they have to have permission to make the transfer of the BLM permit. And the BLM said, look, you can transfer them, but the allotment management plan stands just like it is.

Now you can see how impractical it would be because now you have got a couple of pastures for this ranch, a pasture or two of another ranch, and a pasture or two of another ranch. And the same plan would be totally inapplicable after the change is made.

Well, the boy wanted to sell his ranch, and the other people wanted to buy it, and it would have been good for everybody. But the ranchers that were purchasing had to go to him and say the deal is off because we cannot operate that under the allotment management plan that they set up when it was a different unit. And that's how impractical they can be.

Senator DOMENICI. So they would have to have been operating the land acquired as a foursome, collectively, rather than to cut it into pieces and attach it to their ranch for management under their ranch. That's what you are saying.

Mr. LANGENEGGER. That's correct. And they didn't want to do that. They wanted to run their own show, each one of the four people.

Senator DOMENICI. I have no further questions.

Senator LAXALT. Thank you very much, Mr. Langenegger, for being here. You have been very helpful to us.

[The prepared statement of Mr. Langenegger follows:]

STATEMENT OF A. W. LANGENEGGER, PRESIDENT, NEW MEXICO FARM AND LIVESTOCK BUREAU, LAS CRUCES, N. MEX.

The American Farm Bureau Federation is a general farm organization with a total membership of more than 2.8 million families in 49 states and Puerto Rico. Farm Bureau members are engaged in the production of practically every agricultural commodity that is grown commercially in the United States.

At the most recent annual meeting of the American Farm Bureau Federation, the voting delegates of the member State Farm Bureaus this past January, adopted the following policy statements relative to grazing:

"We believe permittees on federal lands should be encouraged to improve range conditions through cooperative contracts with the appropriate agencies.

"Permittees should be provided security of investment. We support adequate federal funding for an expanded cooperative range improvement program.

"Overgrazing and damage to watersheds by wild horses, burros, deer and elk should be controlled through the use of the same management principles applied to domestic livestock. We favor repeal of the Wild Horse and Burro Act and adoption of new legislation providing effective control methods to prevent damages by these animals to ranges and unacceptable competition with livestock grazing. Domestic livestock grazing permits should not be reduced or eliminated as a result of wild horses, burros, deer and elk being on public lands. Responsibility for trespass and compensation should be clearly established."

"Congress should establish land use principles for the grazing of federal lands. These should include:

- (a) Long-term contracts stipulating terms and conditions of grazing use;
- (b) Adequate incentives for optimum investment in private and public lands range improvement;
- (c) Conditions relative to multiple use including watershed protection, hunting, fishing, and recreation;
- (d) An appeal procedure;
- (e) Severance damages;
- (f) Trespass regulations;
- (g) A requirement that the permittee be granted the increased grazing capability which accrues from improved range management; and
- (h) An equitable fee structure including recognition of a return on the capital investment in a permit as a factor in annual operating costs and incorporation of the price of marketable livestock and the costs of doing business in the grazing fee formula.

"The Technical Committee Report published in the Federal Register, Vol. 42, No. 24, dated February 4, 1977, proposed a federal grazing fee structure to be based on valid data which, if adopted, would assure equitable and realistic treatment of all parties concerned.

"We recommend that this fee proposal be adopted beginning with the next grazing season. . . ."

We extend our sincere appreciation to you, Mr. Chairman, for holding this hearing on a topic which Farm Bureau considers to be extremely important and for providing us this opportunity to address ourselves to an omnibus bill. We urge your favorable consideration of H.R. 10587, as passed by the House of Representatives. While this legislation may not be perfect, we feel that it makes significant improvements in the laws governing grazing on public lands.

The rangeland improvement funding provisions of H.R. 10587 have our wholehearted endorsement and support. A serious commitment of this kind has been long in coming. We firmly believe that there is a complementary relationship between the grazing of livestock and the overall condition of rangeland. We applaud the provision which mandates that 80 percent of the \$360 million authorized for range improvements over the next 20 years shall be used for on-the-ground range maintenance and improvements. We suggest, as our policy states, that permittees be granted the increased grazing capability which accrues from improved range management. Cases have been brought to our attention where a BLM permittee has improved rangeland and subsequently has had his allotment reduced by BLM. Such action by a federal agency is obviously counterproductive.

The provisions that spell out those range improvements—such as fencing, small water developments, fish and wildlife projects, restoration of native vegetation, and vegetative manipulation through grazing management—which can be made

before completion of an environmental impact statement are most appropriate. This should speed the process of getting on with the important business of upgrading the quality of the public rangeland.

We support the provisions relating to wild horses and burros which would allow the Secretary additional discretion and control over those animals.

If any significant improvement in the quality of rangeland is to occur, the managers of that resource—the permittees—must have increased flexibility. One of the primary problems from the permittee/manager's standpoint is that he does not have sufficient assurance that he will be allowed to remain on the federal lands long enough to do the job. Requiring the Secretary to issue ten-year leases or permits, except where he determines on a case-by-case basis, as opposed to a blanket basis, that a shorter term is necessary, is a step in the right direction. We encourage the Subcommittee to go even further and place a more stringent requirement on the Secretary to issue ten-year permits unless there is overwhelming reason to do otherwise.

Fees paid by permittees for grazing on public lands can, at certain times, "make or break" a ranching operation. As our policy position indicates, we support the recommendations of the Grazing Fee Technical Committee. We feel that the Committee's recommended formula is far more equitable than the formula recommended by the Secretaries of Interior and Agriculture. The Committee's formula would have minimum adverse economic impact upon the Western livestock industry. We feel especially strongly that the aspects of the formula which take into account the price of beef cattle and the cost of production are important.

We thank you for this opportunity to present Farm Bureau's recommendations.

Senator LAXALT. We now have a panel consisting of Mr. Calkin, Mr. Clapper, Mr. Burdick, Mr. Poole, and Mr. Zagata.

I thank you all for your patience and apologize for the lateness of the hour.

Senator DOMENICI. Mr. Chairman, might I apologize in particular to Brant. It is impossible for me at this point to remain. I will try to come back. Senator Jackson is holding a meeting on the natural gas bill and I will run up there. If I finish in the next 15 minutes I will be back. But I will make every effort to review this with my staff, Brant, and I apologize.

Senator LAXALT. Would you proceed then, Brant, please?

#### **STATEMENT OF BRANT CALKIN, SOUTHWEST REPRESENTATIVE, THE SIERRA CLUB, SANTA FE, N. MEX.**

Mr. CALKIN. Yes, Mr. Chairman, My name is Brant Calkin. I am employed as the Southwest representative of the Sierra Club. The Sierra Club is a national environmental organization of approximately 180,000 members. Most of our members do live in the public land States in the West where they observe both trends and conditions on our heritage to public lands.

I would like to also point out that my comments have been reviewed by the Sierra Club Grazing Subcommittee of the Public Land Committee, and contrary to what you have heard this morning, which my name wasn't used, I, nevertheless, am the person who spoke for the Sierra Club in Salt Lake, and I am authorized to do so.

I would like to just give you a few comments from the statement I made in Salt Lake, and then let the summary paper give you the gist, the position on individual sections. And if there's any discussion, we could go from there.

I would like to put the bill and some of the suggested changes that we have in perspective by briefly pointing out some of the character-

istics of both the public range and the livestock industry. And those trends are historic and maybe useful in the future.

Now in the matter of rangelands themselves, just the country itself, it's axiomatic to note the historical abuse by overgrazing. One can go to the report of the Committee of the Conservation and Administration of the Public Domain where it is stated "Today, overgrazing has taken its toll in large areas unfit for grazing for a greatly reduced carrying capacity for livestock generally. The damage done may never be wholly repaired nor yet its progress wholly arrested. But as a continuing evil, it may be diminished. And by proper scientific treatment and regulations, many ranges may be steadily improved and carrying capacity increased."

Now the historians on the committee will note that this is a report to President Hoover, dated 1931. A more comprehensive report from the Secretary of Agriculture stated, "There is perhaps no darker chapter nor greater tragedy in the history of land occupancy and use in the United States than the story of the Western range. The major finding of this report is range depletion so nearly universal under all conditions of climate, topography, and ownership that the exception serve only to prove rule."

That report was transmitted 42 years ago. But those who believe in zoning history can go back only to July of last year to find that the Comptroller General of the United States reported to the Congress that "The Nation's public range lands had been deteriorating for years, and for the most part are not improving."

Now it would be easy to find fault in the face of such persistent and discouraging history—and there's plenty of fault to go around—but without getting into that, let's go for a minute and look at the condition of the livestock industry.

There's never been a successful attempt to "stabilize" the livestock industry. The bursting bubble of the late 1800's was a prelude to a series of up and down which for nearly a century have paid off mortgages and then doubled them, which have been the despair of bankers and consumers, politicians and conservationists.

The Potato Grazing Act helped, but fell far short of its goal. Two World Wars, several recessions, the baby boom, and even assembling of the West have left the Western livestock industry overborrowed, scarred from the series of battles over grazing fees, increasingly in conflict with other public land users, and its manpower diminishing in both absolute and relative numbers.

To quote the 1936 report again, "The Western stockman has been too close and too much apart of all that has happened to fully grasp results, trends and causes, the changes in the resource, ordinarily deterioration; have often been too insidious and too obscure to divert attention from what seemed to be the immediate and compelling problem of livelihood under strenuous competition. An analysis of these factors show that the public views the condition of the public land and blames the rancher. And the rancher views the condition of the industry and blames the public."

Well, the bill that is before you today will, I think, provide some assistance for both the range lands and the industry.

I am not in agreement with the previous panel in many respects, but I am in some others, and the positions which we report to you on our position summary is much like the ones that you heard from the panel earlier this morning.

Very basically, we support the findings and declaration of policy, which is the first part of the bill, of course, except for the grazing fee section.

We concur in the definitions except for what we consider to be unnecessary, confusing and arbitrary sections on environment.

Senator LAXALT. Are you speaking of the House bill or to ours?

Mr. CALKIN. This is H.R. 10587 as it came to you, sir.

Senator LAXALT. All right.

Mr. CALKIN. We don't like the language on environment and non-environment impact improvements. We think it is unnecessarily cumbersome. And really what you have got is a couple of pages of language which doesn't change neither if you try to read it very carefully. And we think it should be excised from the bill.

But we do support the provisions regarding inventory and management. And it's through that section that I think we can get a grasp of trends much sooner than we have in years past.

Now I have an additional provision which I am suggesting which came over also in the House bill for which the inventory section is also an unnecessary prerequisite, and I'll get to that in a moment.

We do support range improvement funding until multiple use principles, and we oppose the requirement that all authorized funds be requested or the reduction separately explained. And we had the feeling that it was kind of like forced feeding. And forced feeding can produce unwelcomed fat.

We do oppose the technical committee fee formula and we urge that fair market value be retained. We believe that 10-year permits should be available to livestock operators who are participating in allotment management plans and that 3-year permits, renewable annually, so there's a 3-year run ahead all the time, be available for others unless the Secretary deems a shorter permit is appropriate. And we urge amendment of that section to incorporate such a requirement.

We do support the amendments proposed by the administration regarding wild horses and burros.

Now additional provisions which came over from the House include a provision for a trial program of limited duration in which an operator whose range condition was improving could perhaps get a reduction in the fair market value grazing fee. Now we think there's some strong economic points in there which would credit a person for raising forage as well as livestock regularly.

The version that come over from the House goes beyond these suggested in Salt Lake and I would encourage the committee to revert to our original suggestion.

The idea is to award someone for an improvement which has taken place. The language permits a program to be initiated without the improvement having taken place. And we think it should be for something which has been demonstrated.

Senator LAXALT. If I may just for a moment. There was some discussion this morning, if you will recall, about permitting the per-

mittees to be able to improve their own property, range property, be credited for that. Does the Sierra Club have a position on that at all?

Mr. CALKIN. We don't have a policy position on that. I would guess that we would prefer that the Government install the necessary improvements and recoup their value in the range, in the grazing fee.

Senator LAXALT. You are aware that the track record in that respect isn't exactly overwhelming?

Mr. CALKIN. I understand that. We, nevertheless, think it's the—I believe we would come in agreement with that appropriate principle. Not all improvements would carry characteristics which the livestock operator may want to install for the benefit of other uses.

A watering device, for example, which is seasonal in nature for livestock, might be constructed differently in order to provide a permanent benefit for wildlife, when it's not clear to us that he should be required to install a fancier one. And we think, just as a routine matter, the Government ought to put the things in. That is I believe what our position would be. And then they can recoup whatever the costs are. In that way, they will serve all the users. We could have recreation water supply, livestock and wildlife all in one water device, but I'm not sure I would want to impose that burden on the construction for that.

At any rate, the dynamics of our suggestion for this initiative program was a little bit damaged, quite frankly, by the language in the House. It doesn't behoove us to make suggestions which we think will directly benefit the livestock industry and indirectly our concern, if those suggestions are going to be carried beyond our intent. And we don't want to remain silent where we have such ideas. We would urge the committee to restrict the initiative program on a trial basis, that is, the incentive program on a trial basis, to a demonstrated improvement if it's worth doing at all.

We do urge the reestablishment of multiple-use advisory boards at the State and district level. And these advisory boards should perhaps assume the responsibility of the existing single-purpose grazing advisory boards.

One other comment which we made in the House which I think would be useful for this committee and, quite frankly, there are a number of ways to go, and we wouldn't presume that one would be any better than the other necessarily. There is a constant turnover of BLM field personnel at the lower field levels. In my part of the country where a grazing cycle may go 3½ or 4 years through the various rest location sequences, you may find that a BLM official will be replaced twice before the grazing cycle is completed. While it isn't common, it is not uncommon for at least one change to occur. And we would like to see a requirement placed upon the Secretary for finding a personnel management policy which would benefit people, which would encourage them to remain in the area long enough to learn about grazing, the wildlife, and so on.

Now this could be done through, again, a series of incentives, which could be pay bonuses, it could be an opportunity to participate in special projects elsewhere in the country every 2 months, every couple of years, or whatever. There are various ways of doing it. But this constant rotation damages our interest, the livestock interest. We

think there's considerable agreement on it. But the Secretary has never acted on this long-stem problem. And we would encourage the committee to put in the bill a provision which requires a study and report back to Congress on methods which would bring about a more permanent and durable work force at the field level.

Senator LAXALT. What accounts for this tremendous turnover, in your estimation?

Mr. CALKIN. I think there are two factors. One is that the agency is expanding, with new responsibilities, and consequently even people who aren't fully seasoned are in demand at higher levels, which is the natural consequence of growth.

Senator LAXALT. Are these younger people, by and large?

Mr. CALKIN. By and large, they are.

Senator LAXALT. All right.

Mr. CALKIN. And the second was is that you are, generally speaking, not going to advance yourself financially by staying anywhere. So the incentive is to always apply for a grade up as often as that opportunity becomes available in order to get the pay increase.

Senator LAXALT. More often, that takes you out of the area.

Mr. CALKIN. And it almost always does.

Senator LAXALT. Yes.

Mr. CALKIN. So those are the two dynamics that I think have brought about the problem.

Those are my comments. And I appreciate it very much.

Senator LAXALT. Thank you very much for your comments. I appreciate it.

[The prepared statement of Mr. Calkin follows:]

STATEMENT OF BRANT CALKIN, SOUTHWEST REPRESENTATIVE, THE SIERRA CLUB, SANTA FE, N. MEX.

PUBLIC LANDS GRAZING IMPROVEMENT ACT OF 1978 POSITION SUMMARY

*Section 1*

We support the findings and declaration of policy except as it regards grazing fees.

*Section 2*

We concur in the definitions except for the unnecessary, confusing and arbitrary sections on environment and non environment impact improvements. The Administration's suggested language on rangelands, allotment management plans and other terms is preferable. We urge adoption of the amendments recommended by the Administration.

*Section 3*

We support the provisions regarding inventory and management.

*Section 4*

We support range improvement funding under multiple use principles and we oppose the requirement that all authorized funds be requested or the reduction be separately explained. We support the Administration's amendments.

*Section 5 (S. 2475) and section 5(a) (H.R. 10587) grazing fees*

We oppose the technical committee fee formula and urge that fair market value be retained. We urge that this section be deleted from the bill.

*Section 6—Leases and permits*

We believe that ten-year permits should be available to livestock operators who are participating in allotment management plans and that three-year permits, renewable annually, be available for others unless the Secretary deems a shorter permit is appropriate. We urge amendment of this section to incorporate such a requirement.

*Section 7—Wild horses and burros*

We support the amendments proposed by the Administration.

## ADDITIONAL PROVISIONS

*Section 5(c) (H.R. 10587)*

We suggest a trial program of limited duration to permit a reduction in grazing fees based on fair market value when the condition of a livestock operator's public land had improved. The language of the House bill should be amended to authorize such reductions only after improved range conditions have been achieved.

We urge the re-establishment of multiple use advisory boards at the state and district level. These multiple use advisory boards should assume the responsibilities of the existing single-purpose grazing advisory boards.

We urge that a study provision be adopted to direct the Secretary to find ways to encourage field level personnel to remain in their positions for longer periods, rather than transferring in and out of their positions before they fully understand the local conditions and trends.

Senator LAXALT. Mr. Clapper.

**STATEMENT OF LOUIS S. CLAPPER, DIRECTOR OF CONSERVATION,  
THE NATIONAL WILDLIFE FEDERATION**

Mr. CLAPPER. I am Louis Clapper, of the National Wildlife Federation. I would like permission to just go through briefly our statement and capitalize on various points, and in view of the time, try to help a little bit.

We view the two bills that you have under consideration today with mixed blessings, and while we cannot endorse these bills in their entirety, we are pleased with a comprehensive approach to raise range management that they represent.

With 80 percent of the western rangelands classified in less than good condition, it is high time in our opinion that a serious commitment of funds be made to reverse this statistic. And while we appreciate the dollars, though, it will not accomplish this objective of the legislation before this subcommittee. And we urge that full cooperation of all users of the public lands be encouraged.

We strongly support the administration's proposal for a fair market value formula for determining fees. And we believe, of course, that this goes all the way back to some other history that's already been cited, as far back as the Eisenhower Administration when the Bureau of the Budget established the basic principle that the Federal Government could receive fair market value for its resources, for the minerals and the timber and the forage. And the sad fact is that the public still does not receive fair market value for its forage, and the legislation under consideration before the subcommittee, if adopted, would prevent this from happening.

We believe that this legislation should establish a by-law, the fair market value concept. And we do not believe that the technical committee report formula would allow the fee to achieve fair market value. It injects the ability to pay concept and the cost of production element, which eliminates the business risk at the expense of public resources and would give those favored few permittees an economic advantage over livestock producers using private lands.

Senator LAXALT. Excuse me, Mr. Clapper. I was interested today in the testimony indicating that those who are operating on private lands

apparently have no objection to the proposed formula. Does that jive with what you hear out in the real world?

Mr. CLAPPER. No; I don't think so.

I am quoting here from our President, who is a livestock operator in Kentucky, and he says that "The grazing fee increases proposed by BLM and the Forest Service last year"—these were the fees that were suspended by the moratorium—he had to say, "As a cattleman myself who must purchase this land, fence it, and pay the taxes on it, I find it quite hard to swallow this windfall for the view. It places me and my fellow cattlemen in the East and in a competitive disadvantage in the marketplace."

So this is our viewpoint towards that.

I would like to comment on some other specific points in the bill. We believe it would be more consistent with the multiple use character of the lands in question and certainly clearer to us at least to employ the single term range lands throughout both bills rather than to have it both grazing lands and rangelands.

We also feel that it's a necessary thing for us to get into detail on the ground range improvement. While we sympathize with the attempts made in these bills to distinguish the environment and non-environment impact improvement so that all on the ground improvements need not be suspended during completion of the court order to other environmental impact statements.

We believe it unwise and inappropriate to legislate this distinction. And I was interested to see and to hear that several witnesses have recommended that this portion be excised from the bill, and certainly we would be content with this.

We would prefer language, if you adopt one—some language—we would prefer something that would authorize the Secretary of Interior to exempt those range improvements which he has determined after an environmental assessment review to have no significant impacts on the environment, although it is my understanding that under NEPA, the Secretary already has this authority and the provision would be superfluous.

On one area in which we are in agreement with the bill, is the wild horses and burros. We fully support the intent of section 7 of the bills and would only criticize them as not going far enough. In addition to the transfer of title authorized in each bill after 1 year of humane treatment, and humane destruction of excess animals for which no adoption demand exists, we would like to see BLM given the option to sell excess animals which do not lend themselves to adoption. If these animals could be disposed of in this manner, we believe the adoption and management program would benefit. Proceeds could be used to offset administrative and management costs and to further research regarding wild horses and burros.

We would not be against some of the studies that were proposed by Congressman Steers, but not hold up the program for the studies.

Senator LAXALT. You recognize then what a serious problem we have out west.

Mr. CLAPPER. Entirely. We entirely recognize it. One of our staff members is a member of the National Wild Horse and Burros Advisory Board and is fully appraised of it.

We also feel with relation to the multiple-use advisory boards that the present law, which authorizes the Secretary of Interior to establish multiple-use advisory boards under an option, while he is required to set up grazing boards is distinctive. And we hope that the multiple-use boards will be invoked and established, or we believe that there should be no advisory boards, one or the other.

We would recommend that the subcommittee consider language which would require either of the two, elimination of one or the inclusion of the other.

Thank you, Mr. Chairman, for the opportunity to be here.

Senator LAXALT. Thank you very much, Mr. Clapper. I appreciate it.

[The prepared statement of Mr. Clapper follows:]

STATEMENT OF LOUIS S. CLAPPER, DIRECTOR OF CONSERVATION,  
THE NATIONAL WILDLIFE FEDERATION

Mr. Chairman, I am Louis S. Clapper, Director of Conservation of the National Wildlife Federation, which has its headquarters here in Washington, D.C. at 1412 16th Street, N.W.

NWF is a private organization which seeks to attain conservation goals through educational means. NWF affiliates are located in all 50 states, Puerto Rico, Guam and the Virgin Islands. These affiliates, in turn, are made up of local groups and individuals who, when combined with associate members and other supporters of the National Wildlife Federation, number an estimated 3½ million persons.

The National Wildlife Federation welcomes this opportunity to comment on the legislation to improve the condition of the public rangelands under consideration now in this Subcommittee. From the point of view of the National Wildlife Federation, the House-passed H.R. 10587 and its Senate equivalent, S. 2475, offer mixed blessings. Before commenting more specifically on the provisions of these range improvements bills, however, I would like to make a few general remarks.

While the NWF cannot endorse these bills in their entirety, we are pleased with the comprehensive approach to range improvement that they represent. With 80 percent of the western rangelands classified as in less than good condition, it is high time that a serious commitment of funds was made to reverse this shameful statistic. The \$360 million that would be earmarked over a 20-year period for range rehabilitation and betterment should this legislation become law is needed. Dollars alone, however, will not accomplish the objectives of the legislation before this subcommittee. The full cooperation of all the users of the public rangelands is also required. Advocacy of the Technical Committee formula for grazing fees—otherwise known as the combined index—by the western livestock industry argues to us that, at the least, the livestock operators who are fortunate enough to be able to use the public rangelands are not yet prepared to shoulder the responsibility that goes with this privilege. NWF strongly supports the Administration's proposal of a fair market value formula for determining grazing fees. I will be discussing this issue in more depth further on in my testimony today.

In concluding these general remarks, the National Wildlife Federation regrets that the emphasis in both H.R. 10587 and S. 2475 is on grazing as a use of the public rangelands. These lands have many uses—including recreation, soil and water conservation, fish and wildlife habitat, and wilderness preservation—and the Bureau of Land Management and U.S. Forest Service have a statutory mandate to manage the lands for multiple-use. Both the House and the Senate bills, however, make a confusing and unnecessary distinction between "grazing lands" and "rangelands." We believe it would be more consistent with the multiple-use character of the lands in question and certainly clearer to simply employ the term "rangelands" throughout both bills.

Our specific comments follow and involve the issues of grazing fees, grazing leases and permits, on-the-ground range improvements, wild horses and burros, and multiple-use advisory boards.

## GRAZING FEES

The most controversial aspect of H.R. 10587 and S. 2475, in our view, relates to the grazing fees charged for grazing privately-owned livestock on public ranges administered by the Bureau of Land Management and the U.S. Forest Service. The history of the grazing fee situation is well documented in the "Study of Fees for Grazing Livestock on Federal Lands" dated October 21, 1977, and reported jointly by the Secretaries of Agriculture and the Interior. To us, this history is a sad one, indeed. Not until 1958 was a livestock price formula used to calculate grazing fees—prior to that time the fees were ridiculously low and pegged at prices intended only to cover the "cost of administration" and, later some range improvements. This was a giveaway of public resources to a favored few.

Then, in 1959, during the Eisenhower Administration, the Bureau of Budget established the laudable basic principle that the Federal Government should receive fair market value for its resources: mineral, timber and forage. The sad fact is that the public still does not receive fair market value for its forage and the legislation under consideration before the Subcommittee, if adopted, would prevent this from even happening. We have discussed this formula with several persons representing the livestock industry and honestly cannot agree with them.

This legislation would establish, by law, the grazing fee formula recommended by a Technical Committee in 1976. This formula would not allow the fee to achieve fair market value. It injects an "ability to pay" concept. It introduces a cost of production element. It eliminates business risk at the expense of public resources and would give these favored few permittees an economic advantage over livestock producers using private lands. It would be a government subsidy, pure and simple as are grazing fees at less than actual value of the forage.

We believe that the two secretaries, in the report of October 21, 1977, said it well in this manner:

"Reducing grazing fees in an attempt to increase income of livestock producers would be an inequitable form of agricultural subsidy because it would be available only to those livestock producers who are also public range users. The relative economic condition of the total livestock should not be used as a factor to determine Federal grazing fees for a limited part of that industry."

Frankly, we wonder why livestockmen in other regions have not complained against this discrimination. Commenting upon the grazing fee increases proposed by the BLM and the Forest Service late last year, our new President, Fred Scroggin, of Williamstown, Kentucky, had this to say: "As a cattleman myself, who must purchase this land, fence it and pay taxes on it, I find it quite hard to swallow this windfall for the few. It places me and my fellow cattlemen in the East at a competitive disadvantage in the market place."

We note that the Federal Land Policy and Management Act of 1976 sets out as a purpose of the study just completed that a fee should be charged for grazing which is equitable to the United States and to the holder of permits and leases on such lands. To us, equity to all concerned can be achieved through the payment of fair market value for the public's forage, as established in the formula adopted in 1969, with some modifications. Ideally, equity would best be achieved by competitive bidding in which the grazers could truly compare their potential benefits from the public range with the opportunities on private lands. This method would eliminate controversies about the cost of production factors such as transportation, herding, predator losses, range improvement, forage quality, etc., and establish a true market value to which the public is entitled.

Our concern, of course, is that subsidized grazing increases pressures for overuse of badly mistreated public ranges. This concern is documented in the Range Condition Report of 1975 which found that only 2 percent of the public range can be considered in an "excellent" condition, and 15 percent in a "good" category. Half of the range is only "fair," with the balance in "poor" (28 percent) or "bad" (5 percent) conditions. The multitudinous trespass problem leads us to a conclusion that many livestockmen will not voluntarily abide by allotment quotas which constitute sound resources management, that of keeping livestock numbers within the carrying capacities of their ranges.

The Secretaries of Interior and Agriculture and the President firmly support a fair market value fee formula. In signing H.R. 9757, the Grazing Fee Moratorium

of 1978, President Carter stressed the importance he attached to a FMV fee saying, in part,

"While I am signing H.R. 9757 to allow the Congress more time to review the Administration's grazing fee recommendations, I expect that Congress and its committees will honor the principle of a fair return from the use of natural resources by commercial interests. I remain opposed to legislation which does not provide a fair return to the United States for the use of public resources \* \* \*

"I urge the Congress to approve the Administration's grazing fee recommendations and support their implementation for the 1979 grazing year."

In light of the President's opposition to the use of a combined index formula it is a distinct possibility that legislation which contained this formula would be subjected to a presidential veto. We believe this would be extremely unfortunate given the generally excellent provisions of both H.R. 10587 and S. 2475. Furthermore, there is much more to be gained by all interests in terms of range improvement from the legislation than might be lost by a segment of the livestock industry in modest fee increases if the grazing fee formula based on fair market value is retained. In fact the differences between the combined index formula and a FMV formula are small and a comparison of the fees that would have resulted from use of each of these formulas over the past 13 years shows that fees arrived at using the combined index would have been higher for nine of those years.

In summary, we recommend that this Subcommittee adopt language which provides for a fee formula which is based on the fair market value concept, as recommended by the Secretaries of Agriculture and the Interior and supported by the President. And as a matter of principle, we oppose the experimental incentive program enacted by the House in H.R. 10587 insofar as it would permit reductions in grazing fees to below fair market value than range conditions improve. A healthy range which supports an increased number of cattle should be incentive enough to take the necessary steps to improve range conditions. This program would, in effect, pay livestock operators to take actions which would, in the long run, increase their profits and which they should, logically, take anyway. The American taxpayer would be providing a subsidy to these operators and cheating himself of a fair return on his resources at the same time.

#### GRAZING LEASES AND PERMITS

As we understand it, Section 6 in both H.R. 10587, and S. 2475, Grazing Leases and Permits is an attempt to reduce the instances in which the Secretary of the Interior may issue grazing leases or permits for terms of less than 10 years, thereby promoting security as to grazing use. What this section fails to take into account, however, is that even a 10-year permit is not set in concrete. It is subject to the Secretary of Interior's authority to alter forage allotments when the condition of the range requires that he exercise his responsibility to manage and protect the public lands. Any sense of security, then, that is attached to these permits is more apparent than real. Only a range producing at its capacity and wisely managed with the cooperation of its users can guarantee a specific level of use over a period of years. The only real security the livestock industry has is a healthy range.

The Administration has stated its intention to issue 10-year permits where the range is in good or better condition and intends to base its issuance of permits for less than 10 years on a case-by-case basis. NWF therefore, believes Section 6 of H.R. 10587 is not only illusionary in terms of offering security, but unnecessary.

#### ON-THE-GROUND RANGE IMPROVEMENTS

While we sympathize with the attempt made in H.R. 10587 and S. 2475 to distinguish between environment and non-environment impact improvements so that all on-the-ground range improvements need not be suspended pending completion of court-ordered or other environmental impact statements, we believe it is unwise and inappropriate to legislate this distinction. In our view, such distinction can only be made rationally on a case-by-case basis following established procedures under NEPA, i.e., an environmental assessment review to determine whether a more in-depth impact statement is warranted. S. 2475 as it now stands in particular would create an undesirable precedent for circumventing the NEPA process. The finding of significant impact cannot be made legislatively without completely undermining the intent of NEPA. S. 2475 would allow certain classes

of range improvements to go forward without any environmental assessment. We would point out, that of the non-environment impact improvements listed in S. 2475, and in H.R. 10587, at least two can under certain circumstances, have significant environmental impacts. Fence construction in New Mexico has been highly controversial as you know because of its adverse impacts on the movements of pronghorn antelope. The restoration of native vegetation using organic fertilizers can lead to serious water pollution problems.

In summary, a blanket legislative exemption of certain range improvements from the requirements of NEPA is unacceptable. We would prefer language authorizing the Secretary of Interior to exempt those range improvements which he has determined, after an environmental assessment review, to have no significant impacts on the environment although it is our understanding that under NEPA the Secretary already has this authority and such a provision would therefore be superfluous.

#### WILD HORSES AND BURROS

NFW fully supports the intent of Section 7 of H.R. 10587 and S. 2475 and would only criticize these two bills for not going far enough. In addition to the transfer of title authorized in each bill after one year of humane treatment, and humane destruction of excess animals for which no adoption demand exists, we would like to see BLM given the option to sell excess animals which do not lend themselves to adoption. If these animals could be disposed of in this manner, we believe the adoption and management program would benefit. Proceeds could be used to offset administrative and management costs and to further research regarding wild horses and burros.

#### MULTIPLE-USE ADVISORY BOARDS

Section 309 of the Federal Land Policy and Management Act authorizes the Secretary of Interior to establish multiple-use advisory boards, while under Section 403 the Secretary is required to set up grazing boards upon a petition of a majority of the livestock leases and permittees in a district. As a result of this distinction, the multiple-use boards have not gotten off the ground. NWF has expressed its concern to Secretary Andrus, however, inaction on the part of the President's Office of Management and Budget has blocked the Secretary's ability to act. The most obvious solution from our point of view is to legislatively mandate these boards. As stated earlier in our testimony, the public rangelands are not the exclusive province of the livestock industry and have many other uses. Other users should, as a matter of equity, have the opportunity to be advised of decisions which would affect their use of the rangelands and to advise BLM of their concerns, problems and preferences. In addition, we believe these boards would benefit the livestock industry by facilitating communication between the industry and other users of the range.

Therefore, we recommend that this Subcommittee consider language which would require the Secretary of Interior to establish multiple-use advisory boards representing the broad spectrum of public rangeland users.

Mr. Chairman, this concludes NWF's statement. I would be happy to answer any questions you or other members of the Subcommittee might have.

Thank you for this opportunity to present our views.

Senator LAXALT. Dr. Zagata.

#### STATEMENT OF DR. MICHAEL D. ZAGATA, DIRECTOR, FEDERAL RELATIONS, NATIONAL AUDUBON SOCIETY

Dr. ZAGATA. Mr. Chairman, thank you for this opportunity to testify on S. 2475. I will summarize my statement and ask that the full statement be entered into the record.

I am Michael Zagata, director of the Federal relations for the National Audubon Society, a nonprofit conservation organization with about 390,000 members organized into 423 chapters throughout the United States.

Our primary concern is that the public rangelands, be they administered by the Forest Service or the BLM, be properly utilized and managed under the multiple-use regime mandated by the National Forest Management Act and the Federal Land Policy and Management Act.

Therefore, our first recommendation is that the title of the bill be changed to read "Public Range Lands Improvement Act of 1978," rather than "Public Grazing Lands."

I also recommend that the word "range" be substituted for "grazing" wherever the phrase "public grazing lands" occur within the bill.

The improvement of the condition of the public rangelands so that they might better realize their potential productivity is a laudable goal and we fully support it. However, money alone is not going to restore that potential. If the rangelands are going to be improved, the grazing allotments must be brought in line with the existing carrying capacity of the range for livestock, wildlife, and the wild and free-roaming horses and burros. In many instances this will require that the number of cattle, and in some areas, horses and burros, using a segment of the rangelands be reduced.

Range vegetation is a renewable resource, and the National Audubon Society can and does support its use by livestock to the extent that the amount of forage remove annually is commensurate with sound range and wildlife management principles.

A quote from a 1977 article by Mr. Steve Gallizioli, Arizona Game and Fish Department, further documents my case that all is not what it might be on the public rangelands: "Because virtually all wildlife habitats are grazed by livestock, and because overgrazing is so widespread and has severely degraded such a vast acreage of habitat for so many wildlife species, it has to rank as the single most limiting factor for wildlife in Arizona today."

Neither Audubon nor Mr. Gallizioli are against grazing per se, but we do oppose overgrazing.

Mr. Gallizioli goes on to say, "Let me emphasize that the problem is not grazing as such, but overgrazing. Livestock grazing in moderation can actually benefit many species of wildlife. Studies show that grazing is seldom incompatible with wildlife until it reaches the level of overgrazing."

With regard to the grazing fee issue, we offer two suggestions for modifying the bill as written.

First, on page 3, change lines 12-13 to read, "It is the public interest to charge a fee for livestock grazing permits and leases on the public rangelands which is based on fair market value measured by the private land lease rate."

And, second, on page 14, change lines 16-25; and on page 15 change lines 1-6 to read, "Section 5. The Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which they recommended and published in the November 23, 1977, Federal Register."

We must oppose section 2(h) of H.R. 10587 which would circumvent the National Environmental Policy Act. This section assumes that fencing and the construction of water lines would not have a major environmental impact. The controversy raging in New Mexico

over fencing modifications to benefit antelope populations indicates otherwise. Waterlines lead to changes in range use, and those changes often have major environmental impacts.

Further, the bill gives carte blanche to range modifications by adding the words "but are not limited to" the list of permitted activities. The NEPA process allows an agency to make a negative declaration if it feels that a project will not have a major environmental impact. Therefore, there is no need to bypass that process, and we strongly oppose any attempt to do so.

In summary, Mr. Chairman, we urge that you consider the following:

**One:** Money alone is not going to restore the range to its full productivity nor will it stop the severe erosion that is presently occurring. Allotments will have to be brought into harmony with the carrying capacity of the range. Once needed reductions are made, the funding authorization of this bill will enable the agency to begin to rebuild the productive capacity of the land for the benefit of wildlife, watershed protection, livestock, and other multiple-use values,

**Two:** The recommendation of the Secretary of the Interior and the Secretary of Agriculture that the fair market value of forage on public lands be determined from the 1966 survey and the current private land lease rate should be adhered to. Cost of production and livestock prices should not be a part of the grazing fee formula. The addition of these two factors to the administration's formula converts a fair market value fee into a subsidy or ability-to-pay formula.

A compromise—and I indicate this is a compromise—on this issue might be reached by setting the fee for next year by using the 25-percent limitation on increases. In other words, not use either formula next year. Just take 25 percent of above what is proposed, set it at that fee, and, by the way, it would be the same next year no matter which formula you used because production is good this year, the cost is up.

Therefore, you would have the same figure as a basis for your fair market value fee for next year. And then take 1 year or 2 years and let the BLM conduct a broader base survey, a sample, to see if the figures that they have for the private land lease rate are actually valid. That would defer the issue for 1 or 2 years, give the industry time to see what's happening in terms of what its proposal would do versus what the administration's proposal would do.

They may find that they would be paying more under the Technical Committee report than they would be paying under the Administration's report.

**Senator LAXALT.** There really is a scarcity of information in relation to the private land figures. I know that a couple of the major States, my own being one of them, they have no available data at the present time. So to a certain extent in this whole area, they are flying blind; everybody is.

**Dr. ZAGATA.** That's right. And you could take the mechanism for maximizing the increase instead of 25 percent. Do that and give a time for facts to find their way to the surface.

**Three:** We concur with you, Mr. Chairman, that there is a need to bring the numbers of wild horses and burros into balance with the

carrying capacity of the range, but insist that this be done in the most humane and biologically sound manner.

Another proposal that several of the conservation organizations feel has merit is to consider RPA, or Forest and Rangeland Renewable Resources Act, type of legislation for the BLM. This would give them a mandate to do some inventory work, and at the same time it would set funding levels for the various multiple-use components that their lands are to be administered for.

The Resources Planning Act sets, as you know, funding authorizations, and that can be very, very beneficial, because otherwise we are going to run into the same kind of problems we have historically. You heard BLM testify this morning that one of their major limitations is funding to do the things that they had been charged with doing. And the other is personnel ceilings.

Well, I won't go into any more detail. I have listed an addendum with specific recommendations that we have for suggestions, and I would appreciate it if staff would consider those.

Senator LAXALT. We certainly will. Thank you very much, Doctor. Your testimony is very helpful.

[The prepared statement of Dr. Zagata follows:]

STATEMENT OF DR. MICHAEL D. ZAGATA, DIRECTOR, FEDERAL RELATIONS,  
NATIONAL AUDUBON SOCIETY

Mr. Chairman, members of this subcommittee, thank you for this opportunity to testify on S. 2475, a bill designed to improve our Nation's public range lands.

I am Dr. Michael Zagata, director of Federal relations for the National Audubon Society, a non-profit conservation organization with about 390,000 members organized into 423 chapters throughout these United States. The National Audubon Society is one of the oldest, largest and most experienced membership organizations devoted to conservation in general, and specifically to the protection and enhancement of wildlife populations and the ecosystems upon which those populations depend for their survival.

It is because of our long established concern for wildlife and its habitat that we are testifying again on the issue of improving the condition of our public rangelands for multiple use values. The National Audubon Society's primary concern is that our public rangelands, be they administered by the Forest Service (FS) or the Bureau of Land Management (BLM), be properly utilized and managed under the multiple-use regime mandated by the National Forest Management Act and the Federal Land Policy and Management Act.

Therefore, our first recommendation is that the title of the bill be changed to read "Public Range Lands Improvement Act of 1978" and that the word range be substituted for grazing wherever the phrase "public grazing lands" occurs (see addendum). We cannot endorse a bill that, by its title, perpetuates the dominant use of public lands by the livestock industry.

The improvement of the condition of the public rangelands so that they might better realize their potential productivity is a laudable goal and we fully support it. However, money alone is not going to restore that potential. If the rangelands are going to be improved, the grazing allotments must be brought in line with the existing carrying capacity of the range for livestock, wildlife and wild and free roaming horses and burros. In many instances this will require that the number of cattle, and in some areas horses and burros, using a segment of the rangelands be reduced.

Range vegetation is a renewable resource and the National Audubon Society can and does support its use by livestock to the extent that the amount of forage removed annually is commensurate with sound range and wildlife management principles. The fact that a 1975 study showed that 83 percent of our rangelands are producing at less than their potential is a serious reflection on the Congress and the public agencies charged with their stewardship. A quote from a 1977 article by Mr. Steve Gallizioli, Arizona Game and Fish Department, further

documents my case that all is not what it might be on the public rangelands (article attached).

"Because virtually all wildlife habitats are grazed by livestock, and because overgrazing is so widespread and has severely degraded such a vast acreage of habitat for so many wildlife species, it has to rank as the single most limiting factor for wildlife in Arizona today."

Neither the National Audubon Society nor Mr. Gallizioli are against grazing per se, but we do oppose overgrazing. Mr. Gallizioli goes on to say:

"Let me emphasize that the problem is not grazing as such, but overgrazing. Livestock grazing in moderation can actually benefit many species of wildlife. Studies show that grazing is seldom incompatible with wildlife until it reaches the level of overgrazing."

With regard to the grazing fee issue, we offer two suggestions for modifying the bill as written:

"1. On page 3, change lines 12-13 to read—it is in the public interest to charge a fee for livestock grazing permits and leases on the public rangelands which is based on fair market value measured by the private land lease rate; and

"2. On page 14, change lines 16-25 and on page 15 change lines 1-6 to read '(Sec. 5. the Secretaries of Agriculture and Interior shall charge the fee for domestic livestock grazing on the public rangelands which they recommended and published in the November 23, 1977 Federal Register.'"

The National Audubon Society believes that if section 102(a) (9) of the Federal Land Policy and Management Act of 1976 is executed and the United States does indeed " \* \* \* receive fair market values \* \* \*" for grazing on public lands, that many of the current grazing abuses will be eliminated because fair market value prices would eliminate the incentive to overuse artificially cheap resources (overgrazing). At the present time, however, the value of a grazing permit is sometimes as high as \$1,500 per animal unit. Obviously, the United States cannot now be receiving "fair market value" or grazing permits would not have such a high monetary value. The fact that these permits do have such a high value is important because efforts to cope with overgrazing problems by reducing livestock numbers are hotly contested by ranchers reluctant to reduce the value of their national forest permit or national resource land lease.

For the committee's benefit, I would like to quote an article by Earl Sandvig in the September-October 1977 issue of Arizona Wildlife News:

*"Development of permit values*—Because the Federal land fees are lower than the cost of comparable private land leases and are relatively free from competitive market influences, the permits take on a value, hereafter called the 'permit value.' This value becomes a capital asset to the ranch, and adds to its price in subsequent sales. It also becomes a security for loans.

"What is the permit value in dollars? From \$20 to \$25 per animal unit month is an approximate mean for forest service range permits; \$15 per animal unit month (AUM) for BLM permits. It is the additional cost of a ranch with a Federal permit above the cost of one without a permit. It approximates the capitalized value of the amount the Forest Service and the BLM undercharge for permits to graze Federal lands, in comparison with costs of similar private lands. If the rancher's total operating cost per AUM for grazing on private lands is \$5.32 and for Federal lands is \$4.26, the difference (\$1.06) (would be \$3.44 per AUM under 1978 proposal) is in effect an annual 'gift' from the Government which, at 4¼ percent means a capitalized permit value of \$25 per AUM. The value of a ranch with a permit for 100 cattle for four months would rise by \$10,000. To the rancher first establishing the preference permit it is a gift, but it is an investment cost (one reason it is hard to reduce allotments) to subsequent purchasers of the ranch.

"Transactions are of record wherein permit values are itemized in ranch evaluations. State game departments have had to acquire some ranch properties to recapture for public use, public lands needed for game range and forage. Prices include livestock grazing 'permit value;' and when Federal aid (Pittman-Robertson Act) funds are used, the Bureau of Sport Fisheries and Wildlife recognizes the permit cost as reimbursable. Thus one branch of the Federal Government buys back what another has given away via grazing fees. Does the Government have to buy back what it has granted as a privilege, or is it in reality buying a vested right?"

The National Audubon Society must oppose section 2(h) of H.R. 10587 which would circumvent the National Environmental Policy Act (NEPA). This section

assumes that fencing and the construction of water lines would not have a major environmental impact. The controversy raging in New Mexico over fencing modifications to benefit antelope populations indicates otherwise. Water lines lead to changes in range use and those changes often have major environmental impacts. Further, the bill gives carte blanche to range modifications by adding the words "but are not limited to" the list of permitted activities. The NEPA process allows an agency to make a negative declaration if it feels that a project will not have a major environmental impact. Therefore, there is no need to bypass that process and we strongly oppose any attempt to do so.

We concur in principle with the language in section 7 regarding the need to bring wild and free roaming horse and burro numbers in line with the carrying capacity of the range. The procedures outlined in section 7 appear to be humane and biologically sound.

In summary, Mr. Chairman, we urge that you consider the following:

(1) Money alone is not going to restore the range to its full productivity nor will it stop the severe erosion that is occurring. Allotments will have to be brought into harmony with the carrying capacity of the range. Once needed reductions are made, the funding authorization of this bill will enable the agency to begin to rebuild the productive capacity of the land for the benefit of wildlife, watershed protection, livestock, and other multiple-use values.

(2) The recommendation of the Secretary of the Interior and the Secretary of Agriculture that the fair market value of forage on public lands be determined from the 1966 survey and the current private land lease rate should be adhered to. Cost of production and livestock prices should not be a part of the grazing fee formula. The addition of these two factors to the administration's formula converts a fair market value fee into a subsidy or ability to pay formula. A compromise on this issue might be reached by setting the fee for next year by using the 25 percent limitation on increases. The fee, if calculated this way, would be the same next year no matter which of the two formulae were used to arrive at it (\$1.89 per AUM). At the same time, Congress could direct the BLM to update their information on the private land lease rate and to study both formulae to determine which is best for the public interest and report back to Congress by July 1979 on their findings.

(3) We concur with the sponsor of 2475 that there is a need to bring the numbers of wild horses and burros into balance with the carrying capacity of the range, but insist that this be done in the most humane and biologically sound manner.

Thank you for this opportunity to testify.

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#### Addendum—Specific Recommendations

1. Strike the word "grazing" and substitute the word "range" on: Page 1—lines 0, 3 and 7; page 2—lines 1 and 5; page 3—line 16; page 4—line 23; page 9—lines 2, 15; and page 14—line 18.

2. Page 1—lines 7 and 8—reword to read: "(1) vast segments of the public rangelands administered by the Bureau of Land Management and the Forest Service are in an unsatisfactory condition and producing less than \* \* \*"

3. Page 1—line 11—strike.

4. Page 2—lines 14 and 15—reword to read: "and wildlife production; increase surface water runoff \* \* \*"

5. Page 2—line 18—reword to read: "and regional climatic and economic changes;"

6. Page 2—line 21—delete the words: maintenance and improvement

7. Page 2—line 23—after the word "funding" insert: "for multiple use values".

8. Page 2—line 24 and page 3 lines 1 through 4—should be reworded to read: "certain amendments are necessary to the act of December 15, 1971 (85 Stat. 649, 16 U.S.C. 1331 et seq.) to avoid \* \* \*"

9. Page 3—line 13 on—should read: "it is in the public interest to charge a fee for livestock grazing permits and leases on the public rangelands which is based on fair market value measured by the private land lease rate."

10. Page 4—line 5—should read: "roaming horses and burros from indiscriminate capture \* \* \*."

11. Page 5—strike lines 7 through 24 and page 6 strike lines 1 through 12. These provisions are already spelled out in section 103 (k)-(p) of the Federal Land Policy and Management Act of 1976.

12. Reletter the following subtitles starting with the letter "E" being amended to the letter "C" on page 6, line 14 and ending with the letter "H" on line 20, page 8.

13. Page 7—lines 5 through 25 and page 8—lines 1 through 13—should be struck because they are addressed in the National Environmental Policy Act.

14. Page 11—lines 14 through 23—this language is vague and does not say whether or not the 15 percent for hiring and training should come from 100 percent of the fund or from the 80 percent of the fund used for on the ground rangeland maintenance and improvements.

15. Page 12—lines 5 through 9—this section gives preference to the livestock industry and flies in the face of multiple-use management. If the intention of this provision is to provide for cooperative agreements with all user groups, this should be specifically spelled out.

16. Strike the words "environment impact" where they occur on (a) page 12—lines 13, 17 and 23, and (b) page 13—lines 4 and 19.

17. Page 13—lines 15 and 16—strike the words: "nonenvironment impact improvements, and for."

18. Page 13—line 22—strike the word "forage" and insert the word "vegetation."

19. Page 14—lines 18–25 and page 15—lines 1 through 6—should be rewritten to read: "rangelands which were recommended by the Secretaries of Agriculture and Interior as published in the Federal Register on November 23, 1977, pages 60108–60110.

20. Page 15—lines 11 and 12—strike the words: "land use plans or." These plans must be in place before a 10-year lease can be granted.

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[From Outdoor Arizona, October 1977]

#### OVERGRAZING

(By Steve Gallizioli)

#### MORE DEADLY THAN ANY HUNTER

People today are more aware of, and more concerned about, wildlife and wildlife problems than ever before. To a large degree television gets the credit for arousing the interest of so many people. It must also accept the blame for the misinformation that has been dispensed via the TV screen, much of it having to do with the causes for declining animal populations. The networks seem to have been more interested in promoting the idea that hunters are to blame for the plight of endangered species than in presenting the real issues. For most species, the cause is more likely to be restricted or impoverished habitat due to any one of dozens of man's activities.

The disastrous but bloodless consequences of habitat destruction are simply not sufficiently dramatic to arouse people. The end product of habitat destruction, the elimination of entire populations of animals, is too distantly removed from the habitat disruption itself.

This is even more true of the habitat disruption that results from overgrazing—a particularly insidious form of habitat damage—because it takes place slowly, over a span of years. Many people got their dander up over the threatened elimination of the riparian habitat in the Orme Dam site, yet few are able to appreciate the consequences of the overgrazing that has prevailed over most of the lands near Orme Dam for the past 75 years or more.

Overgrazing by livestock is doing infinitely more damage to Arizona's wildlife populations than Orme Dam could possibly do. (No Virginia, I am not a supporter of Orme Dam. Quite the contrary in fact.) This reservoir would flood a paltry few thousand acres, while overgrazing has seriously lowered the carrying capacity for wildlife on millions of acres. Because virtually all wildlife habitats are grazed by livestock, and because overgrazing (the practice of running more livestock than the forage can support) is so widespread and has severely degraded such a vast acreage of habitat for so many wildlife species, it has to rank as the single most important limiting factor for wildlife in Arizona today.

A major problem in the public's failure to become concerned about overgrazing is the fact that the practice does not quickly eliminate wildlife habitat; it, in-

stead, slowly degrades it. Over time the quality of the habitat, the environment in which an animal lives, is lowered. One might look on it as equivalent to the gradual conversion of a choice neighborhood into a slum. Chronic overgrazing promotes wildlife slums. A big difference is that, unlike the artificially supported populations in our human slums, animal species are more drastically affected by the impoverishment of their environment.

For the most part, wildlife is not totally eliminated by overgrazing. Overgrazed ranges will usually continue to support deer, javelina, quail, cottontails, curve-billed thrashers, packrats, Gila monsters, desert tortoises and many others. But there won't be as many—the reduction in numbers being related to the severity of the range abuse and the tolerance of the individual wildlife species to habitat disturbance. Some will be more affected than others, but seldom is overgrazing carried to such extremes that habitat damage is complete and a species is wiped out. But the fact that even this can happen is evidenced in the story of the masked bobwhite of southern Arizona.

This strikingly plummaged near-relative of the Eastern bobwhite was removed from the Arizona scene about the turn of the century. It happened when one of the periodic droughts, a natural feature of desert regions, struck Arizona in the late 1890's. The historical record shows that southern Arizona ranges at the time were flooded with literally hundreds of thousands of cattle. When the drought hit, untold thousands of cattle starved to death—but not before they had denuded the range of vegetation.

The extreme overgrazing destroyed the habitat for the bobwhite; when the habitat went so too did the bobwhite. Its call was not heard again until recently, when the progeny of masked bobwhite trapped in Sonora and propagated at Patuxent, Maryland were released in historic habitat in the Altar Valley southwest of Tucson (under a cooperative program between the U.S. Fish and Wildlife Service and the Arizona Game and Fish Department). Overgrazing is still more than the rule than the exception in the Altar Valley, although conditions have improved somewhat. Whether the habitat has recovered enough in the past 75 years to again support this species is uncertain. The results of the restocking efforts to date have not been promising.

While many people are of the opinion that overgrazing is a practice that stopped long ago when management of public lands came under the control of state and federal land management agencies, the facts are something else entirely. In the Southwest at least, and particularly here in Arizona, overgrazing has actually worsened in many areas during the past 25-30 years. For the most part, what improvement there has been has taken place on the National Forests. Grazing lands administered by the Arizona State Land Department and the Bureau of Land Management are in a generally sorry state of affairs.

Even on the National Forests there is still room for much improvement, but this agency may now be making an effort to bring livestock numbers in line with what Arizona ranges can support. And a real effort is long overdue. The history of grazing on National Forest lands has been one of "too late and too little". Because of the long, drawn-out appeal procedures available to ranchers faced with a serious reduction in livestock numbers on their overgrazed allotments, a forest supervisor often felt he had to compromise, settling for a smaller cut in livestock numbers—one that the rancher would agree to, rather than pressing the issue and going through a long appeal process. Perhaps settling for "half a loaf" today instead of pressing for the allotment cut that the supervisor knew was necessary seemed the thing to do. Such a tactic, however, is one of the reasons so many ranges have continued to deteriorate, despite the reductions in stocking levels that were indeed made.

Sadly, settling for less than what was actually called for only served to slow range degradation. It didn't stop the process. Choice forage plants continued to suffer and worthless weed species continued to increase as the good ones were killed off by overuse. Soil erosion continued to grind away the precious few inches of topsoil, and wildlife habitat continued to suffer.

I sometimes hear apologists for range abuse argue that overgrazing does not so much degrade or destroy wildlife habitat as that it alters it, making it more suitable for some species as it makes it less suitable for others. I must admit there is a kernel of truth in the argument, particularly as it applies to the early stages of overgrazing. For the most part, however, the species that are favored by overgrazing are not, by most standards, as desirable as those that are eliminated.

Most people would not consider large numbers of jackrabbits and gophers a fair exchange for herds of antelope and coveys of scaled quail. And even the rabbits and rodents that might thrive under the early stages of overgrazing themselves suffer as the range abuse continues.

Some species are more intolerant of range abuse than others and more likely to be adversely affected by it. Much depends on whether an animal does best on habitat that is in what biologists call a "climax" stage. "Climax" is simply that stage which a disturbed area reaches after many years, if no other disaster strikes. For example, when "climax" spruce forest burns, the area will slowly go through a series of phases over many years until it again supports a stand of mature spruce. Different species of animals will occupy the area as it goes through these successional phases.

Desert grassland is another type of climax formation, and the masked bobwhite was a bird associated with this habitat type. Unfortunately for the masked bobwhite, the consequences of severe overgrazing in its habitat were much more disastrous than a burn. A fire in grassland generally burns off the above-ground portions of the vegetation. The burned area will quickly recover and support a stand of grasses within a year or less. Prolonged overgrazing, however, weakens and eventually kills the perennial grasses, the most important component of grassland. Once the perennial grasses are gone it is almost impossible to restore them even if the area is protected completely against grazing—which rarely happens. The Arizona Game and Fish Department's Three Bar Wildlife Area, however, is one such area that has been protected from cattle for more than 30 years. Yet, in spite of the long period of complete protection, the perennial grasses have never been restored to most of the area and many of the deep erosion gullies started by the heavy overgrazing 40-50 years or more ago have not even begun to heal.

Antelope and bighorn sheep also do best under climax conditions. Mule deer, on the other hand, fare better under some degree of disturbance. Because heavy grazing over the years has eliminated the original perennial grass stands from many areas, those species that do best in grassland climax have suffered most from this type of land abuse.

Less than 100 years ago we had large herds of antelope roaming the desert grasslands of southern Arizona, including much of the country near Oracle Junction. Overgrazing has converted the Oracle Junction area from productive desert grassland to low value desert scrub. As its preferred habit was destroyed, the antelope gradually disappeared. There hasn't been an antelope seen in that locality in 20 years or more.

Scaled quail also thrived in the same habitat as the southern Arizona antelope. A few scalies continue to hang on near Oracle Junction; but, as conditions worsen, it is only a question of time until they too will disappear.

Desert bighorn sheep, another climax species, were once so abundant in Arizona that local Indians relied on them for the major part of their protein. One of the most amazing bits of evidence of bighorn sheep abundance was the report of a witness in the 17th century of a veritable mountain of bighorn sheep horns in an Indian village near Tucson. The observer estimated there were some 100,000 sets of horns in the pile! Even if the report is exaggerated by 50 percent or more, it would still suggest an incredible abundance of bighorns to support hunting on such a scale. Bighorns have not vanished entirely from the Tucson area, but you would be hard put to make any kind of a pile of horns from the remnant population that still survives in the Pusch Ridge area of the Catalina Mountains. Not surprisingly, Pusch Ridge is ungrazed by domestic livestock.

Elk is another climax species. Studies in several states, including Arizona, Oregon, Montana and California, have shown conclusively that elk and heavy cattle use are not compatible. In fact, if elk can move out of a heavily-grazed area they will do so. Some hunters put this knowledge to use by hunting in those areas that have received little cattle use in the months preceding the hunting season.

The original elk in Arizona was the Merriam elk, a sub-species that disappeared from Arizona about the same time as the masked bobwhite. Whether overgrazing was responsible for its demise, as was the case with the bobwhite, is impossible to determine. Considering what we know today about the impact of heavy cattle use on elk populations, it would be surprising indeed if the extreme overgrazing that occurred in the late 1800's was not an important factor, perhaps *the* factor, that lowered the boom on our original elk population.

Let me emphasize that the problem is not grazing as such, but *overgrazing*.

Livestock grazing in moderation can actually benefit many species of wildlife. Studies show that grazing is seldom incompatible with wildlife until it reaches the level of *overgrazing*. That's the point where preferred forage plants are weakened, then killed off; where undesirable weed species replace desirable forage plants; where the ground cover needed by many species for nesting and concealment is eliminated; where cattle turn to browse after the grass is wiped out and then have to compete directly with such browsing animals as deer; and, finally where that all important topsoil begins washing away because there are no deeply rooted grasses to hold the soil in place.

Ranchers often charge that critics of overgrazing fail to appreciate the benefits that incidentally accrue to wildlife from various range improvements made specifically for livestock. Water distribution is most frequently mentioned. There is no doubt that water sources constructed for livestock are also used by wildlife. There is also little doubt that the increase in watering places that I've witnessed in the 27 years I've worked, hunted and fished on Arizona's public rangelands, has permitted overgrazing to spread. When dependable water holes were scarce, cattle were unable to graze (or *overgraze*) many areas because the distance to water was too great. I've seen no evidence that the trade-off has been a plus for wildlife. On the contrary, my observations have been that, everything else being equal, wildlife is more abundant where grazing is moderate or non-existent, regardless of availability of stock water.

The photos on these pages illustrate what happens when overgrazing is carried to extremes. It is probably understating it by a mile to call what you see in these pictures "overgrazing". The land abuse shown here has been carried to the point where it would be more correct to dub these situations *ecological disasters*.

Not all rangelands are as badly degraded as those in these photos, but unfortunately they do illustrate conditions in far too many areas. In the elevations of the state below the ponderosa pine belt, it is actually difficult to find areas that are not now being overgrazed to some extent; or that have not been so badly overgrazed in the past that it is difficult to determine whether they are still in a downward trend.

Some ranchers are doing a good job of range management; several have had a very real interest in maintaining proper stocking levels to avoid overgrazing. A few even consider wildlife in their range management programs. My hat is off to them. Unfortunately, as a tour of rangelands in any part of the state will demonstrate, such ranchers constitute a minority. Unless this minority can somehow be expanded soon to include a large majority of ranchers, wildlife habitat will continue to deteriorate and wildlife populations will continue to decline.

If it doesn't stop soon, Arizona will eventually look like the bleak, barren landscapes that now characterize many parts of North Africa, the Middle East and much of Asia. And it will all be due to the same innocent-sounding phenomenon that devastated these other corners of the globe—overgrazing.

Senator LAXALT. I think that is all. Thank you all very much for coming.

I would like now, before we have the concluding panel, to take just a 5-minute recess if it is all right. Thank you.

[Recess.]

Senator LAXALT. We have as our last panel for the day Mrs. Blue, Mr. Dantzler, and Mr. Paulhus. Have I covered all the bases?

Mr. BARRETT. My name is David Barrett, Senator, appearing for the American Horse Protection Association, and Mr. Russell Gasper from my law firm here in Washington.

Senator LAXALT. Thank you. You are very welcome.

May I thank you for your patience, Mrs. Blue. I am sorry it is so late and you have had to spend the whole day here. But I must say that because of the session, it is really almost unavoidable. And again the lack of Members is no indication of their lack of interest, none whatsoever. We have an important Interior bill on the floor. We

have the natural gas conference, and my colleagues just happen to be involved. So thank you. You may proceed.

**STATEMENT OF JOAN BLUE, PRESIDENT, AMERICAN HORSE PROTECTION ASSOCIATION, INC.**

Mrs. BLUE. Thank you very much, Senator.

First of all, I would like to say that I have been authorized by the Defenders of the Wildlife to state that they are in full agreement with our testimony concerning section 7.

Senator LAXALT. The record will so indicate.

Mrs. BLUE. Thank you.

Mr. Chairman, the American Horse Protection Association is a humane organization of over 10,000 members dedicated to the protection of horses, both wild and domestic. A majority of AHPA members come from Western States; however, all of its members are vitally concerned with the protection and preservation of America's wild horses and burros. AHPA appreciate this opportunity to present its view concerning S. 2475.

AHPA applauds any attempt to improve the condition of the public grazing lands for the benefit of all their users. We support in concept the provisions of the bill requiring the Departments of Interior and Agriculture to increase their store of knowledge about the condition of the public lands and their forage-producing ability, and providing additional funds for range improvement projects.

AHPA also supports efforts to equate the fee charged for livestock grazing permits on Federal lands with the fair market cost of equivalent private grazing lands.

However, section 7 of S. 2475, and similar legislation already passed by the House of Representatives, H.R. 10587, will effectively revoke the Wild Free-Roaming Horses and Burros Act, Public Law 92-195. If enacted, this bill will provide legislation sanction for a reduction of wild horse numbers to their approximate population levels prior to 1971, all under the guise of management. Paradoxically, the legislation will legitimize the situation it was intended to cure. Government action will merely be substituted for mustanging.

Senator LAXALT. Mrs. Blue, I am sorry but I have to go to a vote. Counsel will handle this for a few moments, if it's all right with you.

Mrs. BLUE. All right.

Senator LAXALT. All right. I will return as quickly as I am able to vote.

Mrs. BLUE. Thank you.

At the time the Wild Horse Act was passed, it was assumed that about 17,000 wild horses remained on the public lands. However, studies since then lead to the conclusion that the number was higher, probably closer to 25,000. Now the Bureau of Land Management and the Forest Service want to remove about 30,000 of the claimed current population of 60,000 wild horses as excess.

If the Agencies' population figures are high—and it is likely that they are—after the shooting is over we will be left with about the same number of horses as we started with. And the carcasses will be used for the same commercial purposes as they were before 1971, since

under the proposed amendments, wild horses would lose their wild free-roaming status once disposed of. What, then, remains of the original act? The individuals rounding up the horses may have changed, but the net result is the same: Wild horses will be kept at the population level they were reduced to by commercial interests prior to passage of the Wild Horse Act.

For this reason, and because the clear title provisions of the bill would seriously undermine the act's intention to eliminate commercial gain from the ownership or sale of wild horses, AHPA strongly opposes section 7 of S. 2475.

Proponents of the House version of this legislation have claimed that the requirement that a current inventory of lands be conducted prior to wild horse removals will somehow insure proper protection and management of wild horses. Given the BLM's performance under the present act, however, it is highly unlikely that a current inventory requirement will produce results any different than the current disaster.

BLM and the Forest Service have had 7 years to develop a reasonably precise and scientific approach to the protection of wild horses, and they have not done so. Section 7 of S. 2475 will only discourage them from further efforts.

A few examples of BLM's approach to wild horse management are necessary to illustrate this point.

Recently, AHPA and the Humane Society of the United States brought suit against the Department of the Interior over a number of proposed wild-horse roundups in Nevada. The BLM's own documents demonstrated that, in two areas, the wild horses it had declared excess were those for which BLM had failed, in violation of its own regulations, to make forage allocations. The carrying capacity of the range was being determined from 15-year-old surveys. Census data was not only incomplete, but studies tending to show a leveling of population were ignored in favor of dire predictions of continued increase.

Furthermore, Government mismanagement may have irreparably imperiled the wild-horse herd in the Pryor Mountain Wild Horse Refuge. Although the population in the refuge is supposed to be maintained at an optimal level of about 130 animals, noted wild-horse expert Hope Ryden, who visited the refuge last winter, found many fewer animals than the BLM's census. That fact, combined with a substantial reported winter die-off, may have reduced the Pryor population to a level from which it may not recover.

Ms. Ryden, an AHPA advisor who has studied wild horses extensively in the Pryors since 1968, cannot understand why the BLM insists on maintaining the refuge's population at such an artificially low level, especially when the area once easily supported well over 200 horses.

This, then, is the type of management the responsible agencies practice. A requirement that a current wild-horse inventory be conducted is worthless because the fundamental question—When does a horse or any animal become excess?—remains wholly unanswered. The misconception of S. 2475, and indeed in the BLM's range management policies, is that there are excess wild horses which must be removed from the range. In fact, no one has objective data to support a conclusion that

there are too many wild horses. Yet by commanding the removal or destruction of excess, Congress will eliminate any incentive to conduct a scientific inquiry.

It has never been clear to AHPA how the BLM has determined that a given number of horses is excess. Several factors seem to be important. In some cases excess seems to mean that there are more horses than someone's subjective idea of the proper number; in other cases, that there are more horses now than there were in 1971. Sometimes excess seems to mean the horses are reproducing at a claimed rate of increase deemed to be too high. And at other times, an increase in wild-horse numbers in relation to the number of domestic livestock leads to a conclusion that there are excess horses.

It is clear, however, that the concept of excess embodies more than mere population. In part, it involves a current analysis of the types and amounts of forage being produced in a given range area; an analysis of what horses eat as opposed to what other herbivores eat, and from where each animal grazes or brouses; and an analysis of natality and mortality data, and of population trends, as opposed to only a given year's census. These kinds of studies are generally not being done by the BLM, and S. 2475 will not change that fact.

AHPA has never believed BLM's numbers to be accurate for the simple reason that the counting techniques it employs are inherently imprecise, and the biology of wild horses makes the claimed rates of population increase impossible. Even BLM's sources support AHPA's contentions.

For example, Milton Frei, a range conservationist at the BLM Division of Standards and Technology in Denver, states, in a paper presented to the National Wild Horse Forum in Reno, Nev., April 5, 1977:

Our third priority for research involved an investigation into the causes of natural mortality in wild horses populations. There are two basic reasons for including this type of study with our research priorities. First, an understanding of mortality will enable us to more realistically project the rate of wild horse population increases.

At the present time, wild horse population increases are being determined by one of two different techniques. One technique involves a comparison of the differences between two or more aerial counts. The other technique involves the addition of the foal crop to the adult population each year, similar to compound interest. Both of these techniques have serious problems which affect their validity.

In the case of consecutive aerial counts, the sources of error or bias associated with such counts have been thoroughly investigated on various types of animals by several researchers. Almost invariably, the errors, in aerial counts can account for population increases without an actual increase ever taking place on the ground.

In the case where the foal crop is added to the adult population each year, the obvious conclusion is that mortality is equal to zero. This is obviously a wrong conclusion.

Even in the best of counts, which include aerial surveys and on-the-ground censuses taken by people familiar with the area and the characteristics of individual wild horses, and which BLM normally does not do, there is a plus-10 percent error. Therefore, it is clear that whatever population the BLM claims can only be a vague estimate.

Second; the biology of wild-horses reproduction puts a limiting factor on population increases and refutes the BLM's claimed increases. Hope Ryden has shown that the limited number of mares of breeding age, the frequency with which they are able to conceive, the percentage of breeding mares that actually conceive, and a number of other factors, including abortions and mare and foal deaths, make it scientifically impossible for wild horses to have achieved the 25-30 percent rates of population increases BLM attributed to them.

Ms. Ryden's conclusions were presented to Congress last year before this subcommittee, which was conducting oversight hearings on the Wild Free-Roaming Horses and Burros Act. Furthermore, they are well-known to the BLM.

And independent academic findings concerning reproductive behavior of female horses clearly support Ms. Ryden's testimony. They are summarized in BLM Technical Note No. 294, entitled "Wild Free-Roaming Horses—Status of Present Knowledge."

For example, the note states that wild mares are of breeding age only during the fourth through ninth years, and that most foal only every other year. These factors significantly limit the reproductive ability of a herd of wild horses.

It is clear, therefore, that BLM's population claims are inherently suspect. Whether the so-called population explosion is measured by claimed increases in actual numbers or claimed percentage rates of population growth, the explosion is a myth. No one really knows how many wild horses there are, nor to what extent their numbers have increased over the past few years. How, then, can BLM or the Congress assume a large proportion of them to be excess?

In addition to the imprecision of the data on wild horse numbers, there is a serious lack of fundamental information on wild horse diets and behavior. For example, data is very incomplete as to how much a wild horse eats; what it eats; how its diet changes with the seasons; how effectively it uses its forage; how its normal range changes on a seasonal basis; how its diet overlaps and competes with the diets of domestic livestock and wildlife; and whether horses, rather than livestock, appreciably contribute to watershed erosion and wildlife habitat problems. This absence of data, when coupled with the imprecise wild-horse population figures, and the conceded need for more accurate inventories of range conditions and productive capacity, makes determinations that there are large numbers of excess wild horses little more than blind speculation.

Therefore, it is AHPA's conclusion that the underlying premise supporting the wild horse provisions of the bill is erroneous. As such, AHPA strongly opposes the bill's attempts to simplify removal of wild horses from public lands and to authorize the destruction of many more.

Finally, AHPA opposes the provisions of S. 2475 that would donate wild horses to persons adopting them, after the adopter has demonstrated 1 year's humane care of the horse. Such proposals have traditionally been justified on the grounds that they will encourage more people to adopt a wild horse or burro. AHPA does not believe that such a provision would significantly increase the number of adopters.

More important, AHPA can see no need to expand the adopt-a-horse program; there is simply no need to gather wild horses.

Furthermore, the current adopt-a-horse program is administered very poorly. No effort is made to investigate applicants to determine if they will mistreat or dispose of wild horses in violation of the law. Even without the title transfer provision, horses are disposed of illegally; one individual apparently has sold over 80 to a slaughterhouse.

Quite simply, no investigation of adoptive homes will be made after 1 year if S. 2475 is enacted. The bill will become an avenue for every unscrupulous horse trader and rodeo operator to acquire free horses, which they will be able to sell for slaughter or abuse with impunity.

Over 3 million cattle and 4 million sheep graze each year on the public rangelands. Even assuming that wild horse and burro numbers are 70,000, domestic livestock outnumber wild horses by 100 to 1. They consume many times more AUM's of forage, and do far greater injury to the land in terms of erosion, watershed, and wildlife habitat damage. Uncontrolled livestock grazing is to blame for the poor condition of the Western rangeland, and rehabilitative measures addressed to the problems of livestock grazing, some of which are contained in S. 2475, will restore the public lands to good condition. Making wild horses the scapegoat for range management problems they did not cause is contrary to the law and commonsense.

Senator, I would like very much to append my testimony with two documents concerning wild horses.

Senator LAXALT. Certainly. Would you like to make that part of the record, Mrs. Blue?

Mrs. BLUE. I would appreciate it if you would.

Senator LAXALT. It will be so ordered.

Mrs. BLUE. Thank you.

Senator LAXALT. In addition to that, I might tell you that since my colleagues are not here, that we will make certain that your statement is made available to them for their personal reading. Thank you very much, Mrs. Blue.

Mrs. BLUE. Thank you.

[The articles referred to by Mrs. Blue follow:]

AMERICAN HORSE PROTECTION ASSOCIATION, INC.  
1312 - 18th Street, N.W., Washington, D.C. 20036

FALL 1977 NEWSLETTER SUPPLEMENT



by Hope Ryden  
Photographs by the author

## Managing Mustangs In Deep Ignorance

*BLM roundups pose the question:  
What is two-thirds of an unknown?*

**A** TRAVELLER in the harsh, beautiful terrain where the wild horses found their last strongholds still sees the traps, corrals, and holding pens used by the mustangers in their heyday. The horse runners, of course, were put out of their cruel business six years ago by the Wild Horse and Burro Act.

Today, ironically, it is the United States of America, through its Bureau of Land Management, that is routing the animals from their isolated retreats.

Throughout the summer, BLM has conducted massive wild horse roundups, culling large numbers of animals from herds scattered widely across twelve states.

Herds in Nevada are being cut by two-thirds. In Oregon, reductions are also high. And along Wyoming's Red Desert, oversized holding pens have been built to accommodate all the wild horses being gathered in Colorado, as well as those caught in Wyoming.

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At home on the range: Mustangs cavort, and fight, and run away, and huddle together to make each sweep of their broomtails' do double duty against flies. Stallion at far left, ironically, has the safest home: an Air Force practice bombing range. Targets can be avoided, and BLM's 'managers' can't get at him.

If they weren't lassoed and hauled away, you see, they would suffer from the drought.

BLM's decision to make life easier for the horses by removing most of them is not a policy that all their friends agree with. To be sure, if the drought is as severe as everyone says (and there is no reason to doubt it), the horse population will either stabilize or crash without assistance from BLM. But there are deeper reasons for questioning BLM's drive for such drastic reductions.

For one, the bureau's horse counts are unreliable. Moreover, the culling of two-thirds of a herd could, for example, remove every breeding mare in an area. Finally, it is not the bureau's responsibility to prevent natural population crashes from taking place. The law was written to allow for such occurrences. The bureau is ordered to keep its hands off as much as possible—to provide its management only "at the minimum feasible level."

BLM, of course, has been caught between conflicting interests. The livestock and hunting industries resent mustangs and the fact that their numbers have rebounded from an all-time low in 1971. They complain that wild horses are eat-

ing public grass that might otherwise feed animals of commercial importance. Their philosophy can be paraphrased:

"If you can't hunt it, and you can't eat it, and you can't wear it—and I can't sell it—it should not be allowed on my public lands."

**S**UPPORTERS of wild horses, naturally, embrace a different view. They hold that the wild horse is beautiful in itself and lends both esthetic and historical value to the American landscape. They do not accept the 1971 level of mustangs as the optimum number. Moreover, they dispute the claim that the mustangs are proliferating at an alarming rate. Many are convinced that BLM, in making such drastic reductions, is simply responding, as customary, to pressure from the livestock industry.

Certainly, that industry has actively sought the end of the mustangs. In 1974, a calculated act on the part of the New Mexico Livestock Board nearly toppled the Wild Horse and Burro Act.

A lawsuit developed when the New Mexico Livestock Board impounded 19 unclaimed burros and sold them at auction. The federal government demanded the animals be returned to the public

lands. Instead, the state of New Mexico took the matter before a Federal District Court, which ruled that burros were state property and that the Wild Horse and Burro Act was unconstitutional.

The implications were enormous. If in the Wild Horse and Burro Act the federal government had, indeed, exceeded its authority and encroached on the states' prerogative to regulate wild animals, then other federal regulations concerning wildlife would come into question. Perhaps the states could force the federal government to permit, say, hunting in the national parks and refuges. Other laws, such as the Marine Mammal Act, might well be challenged.

The Bureau of Land Management found itself on both sides. Whatever BLM's private view of mustangs, the interests of Interior's other divisions—the National Park Service and the Fish and Wildlife Service—had to be defended. An appeal was filed, and the Supreme Court agreed to hear the single issue:

Does the property clause of the United States Constitution grant Congress authority to regulate wildlife on federal lands?

New Mexico said no. At the same time she held that the federal government possessed the right—even the obligation



Frantz Dantzler/HSUS

—to protect vegetation on the public domain. New Mexico saw no inconsistency in her stand that the federal government had authority to kill any wild animal that might be overgrazing; but none to protect wild animals.

The Court did not agree. In a 9 to 0 ruling, it upheld the Wild Horse and Burro Act. The justices, beyond expectation, defined federal authority over wildlife on public lands as superseding that of the states.

This upset threw sportsmen into a panic. John Gottschalk, head of the International Association of Game, Fish, and Conservation Commissioners, darkly warned the press:

"Anything can happen!"

"Any attempt to require federal fish and game licenses on federal lands would run into one hell of a fight."

Even BLM, in whose name the suit was won, was taken aback by the scope of the decision. BLM's George Lea tried to assuage the fears of hunting groups:

"I hope to hell the court decision doesn't disrupt our good relations with state wildlifers. We have made beautiful music together for a long time."

**E**VEN WHILE THIS LAWSUIT was in progress, BLM was busy, both thinning wild horse herds and complaining about a mustang population explosion. Newspapers obligingly reported the problem. BLM's solution—gather excess horses and put them up for adoption—also made good copy. Public response



Photos courtesy of BLM

was heartening. More people sought to adopt the culled animals than BLM could supply. (Currently, the waiting list is 8,000 names long.) For a change, BLM's public image was positive.

But the whole program may be built on guesses and blue smoke. No one knows how many horses there are out there. In 1976 skeptical mustang supporters brought the issue before a federal Court. After hearing testimony from the Humane Society of the United States and the American Horse Protection Association, Judge Charles Richey dismissed BLM's horse counts as unreliable. He barred the government from conducting

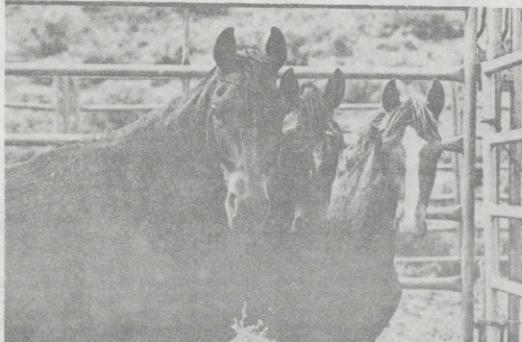
a scheduled roundup in the Challis Wilderness Area of Idaho.

BLM headcounts simply defy natural laws. For example, from 1973 to 1974 BLM reported the wild horse population grew from 26,121 to 45,207. Such an increase could never happen. If every female, including newborn fillies and nursing yearlings, miraculously produced offspring, and had no horse died of any cause, the total population would still have fallen short of the BLM inventory by 6,000 animals!

To understand the limits to horse reproduction, it is necessary to be acquainted with some biological facts:

- The gestation period is 11 months; a mare can produce but one offspring a year. Obviously, annual herd increase can never exceed the number of adult females in a herd.
- Wild horse herds contain approximately equal numbers of adult males and females.
- Not all females are able to reproduce. Females under age three cannot bear young. Aged or barren mares do not give birth.
- Not even every fertile mare reproduces every year. Energy demands on a mother that has nursed throughout the winter often prevent oestrus.
- Not every mare that conceives bears a live foal. Fetal absorption or abortion may result from infection, injury, stampeding, and malnutrition.
- Not every foal survives its first year. Some causes of foal mortality: mother's failure to lactate, birth defects (particularly overbite), disease, injury (particularly to the legs and feet), maternal neglect (rare), competition from an un-

Frantz Dantzer, HSUS



Twin-engined cayuse starts a BLM roundup; conventional cowpokes take over by the steel corral. Author Hope Ryden charges that the Bureau of Land Management has no valid census base for its 'management' activities. The bureau's figures contradict the basic biology of the wild mustangs; their populations could not grow so quickly. Ms. Ryden testified to this effect before a federal court in 1976; Judge Charles Richey dismissed the bureau's figures as unreliable.



weaned sibling who will not permit the newborn to nurse, death of the mother, accidental separation from the herd, predation (insignificant), severe weather.

BLM's data for the following year, 1975, are equally implausible. In 1974 the bureau, appropriately, made its count in January, after winter die-off and before the birth of the foals in the spring. The next year, however, BLM counted horses in May, after the birth of the foal crop. The bureau personnel then proceeded to compare the net population of 1974 with the gross population of 1975 and concluded that the horses were increasing at the annual rate of 21 percent. They published this misleading information in the Congressional Record (December 18, 1975), with a request to Congress to modify the Wild Horse and Burro Act to enable them to cull excess horses more efficiently.

Recent official counts released by BLM report 58,000 to 70,000 horses on the public domain. Given BLM's 1971 tally of 9,500 horses, and granting that in each ensuing year all mares of breeding age produced live foals and no horse died of any cause in six years time, the mustang population today would stand at only 28,985 horses—half of BLM's figure.

**O**BVIOUSLY, something is wrong. Either the present census is too high or the 1971 count was too low. In either event, wild horses are being threatened with overmanagement, for BLM now plans to cut some of the herds to the low 1971 level, and others as much as two thirds. One cannot help but question if BLM is managing the horses at "the minimum feasible level," as the law requires.

by Hope Ryden

(Back in 1971 I challenged BLM's low horse count. Before the Senate Subcommittee on Public Lands I said: "I hope that this drastically lowered figure is not an attempt on the part of the bureau to arbitrarily eliminate numbers of horses from any future program." That statement now looks like prophecy.)

Meanwhile the bureau has made several appeals to Congress to modify the Wild Horse and Burro Act. In 1976 a provision was tacked to the BLM Organic Act, authorizing the use of aircraft and other mechanized vehicles in round-ups.

Currently, BLM is asking Congress to allow it to pass along legal title to the horses it removes from the public lands. Unless permitted to do so, BLM complains, it soon will run out of adoptive homes for the large number of animals that must be culled.

Today, an individual who gets a mustang under the "Adopt-A-Horse" program does not receive title to the animal and therefore can never sell it. If, for some reason, he cannot keep the mustang, he must return it to BLM. Either it will be humanely destroyed or placed in another adoptive home. This regulation safeguards against the adoption of wild horses by individuals who plan to sell them to meat packers.

BLM wants this changed. And Congress, after hearing about the wild horse "population explosion" and the burdensome cost of wild horse management, may give the bureau what it asks.

But BLM's horse problems will not be solved by weakening the Wild Horse and Burro Act. They arise from no fault in the law, but from the fact that the bureau is staffed, not with wildlife biologists, but with range managers trained to grow grass and serve the livestock industry. Management of wild horses conflicts with these goals.

Little is understood about mustangs: How many wild horses exist? How rapidly is the population growing? At what level will the herds stabilize? As population increases, do birth rates drop? Does the culling of the horses actually stimulate the birth rate? Does population fluctuate cyclically? Is reproduction tied to weather cycles? How many horses can be supported in their various habitats?

BLM is in a position to seek answers to these questions. Should it ever decide to do the proper research, the managers of wild horses and the supporters of wild horses might find themselves in unaccustomed accord.

That would be a good day for the mustang.

## Whatever Happened To the Howe Horses?

*Why, BLM held them for ransom  
to extort an illegal silence*

**F**OUR YEARS AGO, a good deal was written about the brutal massacre of wild mustangs near Howe, Idaho—a horror story of mutilation and cruelty that stirred indignation across the country. Photographs of the roundup victims were carried by many newspapers, the story was a big one.

Last February, after four and a half years of litigation, that case was finally resolved. Oddly, the outcome has not been reported. This strange silence, Defenders of Wildlife has learned, results from neither a fickle press nor a short public memory. This strange silence, it turns out, was engineered by the United States Bureau of Land Management. This is how it was done:

BLM had custody of the impounded survivors of that brutal roundup. The American Horse Protection Association, the organization that took BLM to court for permitting the roundup, was anxious to gain the release of the surviving horses for placement in homes. In exchange for the animals, BLM extorted absolute silence from AHPA and all those who gave homes to the horses.

The agreement drawn up by BLM not only violates the Bill of Rights, but makes a mockery of the independence of the Congress. It specifically states that no information regarding these animals can ever be made known to a Congressional Committee!

Since Defenders of Wildlife signed no such agreement, and since Defenders of Wildlife does not believe any government has the right to suppress any information concerning animals, we have developed the story. We now will reveal the unappetizing details surrounding the Howe, Idaho, wild-horse incident.



**I**T ALL BEGAN in 1971 when Congress created a new category for the animals. The wild horse was declared to be a "living symbol of the historic and pioneer spirit of the West, contributing diversity of life forms within the Nation and enriching the lives of the American people."

Because wild horses were found almost exclusively on the public lands administered by BLM, that agency was entrusted with their protection and management. Some horse lovers feared this meant the mustangs were being delivered into the hands of a traditional enemy. BLM has ever seen its primary function as the protection and enhancement of those vast stretches of the public lands cheaply leased for livestock grazing. The Bureau's range managers came to view most other grass eaters—rabbits, wild horses, prairie dogs, whatever—as pests and trespassers on the public domain. Now bureau personnel were being asked to reverse their policy toward wild horses and protect them. Most people, however, had faith that the bureau would apply itself to this new job with the same sincerity and dedication it devoted to its other tasks.

But the bureau got off to a poor start. One of its district managers in Idaho orchestrated an illegal wild horse roundup which turned out to be one of the bloodiest mustang massacres on record.

According to BLM's own Investigative Report on the matter, which was later introduced as evidence in court, this is how it came about:

The new federal law allowed ranchers 18 months to gather any of their own stock that might have run away to join the wild horse bands. BLM District Manager Walter Ed Jones used this period of grace as an excuse to get rid of some 60 unbranded and unclaimed horses that had long roamed freely on federal land near Howe, Idaho. None of the animals were considered property of any known individual.

But Jones wanted them removed, so he called a meeting with local ranchers. William Robison, who held grazing privileges for cattle on the public land where the horses roamed, attended that meeting and later reported that Jones told him to be sure every horse was removed, even if it meant shooting them. According to others, Jones also assured the assembled men that, to make the roundup appear legal, BLM would be glad to take wrist-slapping action against them for having horses "in trespass."

**T**HE FIRST TWO ATTEMPTS to capture the Howe horses were made by helicopter, in defiance of yet another federal law then in effect (P.L. 86-234), which prohibited the use of motorized vehicles in roundups. Six animals were

corralled by this method. Before being sold to the Central Nebraska Packing Company, two of these were castrated to give them the appearance of being domestic.

The roundup crew then decided to complete the job on saddle horses and snowmobiles. During February, 1973, the wild herd was pursued nearly every day. Although the mustangs were thin from wintering, 32 continued to outsmart and outrun the grain-fed domestic horses that gave them no rest. But at last, even these holdouts were driven up a narrow canyon and trapped on a rocky shelf.

Having barricaded the horses, the ranchers took the next day off to attend church. Monday morning they returned, to find that some of the animals had plunged over a cliff to their deaths. Those that remained were so panicked by the reappearance of the men, they began rearing and jumping about until a number had jammed their hoofs into rocks. This situation prompted the men to sew hog rings into the noses of the fettered horses in order to make them more manageable for transport to the cannery. In the Investigative Report one of the participants described the event as follows:

The white mare was standing there with her feet in the rocks and we thought, well, right now is a good time to put these rings in her nose . . . and then we decided we better get her foot out of

Ugly death in Idaho—after the roundup near Howe, designed to forestall the effects of the Wild Horse and Burro Act, the horsemen took a Sunday off to go to church. They returned to find part of the terrified herd, some with their nostrils wired shut, had plunged over a cliff and died. This began an unsuccessful four-year effort to bring offenders to justice.



Photos by Frantz Dantzer, HSUS





and hauled to Rexburg and run through the chute. . . . There was a sorrel horse that fell off the cliff that was still alive when we left. We just left her.

To justify their brutality, the ranchers later contended that the horses were "worthless, starving to death . . . only good for dog food." Yet it had taken a crew of 18 men using relays of fresh saddle horses, snowmobiles, and even helicopters 45 days to trap them.

**T**HE 31 HORSES that survived all this were shipped to Central Nebraska Packing House and inspected by a state brand inspector. None had brands. And since no bills of sale accompanied the shipment, three ranchers were asked to sign a certificate of ownership. They did. No further proof of ownership was demanded.

And so the matter might have ended, but for the fact that a number of dead and mutilated horses, including an aborted foal, were discovered at the foot of that Idaho cliff. The Humane Society of the United States was called to the scene.



Photos by Frantz Dantzer, HSUS

the rocks. . . . We worked there for up to 30 minutes on her and gave up. . . . So we went to roping these other horses, and the first one we roped was a sorrel mare. And we laid her down right there and put these rings through her nose. And while she was getting up . . . she was flying around there . . . she got her feet caught in the rocks. The next one was a black horse. And we caught him and laid him down. And in the process of laying him down, we broke his leg.

When we turned him up, he floundered out and fell over the cliff. Well, we didn't know what to do. We disposed of them by cutting their throats with a knife and cut their legs off. I mean it was gruesome. It was pretty tough. We sawed that one sorrel mare's legs off with a chain saw. . . . And now that's the truth. . . . After we brought the remaining horses down from the ledge, we corralled them at Robison's ranch. . . . Then they were loaded in a truck the next morning

Photographs of the carnage were taken and published widely. It was the first violation of the widely supported Wild Horse and Burro Act; people wanted to know if the new law meant anything. Would the violators be brought to justice?

The Department of the Interior, together with the Department of Agriculture, responded by preparing their joint Investigative Report on the incident. But despite the incriminating evidence it con-



'Worthless, only fit for dog food' declared the ranchers who led the slaughter at Howe. Yet the wild horses had eluded their pursuers for 45 days before being trapped on the cliff top. The survivors spent four years in a stockyard pen (left) while court hearings droned on. Finally, BLM released the horses for adoption — on the agreement that what happened to them in the future would be secret from the public, even from Congress. Today, they are sleek and healthy (above).

tained (parts of which have been quoted above,) the United States Attorney in Idaho declined to prosecute.

At this point the American Horse Protection Association and the Humane Society of the United States, appalled at the government's refusal to enforce the law, stepped in. They filed suit against Interior, Agriculture, and several government officials, accusing them of misfeasance and failure to protect the horses.

Much time, money, and effort was spent in obtaining the government's own Investigative Report of the incident. Finally, at the direction of a federal court, BLM turned over the damning evidence and the real issues could be examined.

So began the four-year suit which finally ended this February when a United States Appeals Court overturned a lower court ruling.

**B**UT VICTORY in the Appeals Court did not carry with it the satisfaction of knowing that the offenders would be brought to justice. It merely opened

the way for further proceedings by declaring that decision-making authority over wild horses belongs not to the states, but to the federal government.

By this time, however, only 11 victims of the brutal roundup were still alive. Joan Blue, president of the American Horse Protection Association had to make a hard decision. Further court action might bring the offenders to justice, but the impounded mustangs had already spent four years in a stockyard pen. These animals could not be served by delay. Mrs. Blue decided to agree to a settlement. In exchange for custody of these poor creatures, the American Horse Protection Association dropped its suit. The horses were then turned over to Mrs. Blue for placement on private farms. Not, however, before she consented to sign the following outrageous stipulation drawn up by someone in the U.S. Bureau of Land Management:

These animals shall not be used for purpose of publicity by the assignee or by the individual having custody, or made available to any other person or organization for such

purpose, including photographs, articles, exhibition, newspapers, newsletters, congressional hearings [!], posters or any other printed material or similar uses for fund raising, membership drives, etc., except that there will be one "story" which may be published, to which "story" BLM agrees.

It is understandable that BLM would prefer that the public forget the Howe massacre. It is understandable that BLM does not want the 11 survivors of that massacre to serve as reminders of the government's participation. It is understandable that BLM would rather the public remain ignorant of how truly lovely were the horses in that Idaho herd, now wiped out at the government's direction.

For today, after five months of pasture life, the last of the Howe horses are unrecognizable. They have lost the hangdog look they wore during their long confinement in the stockyard. Tone has returned to their muscles, defiance to their spirits. Their hides glisten. They behave like the wild horses they were born to be.

Do they remember past events on the Idaho Mountain? Some say horses' memories are mercifully short. Would that the same were true for the rest of us. It is not easy to live with the hard truth that no one received so much as a fine for breaking the Wild Horse and Burro Act and cruelly smashing one of America's finest herds of wild horses.

**AMERICAN HORSE PROTECTION ASSOCIATION, INC.**

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# AHPA INVESTIGATOR UNCOVERS DEATH DITCHES

(ANOTHER U.S. GOVERNMENT SPONSORED ATROCITY — PAGE 2)

# AHPA FILED LAWSUIT TO STOP BLM'S WILD HORSE SLAUGHTER IN NEVADA

INVESTIGATOR'S PICTURE EXPOSES  
U.S. GOVERNMENT DEATH DITCHES



Photo Credit: Gail Snider  
BLM zeroes in on death ditches.

AHPA has filed suit against the Secretary of the Interior and the Bureau of Land Management for their despicable and outrageous conduct which has led to the death of hundreds of wild horses in Nevada in recent months. AHPA filed this lawsuit on April 5, 1978, five years to the day after our successful lawsuit was filed in the Howe, Idaho Wild Horse Massacre.

The present matter will be ready for hearing in the Federal District Court in Washington shortly.

AHPA has charged that the horses buried in the death ditches at Palomino Valley, Nevada, are horses which need not have been destroyed. AHPA further has alleged in their lawsuit that the BLM is guilty of violating the law and their own regulations by allowing roundups to be conducted in such a reckless manner and has permitted such atrocious conditions to exist in their holding pen that 200 horses have literally died from eating manure, mud and bits of rock. These atrocities and the men who have allowed them are the subject of AHPA's action.

The Palomino Valley Death Ditches is the latest in a series of atrocities sponsored by the BLM — the U.S. Government agency charged with protecting and preserving wild horses. Who among us will ever forget the Howe Wild Horse Massacre in 1973? The Dugway Disaster? The proposed Grand Canyon Butcher Shop for Burros? The Annihilation of the

Bandilier Burros? The Carson National Forest Carnage (see story page 3).

The Death Ditches are now but the last of government sponsored mayhem and death.

Only AHPA — you and me — stand between a vacant, horseless horizon in the West. The BLM seems bent upon not only the complete annihilation of every wild horse and burro in the West, but annihilation by the most outrageous and inhumane methods they can devise.

The BLM Butchers have to be stopped!

Here's what you can do:

1. Write a letter to the editor of your newspaper and enclose the above picture of the Death Ditches and ask that they print both your letter and the picture;

2. Write your U.S. Representative and your two Senators and tell them about these atrocities and ask them to oppose HR 10587 and S. 2475 which would further weaken the Wild Horse Act. They must also call President Carter and enlist his aid in stopping the BLM Butchers before they kill all our wild horses and burros.

## AHPA HELPS STOP CARSON NATIONAL FOREST ROUNDUP

Another government atrocity, one of the most bizarre and brutal roundups of wild horses ever devised, was halted by swift AHPA action in the Carson National Forest, N.M. The "attack plans", designed by Forester Dick Cooke, called for helicopter-borne sharpshooters armed with tranquilizer dart rifles to chase and fire on an estimated 250 wild horses. Ground teams on horseback rode through several feet of snow in below-freezing weather to administer an antidote to the tranquilizer, M-99, the most dangerous, potent and heavily controlled drug presently available to veterinarians. Cooke planned a ten-day campaign of carnage to reduce the herd to 60, removing some horses by land, others in slings attached to helicopters. This grandiose scheme was expected to cost the taxpayer over \$30,000.

AHPA immediately contacted drug experts in the Federal Drug Enforcement Administration, veterinarians in the Department of Agriculture, and AHPA's advisor, James Naviaux, D.V.M., who made a thorough investigation of the roundup. No reputable veterinarians recommended M-99 for horses and both drug experts and the drug manufacturer warned that under no circumstances should the drug be used in extreme temperatures or when an animal was under stress.

The Department of Agriculture's Forest Service ignored all warnings and expert advice, and for two days harassed and darted the horses, capturing a grand total of 8. Two other horses died. Veterinarian Gerald Skees destroyed one horse by cutting its throat; another died in shock.

These deaths followed a Federal Court action filed in Albuquerque by Camine Cardemone, of Tucson, Arizona, president of the Wild Burro Protection Association, who sought a temporary injunction to stop the roundup. Although the injunction was denied, the Department of Agriculture, through the good offices of Mr. Barry Flamm, agreed to end this tragic and unnecessary "experiment".

**SAVE AMERICA'S  
WILD HORSES!  
JOIN THE AMERICAN HORSE  
PROTECTION ASSOCIATION!**



AHPA BUMPER STICKERS

AHPA bumper stickers may be ordered from AHPA member Mrs. R. E. Jordan, 14241 Rawhide Parkway, Dallas, Texas 75234. They are priced at \$2 each. Make checks payable to AHPA.

**AHPA OBSERVER PROTESTS  
WYOMING ROUNDUP  
INCOMPETENCE**

Inept helicopter piloting and barb-wire fence wings were the BLM's recipe for yet another brutal roundup near Worland, Wyoming in early April. AHPA investigator, Gail Snider, witnessed four deaths among fourteen horses captured in the first day of the fiasco. Some horses fell while being driven by a helicopter pilot who had never flown a live-animal drive. Others ran into the barb-wire and were injured. One horse was lassoed on the run by a BLM employee, snapped its neck and immediately died.

No veterinarian was present on the scene, and only Ms. Snider's repeated insistence convinced the BLM to fly one in to attend to the injured animals.

The roundup was finally terminated on its second day, after six horses had died, and Ms. Snider's strong protests that too many pregnant mares were being run and were falling on the rocky, desert-like terrain.



Photo Credit: Gail Snider

## WILD HORSE ACT UNDER CONGRESSIONAL ATTACK

Two new BLM-inspired bills to further weaken the Wild Free-Roaming Horses and Burros Act have surfaced in both the Senate and the House of Representatives. Congressman Teno Roncalio (D-Wyo.), Chairman of the Subcommittee on Indian Affairs and Public Lands, introduced H.R. 10587, a bill "to improve the range conditions of the public grazing lands." AHPA strongly opposed this legislation at hearings just concluded because of Section 7, which would give free title to anyone who has adopted wild horses, if after a year that individual has provided humane care.

In AHPA's opinion this amendment would only provide legislative sanction for conduct the 1971 Act sought to forbid: the slaughter of thousands of wild horses to benefit private commercial interests. We also believe that Section 7 would never be enforced by the BLM. The current Adopt-a-Horse program, which AHPA never endorsed, is administered very poorly. BLM has made few efforts to investigate allegations that adopted wild horses have been abused or disposed of in violation of the law. Little if any investigation is made of applicants; some have received large numbers of horses under circumstances that clearly indicate they will be used for commercial purposes. Quite simply, no investigation of adoptive homes will be made after one year if H.R. 10587 is enacted. BLM has stated repeatedly that they have neither the money nor the manpower to make such investigations. Thus, the bill will become an avenue for every unscrupulous horse trader and rodeo operator to acquire free horses, which they will be able to sell for slaughter or abuse with impunity.

Section 7 of Congressman Roncalio's bill is supported by the National Audubon Society, the National Wildlife Federation, the National Wool Growers Association, the American Humane Association, and the National Cattlemen's Association.

A similar bill, S. 2475, has been introduced in the Senate by Senators Frank Church (D-Idaho) and Paul Laxalt (R-Nev.). No hearings are presently scheduled.

AHPA strongly urges all members and friends to write their Congressmen and Senators, opposing the passage of both H.R. 10587 and S. 2475 which would, if enacted, create even more agony for the wild herds. All Congressmen may be addressed c/o House of Representatives, Washington, D.C. 20515; all Senators, c/o United States Senate, Washington, D.C. 20510.

### AHPA BOARD VICE CHAIRMAN TO STAR IN NEW TV SERIES

Congratulations to AHPA's Lorne Greene on his new TV Series, GALACTICA, a science-fiction thriller. This mini-series may later become a weekly program. Good luck, Lorne!

### TAMMY GRIMES BECOMES AHPA BOARD MEMBER

AHPA is proud to welcome actress Tammy Grimes as its newest Honorary Board Member. Miss Grimes is currently appearing in "Gracious Living", a play performed in the Kennedy Center for the Performing Arts in Washington, D.C. She is a dedicated horse lover who has a special interest in the future of wild horses.

## AHPA OPPOSES RACING BY DRUGGED HORSES

Abuse and misuse of permissive medication of racehorses has created a humane problem of ever-growing proportions. Legislation to outlaw the use of Butazolodin and similar drugs in connection with racing is increasingly needed and has gained more support as the severity of its misuses becomes more apparent. These drugs mask pain and permit an injured or lame horse to race despite its infirmities. The results are frequent and tragic "breakdowns" at the track, requiring beautiful thoroughbreds to be destroyed.

AHPA is strongly opposed to the use of any drug for the purpose of horse racing and/or exhibition, and backs federal legislation to outlaw such drug use. Please write your Congressman and Senators expressing your strong support for laws to outlaw this inhumane practice.

Following is a recent report by AHPA member Mrs. Josephine Irwin, president of the Bucks County (PA) SPCA, concerning anti-drugging efforts in her state:



Down to the wire in death.

On November 1, 1977, the Pennsylvania Senate unanimously passed a bill to restrict the use of Butazolodin and related drugs employed to mask lameness and other ailments in race horses. The action came as culmination of a fourteen months' struggle between Pennsylvania humane societies and the powerful Horsemen's Benevolent and Protective Association.

Butazolodin had been legalized by the Pennsylvania State Horse Racing Commission in April, 1975, under intense pressure from the HBPA, whose spokesmen insisted that without the drug they could not find enough horses to fill the races. The only public protest came from racing editor Russ Harris, writing in the sports pages of the Philadelphia Inquirer.

At Keystone Racetrack in Bucks County, Pa., which had opened in November, 1975, horses running on Bute began to break down at an alarming rate. By summer of 1976 there was an average of 1 breakdown every 3 days.

After several unsuccessful attempts to convince the Pennsylvania State Horse Racing Commission to ban Bute, the Bucks County SPCA, joined by the AHPA, Federated Humane Societies of Pennsylvania, Animal Care and Welfare of Pittsburgh and the Pennsylvania SPCA appeared before a crucial meeting of the Commission in November 1976. The press had predicted a showdown between the horsemen and the SPCA. This time, after a heated debate, the commissioners voted a 60-day trial ban on Bute.

In the 54 racing days that followed, there were only 2 breakdowns at Keystone. At their January, 1977 meeting the commissioners extended the ban another 60 days. On the same day Commonwealth Court, in response to a petition from three HBPA members, issued an injunction lifting the ban. The Racing Commission appealed, citing a "clear and present danger to horses". The ban was reinstated, only to be lifted again by court order in March.

Reacting to this latest court action, Senator Edward L. Howard, of Doylestown, introduced a bill in the Pennsylvania Legislature to accomplish by law what the Racing Commission had been unable to do in the face of opposition from the HBPA.

Passage of S.B. 539 by the Senate is a major victory for animal welfare. But the battle is only half won. Before it can become law, the bill, now in the Pennsylvania House Committee on Agriculture, must be passed by the House and signed by the governor. Only an overwhelming show of public opinion can bring this about.

Your letters to legislators are of utmost importance. AHPA members in Pennsylvania are requested to write your State Representative and to the Hon. Paul J. Yahner, Chairman, House Committee on Agriculture, letting them know that you support Senate Bill 539. Address both at the State Capitol, Harrisburg, Pennsylvania 17130. (See related item on page 8)

## TRAILER TRAGEDIES CONTINUE—HUMANE TRANSPORT STANDARDS ESSENTIAL

Needlessly cruel and inhumane treatment of horses bound for slaughter continues despite five years of effort by AHPA members. Federal legislation to require that surface transporters of horses guarantee those animals recognized humane standards is the only solution to this horror. The incident described below by the New York State Horse Council is hardly an isolated case. Unfortunately, our files are packed with similar accounts.

### Seven Horses Die in Cattle Trailer

A tragic accident occurred on the Cross-Westchester Expressway on Thursday, December 15, 1977. Due to a dilapidated and inappropriate vehicle for transporting horses, and because there is no New York law to require minimum standards in such a vehicle, seven horses died needlessly.

The horses were in transit from Metuchen, N.Y. to a slaughter house in Hartford, Conn., when the cattle rig carrying them lost two wheels and pulled off on the road's shoulder.

The accident occurred at 4:30 a.m., and the horses were not off-loaded until 1:30 p.m. For nine hours they had been trapped. The only exit was a door in the rear of the trailer four feet above the pavement, with no unloading ramp provided.

With the loss of two wheels the trailer, packed with 26 horses, canted over to the right. The wooden floor, made slick by urine and manure, caused horses to slip and fall.

There was only one partition in the forty-foot trailer, and in the forward section, over the missing wheels, horses fell in a great, tangled pile. If they could have been unloaded within a reasonable time, all could have been saved.

The only way of rescuing them was through the trailer's rear exit into a similar trailer backed end-to-end to the trailer with the horses.

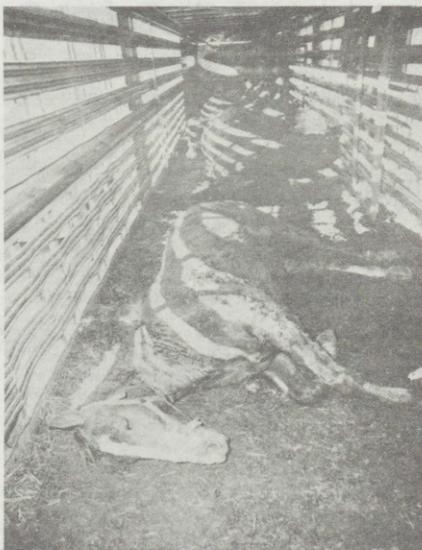


Photo Credit: Westchester Rockland Newspapers, Inc.

Seven dead horses on the floor of the trailer after those still living had been led off.

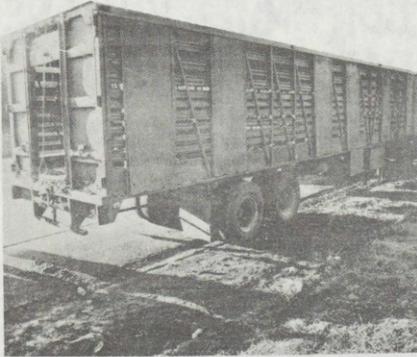


Photo Credit: Westchester Rockland Newspapers, Inc.

The cattle trailer after its right side had been jacked up. Only exit, four feet up, is to be seen at rear.

4. Sturdy partitions are to be provided approximately every ten feet.
5. Doorways are to be of adequate height to allow twelve inches above the withers of the tallest horse.
6. A minimum of twelve inches must be allowed between the withers of the tallest horse and the structure above.
7. Finally, if the vertical distance from the floor of the trailer to the ground is more than eighteen inches, ramps for loading and unloading must be provided.

Many members of Congress and other humane organizations support legislation to protect cruelly abandoned animals such as those described above. Unfortunately, strong opposition from the American Horse Council has so far defeated all attempts to provide the long-overdue relief. This festering problem has become a national scandal, and only a strong federal law can end this tragic abuse.

All members interested in receiving AHPA's pamphlet, "Trucking Horses" should send us their request.

### MARYLAND HORSE DRUGGING RAISES CONTROVERSY

On Wednesday, May 3, 1978, a four-horse fall at the Pimlico Race Course in Maryland killed one jockey and injured several others. Some Maryland jockeys are blaming this incident, the most recent in a series of serious spills, on improper use of Bute. One leading jockey, who was nearly killed in a Bute-related incident in February, has called on riders to boycott Maryland tracks until the drug is banned. An anti-drugging bill similar to the Pennsylvania legislation has also been introduced in the Maryland State legislature. AHPA's Maryland State Representative, Delores Staggers Pecor, recently testified in favor of this legislation in Annapolis. Mrs. Pecor asks that all AHPA members write their State Representative in favor of House of Delegates Bill #932.

The second trailer had to be brought from a Waterbury, Conn. area. By the time it arrived at least twelve horses were down, kicking and thrashing in an agonizing attempt to free themselves. Other horses were stepping on them.

By the time the horses could be led, one by one into the rescue trailer, four horses were dead. Three others had to be euthanized, because it was not possible to pull them to their feet.

\* \* \*

How can this kind of carnage on the highways be prevented? Connecticut has found some answers. It has passed a law and adopted regulations that require the following in the case of vehicles carrying horses:

1. The interiors of compartments containing horses must be of smooth construction, with no protruding or sharp objects.
2. The floors are to be of nonskid construction.
3. There shall be adequate ventilation.

IN MEMORIAM

DOROTHEA D. COOKE

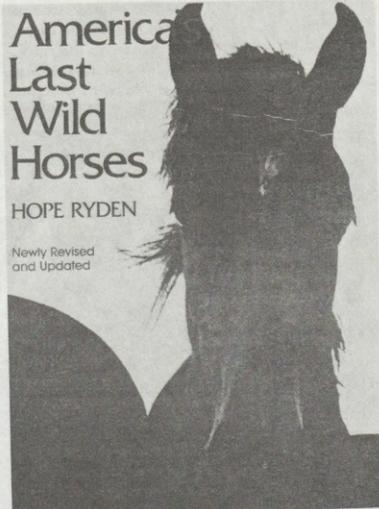
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Her life was a tribute to the human race and a living legend in the humane movement. All who love truth and beauty have lost an irreplaceable friend.

## AMERICA'S LAST WILD HORSES

by Hope Ryden

The definitive book on wild horses, America's Last Wild Horses by Hope Ryden (AHPA's friend and advisor) has been revised, updated, and published in paperback. You may order a copy from AHPA by sending a check for \$6.00 to AHPA — Books, 1312 - 18th Street, N.W., Washington, D.C. 20036.



- clip -

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**HALLMARK'S AMERICAN  
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— Gaining a Treasure while supporting AHPA's work

As our members know, AHPA has joined with the Hallmark Company to offer to AHPA members a beautiful collection of 3 miniature bronze wild horse sculptures for only \$375. There are still several sets available.

AHPA receives \$150 from each set sold. The money so far has helped send our humane investigator to Palomino Valley, Nevada, where she uncovered BLM's Death Ditches.

More must be done to save the wild horses in the West. One specific way you can help is to send in today for your Hallmark collection. AHPA's share will be used to investigate further outrageous acts of brutality against our protected wild horses and burros.

If you like, we'll send you an additional brochure. If you still have your brochure, then just mail us your check for \$375 (plus tax if you live in D.C.). Within a short time these lovely bronzes on their beautiful pedestals will be in your living room.

Give a gift that lives: You will have beautiful art of wild horses in your home, and AHPA will have the use of some additional money with which to continue to fight for the lives of America's last wild horses.



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"For that which befalleth the sons of  
man befalleth beasts...they have all  
one breath...man hath no preeminence  
above a beast." Ecclesiastes, III, 19.

Senator LAXALT. Mr. Dantzler.

Mr. DANTZLER. Yes, sir.

Senator LAXALT. Representing the Humane Society.

Mr. DANTZLER. Of the United States, yes, sir.

Senator LAXALT. All right.

**STATEMENT OF FRANZ DANTZLER, DIRECTOR, FIELD SERVICES  
AND INVESTIGATIONS, THE HUMANE SOCIETY OF THE UNITED  
STATES**

Mr. DANTZLER. My statement is rather brief, and in conjunction with that I would tend to abbreviate a portion of that in the interest of brevity.

Mr. Chairman, I am Frantz Dantzler and I direct the field services and investigations department of the Humane Society of the United States. Although I am currently based in Washington, D.C., my background includes over 13 years in animal welfare work in the States of Colorado, Utah, and California. As a resident of those States, I also traveled extensively into all States that have populations of wild horses and burros as a part of my assignments. Currently, our commitments to this vital issue result in frequent investigations of sites and facilities for roundups conducted by the Bureau of Land Management.

The Humane Society of the United States is a national nonprofit organization. Since its formation, we, HSUS, have grown into the largest animal welfare organization in the United States with more than half of our members residing in Western States. In addition to its national headquarters in Washington, D.C., the society has several regional offices and area representatives in major population centers throughout the United States. As in the case of other animal species, the HSUS has formulated a policy, approved by its board of directors, which reflects the majority opinion of our membership concerning wild horses and burros.

And if it please the Chair, I will not go into that, but rather make it part of the record.

[The HSUS policy follows:]

It is the policy of The Humane Society of the United States to work to protect the remaining herds of western wild horses and burros from cruel exploitation and extinction and use its influence to ensure existing protective legislation is properly enforced and administered so that those concerned solely with exploiting these animals for profit, and those with conflicting interests, will not succeed in destroying these animals.

Further, The HSUS will continue to oppose attempts to weaken current laws that protect these animals and will oppose vigorously, use of improper methods of capturing and managing wild horses and burros.

Mr. DANTZLER. Mr. Chairman, the Humane Society of the United States is opposed to section 7 of S. 2475. The Wild Horse and Burro Act of 1971 was passed by Congress for the purpose of protecting these animals. The act expressly prohibits any commercial exploitation because Congress recognized that this was the primary factor that was driving the animals to the brink of extinction. Suddenly, before the 1971 act had an opportunity to function, section 7 of this proposed

legislation is seeking to eliminate the most important protective measure of the Wild Horse and Burro Act.

In 1976, a BLM status report referred to the meat processing industry and its suppliers as "the greatest threat to the wild horse in modern times." We certainly agree. It takes little imagination or knowledge of mathematics to understand what clear title means to someone interested in exploiting these animals.

For example, Mr. Chairman, using the conservative price of 25 cents per pound for killer horses averaging 700 pounds, an individual could easily adopt 200 animals from BLM, maintain them for a 1-year period, and sell them to a slaughterhouse for \$35,000. Please keep in mind that adopting large numbers of animals from BLM is already encouraged and that section 7 of S. 2475 will provide the authorization to legalize the activity.

BLM claims that the adoption system is not working, that the act must be amended to allow ownership of the horses as an incentive for the public to take excess horses. In view of the risks to the welfare of the horses, and to the entire purpose of the act which I have previously mentioned, we urge this committee to first examine very carefully BLM's administration of the adoption program before engaging in the more drastic remedy of passing this measure.

We do not make this suggestion based entirely upon speculation but rather on particular instances in several investigations which clearly point to a willingness by numerous individuals to utilize adoption programs for their own economic gain. Already we have very serious problems with BLM adopting large groups of horses to individuals in a frantic effort to rid themselves of their responsibility. Selling or donating horses en masse would no doubt be more administratively convenient than finding and working with individuals who wish to care for them. However, the whole scheme of wild horse protection and management does not exist for the sake of BLM's administrative convenience.

Having spent most of my adult life enforcing provisions of the country's animal cruelty laws, I can assure you that the use of the phrase "humane conditions" appearing in section 7 is much too vague, particularly in view of the BLM's history regarding humane issues.

Recently, I had an opportunity to see some of BLM's humane conditions and practices with the Bureau's Palimino Valley wild horse holding area in Nevada. The conditions I found, as photographs will demonstrate to you, would be a violation of most State anticruelty laws if these animals were maintained by private individuals. I found over 400 horses crowded into totally inadequate holding pens, standing in 6 to 8 inches of mud, manure, and urine 24 hours a day. So intolerable were these conditions that BLM established a special burying ground for the ones that do not survive. Photographs are on file.

My point is that we have already witnessed BLM's interpretation of humane conditions on this and other occasions.

It should be kept in mind throughout these hearings that the act as it now stands gives the Secretary ample discretion to deal with any problems which arise from the presence of horses and burros on public lands. It does not tie the hands of the agencies in dealing with these problems.

For example, section 3(b) of the act allows the Secretary to remove excess animals when an area is found to be overpopulated, section 3(c) allows not only removal but humane destruction when such removal is necessary to preserve the habitat; and section 3(a) directs the Secretary to manage as well as protect resident horses and burros to manage them by taking into account the welfare of other users of the public lands. We have no quarrel with any of these concepts.

What the act does impose upon the agencies is the task of making a reasonable showing that such problems do exist. The act does not limit discretion but rather mandates the prudent and informed use of discretion which the public mandates the prudent and informed use of discretion which the public has a right to expect from any branch of government.

In summary, Mr. Chairman, the Humane Society of the United States believes that giving ownership to adopted animals after 1 year will not miraculously rescue BLM from what they perceive to be an intolerable situation—a situation that they alone have produced through inefficient and blundering management practices. Neither will the proposed measure result in any instant cure for the adoption program. We are convinced that the only thing the section is certain to produce is a long line of individuals ready to accept all the animals BLM will permit, maintain them for 1 year, and sell them for slaughter for a substantial profit.

Should this measure become law, it will advance the efforts of those that would like to see a reduction in the protection to a recognized part of our American heritage. In reviewing past actions, attitudes, and philosophies, it is a simple matter to formulate the disastrous direction this proposed legislation will lead with regard to horses. And, of course, I am referring to section 7.

Thank you, Mr. Chairman.

Senator LAXALT. Thank you very much, Mr. Dantzler.

[The following article was submitted for the record by Mr. Dantzler:]

[From the Humane Society News, Spring 1978]

#### WILD HORSES VICTIMIZED BY BLM

The Bureau of Land Management (BLM), charged by Congress with the responsibility of preserving and protecting the wild horses that are "living symbols of our American heritage," has instead sent at least 300 of them to the burial ground.

HSUS Chief Investigator Frantz Dantzler discovered this startling fact on a recent inspection of BLM's Palamino Valley Holding Area near Reno, Nevada.

BLM rounds up the wild horses from the range and adopts them to individual owners. Between the roundup and the adoption, the horses are kept in holding areas. BLM speculates that more than half the wild horses in the United States are in Nevada, and all the Nevada horses rounded up are taken to the Palamino Valley Holding Area.

BLM admits to burying 300 dead horses since November 1976, out of approximately 2,000 processed through Palamino Valley. Dantzler said, "This percentage is too high to be accounted for by old age or natural causes. Quite obviously, most of the horses were dying because of the lack of care received in the holding area. We have reports, too, that many horses are so sick and weak that when adopted, many die during transportation to new homes. The ones that survive must be nursed back to health by their adopters."

The burial area is about 5 miles north of the holding corrals. There, huge pits have been dug in the ground. One sixty foot ditch held the bodies of 23 horses, many yearlings and young mares.

The reason for this high mortality rate was easy to detect. At the time of his inspection, Dantzler found about 450 horses in the corrals at Palamino Valley. Some had been there for over seven months. The corrals were full of mud, and offered the horses no protection from the cold and rain. The horses were filthy and scarred, some coughing and showing signs of being diseased. According to Dantzler, "It would be very difficult to devise a worse place to hold horses. The pens had no drainage, and the lower sections were flooded. The horses were overcrowded, and had to eat their hay off the muddy ground since no troughs were provided. The sick horses were not being given medical treatment, nor were they separated from the healthy ones."

On March 16, Dantzler testified before the House Subcommittee on Indian Affairs and Public Lands on proposed changes in the Wild Free-Roaming Horses and Burros Act of 1971. (See page 17.) As he spoke of the situation at Palamino Valley, he showed the congressmen photographs of the burial pit. The congressmen were amazed and appalled at the results of BLM's efforts to handle the wild horse program.

The purpose of the Wild Free-Roaming Horses and Burros Act was to invest BLM with the responsibility to protect these animals. Palamino Valley is symbolic of BLM's failure to live up to this responsibility. Hopefully, the protests of organizations like HSUS and of private citizens will be heard and heeded by the Senators and Representatives who have the power to alleviate the suffering of our wild horses.

Senator LAXALT. Mr. Paulhus.

#### STATEMENT OF MARC S. PAULHUS, CONSULTANT AND SPECIAL INVESTIGATOR, THE INSTITUTE FOR THE STUDY OF ANIMAL PROBLEMS

Mr. PAULHUS. Mr. Chairman, I am Marc Paulhus, and I represent the Institute for the Study of Animal Problems. The institute was founded in 1972 for the express purpose of conducting objective research into many of the problems which arise from the sometimes incongruous relationships between animals and man.

My background includes a degree in animal husbandry, with particular emphasis in plant science, reproductive physiology, and fish and wildlife conservation, as well as 6 years experience in the fields of animal control, criminal investigations, and legislation.

While the institute is pleased that Congress has directed its attention toward improving substandard range conditions, we are greatly concerned that the proposals of section 7 of S. 2475 will have no appreciable effect on reversing range deterioration. In short, it is highly unlikely that current wild horse populations are responsible for significant forage depletion. Rather, these horses are clearly made scapegoats for the tremendous damage caused by the overgrazing of excess cattle and sheep.

Section 7 threatens to weaken the Wild Horse and Burro Act before it has had the opportunity to function as Congress intended. There is little doubt but that this would open the door to the same types of selfish abuses which precipitated the enactment of this crucial legislation.

The institute has always favored an intelligent and biologically sound wild horse management program. Toward this end, we have sought reliable information from the Bureau of Land Management regarding wild horse populations, reproductive rates, foraging patterns, and species interaction. Only with such data, can anyone determine how best to implement the mandates of the Wild Horse and

Burro Act. However, we have found that the Bureau has not conducted extensive studies into the population dynamics of wild equine herds, and, therefore, they lack the essential criteria from which to derive a sensible long-term management program. Certain questions must be addressed before the act is amended in any way.

First of all, is the wild horse capable of controlling his own populations through reproductive inhibitors and natural mortality? Do horses and burros select different range grasses than domestic cattle and sheep? And what is the extent of their overlap? Do horses have a mutual beneficial relationship with any plant or animal species on the range? Or would the temporary sterilization of wild horses and burros be a more humane means of management?

We believe that the language of the 1971 act allows the BLM to adequately manage wild horses and burros. All that is required of the BLM is that they substantiate the need to capture, remove, or destroy these animals, and that such manipulative actions be carried out in a humane manner. This has not often been the case.

The institute is opposed to section 7 of this bill for several reasons. First of all, it amends subsection 3(b) of the act to call for the immediate removal of wild horses and burros on the basis of an inventory of lands, rather than a current and scientific inventory of horses. It presumes that if the vegetative resource is in poor condition, then there must be an overpopulation of horses. It does not even consider the possibility that overgrazing may be caused by excessive cattle, sheep, or game animals. This language is clearly out of focus with the unmistakable legislative intent of the Wild Horse Act which states that free-roaming horses are to be considered "an integral part of the natural system of public lands."

BLM's wild horse and burro population estimates currently fluctuate between 53,000 and 73,000, depending on who you ask. Although we consider these figures to be inflated, they nonetheless demonstrate that the grazing impact of wild horses and burros is insignificant in comparison to the 7.5 million domestic animals on public lands.

Even in Nevada where approximately half of the wild horse population is purported to reside, the forage consumed by illegal trespass animals may equal or exceed the total forage intake of all wild horses.

According to BLM's own figure, 80 Nevada ranchers were cited last year for the combined trespass of over 20,000 animals. We share the opinion of Government officials who believe that this figure merely represents the tip of the iceberg. The abuses continue because the Bureau does not have an adequate staff for the enforcement of the Taylor Grazing Act. And, of course, they always have a ready scapegoat—the wild horse.

Another objection we have to section 7 pertains to the free and undefined use of two terms—"excess wild horses," and "humane conditions." We would like to know exactly how the BLM arrives at the determination that a particular band of horses is excessive. Is the evaluation purely subjective, or is it based on some sort of scientific principle? In the context of section 7, an excess wild horse may, in fact, mean any wild horse. We believe that the terminology here is vague and misleading.

The requirement that captured and adopted wild horses and burros must receive humane care is written into the Wild Horse Act and stipulated in the adoption contract. But this mandate is largely ignored by the BLM. We have documented many cases of horses being cruelly abused during roundups; they have been run off cliffs; they have had their nostrils sewn shut, and chased to the point of exhaustion or death.

In Government holding pens many hundreds of animals have died from disease, from stress and injuries, and, quite frequently, starvation. The horses are often overcrowded, underfed, and lacking necessary veterinary care. BLM allows adoptive parties to move animals in vehicles which are not designed for safe horse transport. We have had reports of horses dying in transit due to trampling, carbon monoxide poisoning, collapsed walls and floors, dangerous protruding objects, shipping fever, malnutrition, and fighting.

Many of the deaths could have been prevented if BLM adhered to recognized humane standards for horse transportation and care. We have taken the opportunity to compile reasonable humane standards for the Bureau, but we have not seen any evidence that these suggestions have been incorporated into the management scheme.

We believe that the Bureau has proven to be negligent regarding the humane care of animals in their immediate custody, and it causes us even greater concern to know that they are contracting with private individuals for the distribution of horses and burros.

A BLM eastern distribution center was recently opened in Grafton, Mass., for just this purpose. I made an unofficial inspection of this facility and found the horses to be in very poor condition. Since the manager was unaware of my assignment, he explained to me that he was training some of the wild horses by choking them with ropes until they passed out. Is this humane care? I later discovered in conversation with MSPCA law enforcement personnel that the operator of this facility was arrested for horse cruelty in 1971. I might remind you here that this man is under the employment of the Bureau of Land Management.

Our final objection to this proposed legislation pertains to the transfer of ownership provision outlined in subsection 3(c). Under the present policy, an adoptive party is granted perpetual use of a wild horse or burro. The only restrictions are that the animals be given humane treatment, and that they never be sold or transferred except by permission of the BLM, and that they never be sold or used for commercial purposes. These terms have proven to be wholly acceptable to thousands of people in the United States.

It is my understanding that the Bureau's Denver office already has a refined list of approximately 7,000 potential adopters awaiting notification to come and get a horse. It is the bureaucratic redtape that holds up this process.

This bill authorizes the Secretary to donate adopted horses to private individuals after a 1-year holding period, during which the animals are supposed to receive humane care. No limit is placed on the number of animals which may be adopted, or donated, though the adoption or donation of large groups virtually assures that they will be used for commercial purposes. And you can be sure that the Bureau will not, as

directed, check to see that the animals have received humane care before approving the transfer of ownership. They simply do not have the staff or the funds to address this matter—and they so testified this morning—nor has their past performance indicated a tremendous concern for humane horse care. This provision will not expedite wild horse and burro disposal, but will seriously weaken the act and allow the same types of abuses to occur as predated the 1971 legislation.

The BLM states that approximately 135 million acres of Federal grazing lands are in less than satisfactory condition. They also claim that horses exist on less than one-quarter of the total lands—it's closer to one-fifth—and, therefore, they cannot be held responsible for the deterioration of these lands.

If Congress is interested in protecting rancher interests, as well as range conditions, the Congress excessive domestic livestock grazing must be eliminated. The Taylor Grazing Act must be strenuously enforced to reduce the tremendous burden that trespass animals place upon the range. And, finally, grazing fees must be kept at a minimum level if this is necessary to protect the future of small ranching operations.

Let us recognize the interest of the American public and preserve the wild horses for future generations. They, as well as the western rancher, represent a remnant of our pioneering heritage. Let us not penalize the wild horse and burro for damages caused by the uncontrolled overgrazing of domestic livestock.

For hundreds of years the wild horses roamed in vast numbers and in harmony with other wildlife in the West. The livestock industry grew at the expense of millions upon millions of buffalo, antelope, horses, and other wild animals. Let us preserve the few wild horses which do remain, and when it is necessary to control them, do so in an intelligent and humane manner. This is, after all, public land, and we must be responsive to the wishes of the American people and not just the desires of the consumptive users.

Mr. FOLSOM. Thank you, Mr. Paulhus, for your testimony. We appreciate testimony of all of you people today and your organizations. The hearing is now adjourned.

[Whereupon, at 5:14 p.m. the hearing was adjourned.]

The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that every entry should be supported by a valid receipt or invoice. This ensures transparency and allows for easy verification of the data. The second part of the document provides a detailed breakdown of the financial data for the quarter. It includes a table showing the revenue generated from various sources, as well as the associated costs and expenses. The final part of the document concludes with a summary of the overall financial performance and offers recommendations for future improvements. It suggests that by implementing more rigorous controls and streamlining processes, the organization can achieve better financial results in the coming year.

## APPENDIX

### ADDITIONAL STATEMENTS AND COMMUNICATIONS SUBMITTED FOR THE RECORD

#### STATEMENT OF T. A. BONNELL, CHAIRMAN OF THE BOARD OF BANK SECURITIES, INC.

I am T. A. Bonnell, Chairman of the Board of Bank Securities, Inc., a registered multi-bank holding company, operating in the State of New Mexico with our headquarters in Alamogordo, New Mexico. We have eight banks with 31 locations and a Trust Company operating in the State of New Mexico.

I have been in the banking business 28 years and my family has been in Southern New Mexico since the 1880's, involved in ranching, farming, general mercantile business and banking. I do live on, own and operate my own ranch. Seven of our banks operate in areas that deal extensively with ranchers and the livestock industry.

On behalf of Bank Securities, Inc., we welcome this opportunity to appear before you today in support of HR 10587 and HR 10589. We appreciate your concern with the plight of the ranchers and the livestock industry and those industries directly affected, such as banking in the Western states. Our financial institutions have and are going through a most frustrating experience in the last several years in our endeavor to finance our ranching customers using public lands and in our efforts to assist these customers in obtaining long term loans to be used in capital improvements, purchases of additional carrying capacity, refinancing existing debt, payment of estate taxes and etc. Of course, it is proper to acknowledge the difficulties attributed to the unstable and poor livestock prices in the recent years; however, this has been a condition of livestock industry since its inception. Some of the items that have caused the financial institutions concern and most of the long term difficulties are the practice of the agencies issuing the leases for shorter periods than the 10 year periods, allotment management plans, the uncertainties that develop over the wild free roaming horses and burros, the fees charged or to be charged for the animal unit on public lands, the environmental status, and the land use developments.

It is our belief that the enactment of HR 10587 and HR 10589 would help to clarify and settle much of the confusion indicated above. As a citizen and banker involved in financing the livestock industry in New Mexico, we would much prefer the above bills being law, rather than to leave it to the agencies rules and regulations. We believe strongly that it would enhance the stability of the industry.

We feel a 10 year lease is very important in developing stability in any kind of financing. We realize that the ranchers leasing public lands have a preferential right in the extension of and/or new leases, but this withdrawal of a 10 year lease concerns the financial institutions in that on each expiration date with the uncertainties that a one year lease implies.

We believe very strongly that some day the ranchers vested interest in leases on the public lands will have to be recognized by the forest service and the BLM, as it is now recognized by the industry, financial institutions and even other divisions of our Federal Government, such as the Internal Revenue.

Addressing the wild free roaming horses and burros, I would only like to state that surely all the chaos caused by well intended people in this area can some day be handled in a sensible and reasonable fashion for all concerned. And I might add that when Fry Marcos de Niza was sent by the Viceroy of Spain from Mexico City to the middle Rio Grande area (New Mexico) in 1539, he found no horses or burros, and that indeed, they are foreign to our lands.

And there were great expanses in the New Mexico area void of wild game, because there was no water for same. Most of the water now watering the wild life and birds has been developed by the ranchers in our area.

I would like to restrict my comments to the fees for grazing on public lands to some of the areas that differ from private land leases. Some of these items are the maintenance of fences and watering facilities, the amortization of users investments of construction of fences, windmills, pipelines, earthen tanks and other permanent structures, the travel by ranch personnel to and from public grazing areas, pumping and/or hauling water, movement of livestock to the public lands, the maintenance of water and salt for wild life, the cost to the rancher because of public use of the land, such as, recreation, hunting and wood-cutting. And then the necessity of repairing waterings, fences, gates and other facilities destroyed by public use, the continuing surveillance necessary that is demanded by the public's use depleting water sources, leaving gates opened and even to the harrassment of livestock.

Environmental considerations are indeed important and probably most important of all to the users of the public land and those of us that finance this use.

Land use planning is indeed a complex area in New Mexico; however, I would just state that the free enterprise system has done an outstanding job in America. I would go so far as to add that I believe that much of the public lands in the Western states should be made available for private ownership and development as has been the case in the rest of America.

The allotment management plan has indeed given considerable problems and fears in long term financing for ranchers using public lands. In considering any loan, probably the one most important ingredient is the character, reliability, integrity and management ability of the maker; and thus removing the management from the rancher has developed great concern. We appreciate the intentions, the possible benefits from an overall management plan of an operating unit and would hasten to say that the owner or leasee should have a large part in developing any management plan. We believe that consideration should be given to Grazing Advisory Boards and other land owners such as, the State of New Mexico in the development of management plans.

A number of our customers using public lands have a substantial amount of state land leased, as well as, private land in their operating units and it would seem inconceivable to us to give full authority to a single agency over all these inter-mingled lands. It would seem to us, if there was some way to give assurance to the rancher (the users of public lands) and financial institutions (that finance this use) that their investment, their management ability, experience and especially experience in a given area would be given consideration and credence in the development of allotment management plans, it would make it more palatable and workable in the free enterprise system.

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STATEMENT OF BUD EPPERS, PRESIDENT, SOUTHEASTERN NEW MEXICO GRAZING ASSOCIATION

I appreciate the opportunity to comment on S. 2475, the "Public Range Lands Improvement Act of 1978" and the language contained in Section 8 of H.R. 10587 clarifying Sections 402 (d) and (e) of the Federal Land Policy and Management Act of 1976.

I will direct my comments generally showing the necessity for clarification of Section 402. It has become very apparent this section is unclear and is being misinterpreted by the Bureau of Land Management (BLM).

BLM contends that they need to intensively manage their lands to return them to more productive levels, yet the agency could not defend or prove their management has resulted in improved range conditions than existing on adjoining ranches. Furthermore, ranchers presently under AMP's intensively managed by BLM personnel will have reduced calf and lamb percentages per productive adult female and reduced average weights of those animals. This all results in less return to the permittee's who are financially responsible to the various lending institutions providing operational capital. Agency personnel are in no way responsible financially so if their management directives are unsound only the livestock producer suffers.

Rotation grazing systems, which are included within the AMP's, are extremely detrimental to the rangelands of the west where moisture conditions

vary tremendously and rainfall patterns are so widely fragmented. These conditions are very prevalent in New Mexico and the West. Pastures, heavily grazed, may go several years before sufficient rainfall produces enough forage to protect the soil from severe wind or water erosion. Livestock suffer tremendously where concentrated into small confined areas resulting in less economic return to the producer.

Design standards, set forth by BLM will benefit little the livestock operators. Fence designs will most assuredly result in numerous trespass charges being filed against ranchers. They will not contain either cattle or sheep and are a waste of taxpayers dollars. Watering systems are insufficient and will create extremely high maintenance costs.

Section 4 permitted improvements, whereby the ranchers paid for and constructed them would result in more efficient structures saving taxpayers millions of dollars.

Management responsibilities being placed into the hands of unqualified BLM personnel will result in lending institutions refusing to provide needed capital to livestock producers creating further instability and higher prices to the consuming public.

States rights are violated whereby an agency of the Federal Government manages and controls state lands. Entities dependent upon the amount of return produced from leasing state owned property will suffer greatly while having to look for other sources of revenue.

AMP's imposed on public land ranchers will result in decreased income not only to the livestock operator but to local communities, counties and states.

Livestock operators who are doing a good job, little need government regulation or management controls. They should be recognized for their contributions of improving and maintaining rangeland in a satisfactory condition.

This amendment does not remove the responsibility for management of the natural resources by the Secretary but would give discretion to the Secretary as to whether they were necessary rather than mandatory as they presently are under Section 402 of "FLPMA". If the Secretary elects to incorporate an AMP on a given allotment or ranch then it would be developed in careful and considered consultation, cooperation, and coordination with the leasee's or permittee, the district grazing advisory boards, state land administrators or other parties having an interest within the ranch.

If the AMP's presently in use demonstrated beneficial and successful results they would be readily accepted by all. BLM is revising three fourths of the AMP's in the Roswell area thereby admitting they are not accomplishing the objectives sought originally and some of these have been in effect for 16 years.

In conclusion, I seriously question the intent of the BLM in imposing AMP's on all ranches throughout the West. Is it for the betterment of the range or for complete and total control of not only the Federal Lands but the State and private lands as well?

I strongly urge the Senate to adopt the language in H.R. 10587, Section 8 clarifying Section 402 (d) and (e) and incorporating the same into companion bill S. 2475.

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#### STATEMENT OF GINGER MERCHANT, ON BEHALF OF DEFENDERS OF WILDLIFE

Mr. Chairman and Members of the Subcommittee, I am Ginger Merchant, Programs Assistant for Defenders of Wildlife. Our offices are located at 1244 Nineteenth Street, N.W., Washington, D.C. 20036. Defenders of Wildlife is a non-profit, tax-exempt, national conservation organization, devoted to representing the best interests of wildlife before the decisionmaking processes of our Government.

Despite the diversity of interests testifying before the Subcommittee, the common theme is concern for the restoration of the productivity of our public rangelands.

For legislation to achieve restoration of the rangelands, it must be conceptually progressive. Specifically, it must address the needs of the multiplicity of renewable resources dependent upon the public rangelands. The bills under consideration, S. 2475 and H.R. 10587 fail to accomplish this. While giving lipservice to wildlife, these bills primarily address range restoration for livestock.

Further, these bills rest upon the premise that extensive "range improvement" work will cure the ill. Unless such endeavors are accompanied by livestock

reductions and exclusions, where such are appropriate, and by increased supervision of livestock, little will be gained even for livestock.

A similar effort to restore Forest Service rangelands, the Anderson-Mansfield Act of 1949, has been undercut by failure to reduce AUM's. The Forest Service claimed, openly, in selling the bill, that extensive range improvements would result in simultaneous restoration of the range and increase in AUM's, as much as five to ten fold. Not only did the promise of increased capacity prove false, but range restoration was delayed by at least a decade.

Defenders of Wildlife is especially concerned over the continuing degradation of the fish and wildlife habitat on our public lands which is not adequately addressed in these bills. In 1976, according to the Bureau of Land Management's Wildlife Annual Report, about 55 percent of the habitat in the lower 48 States was determined to be in unsatisfactory condition. The trend was rapidly downhill.

The Comptroller General's "Report to the Congress" in 1977, attributed the continuing deterioration of the public rangelands, "principally to poorly managed livestock grazing."

Riparian zones, which are particularly attractive to livestock, are being abused throughout the West. These critical zones provide habitat for approximately 70 percent of all wildlife species during some period of their lifetime.

Our west-central field representative informs us that in Wyoming's Rock Spring's District where BLM is "on top of the problem" comparatively speaking, 68 percent of the stream miles are in poor condition. Some have no fisheries at all. In the Southwest, the problem is generally more acute. According to a BLM fisheries biologist in Utah, approximately 70 percent of the state's stream miles on BLM land is in poor condition. The majority of the remaining riparian habitat has not been impacted simply because of its remoteness or protection. In Nevada, according to a BLM fisheries biologist there, it is estimated that as much as 90 percent of the riparian habitat has been impacted.

In view of the bias inherent in S. 2475 and H.R. 10587, Defenders of Wildlife must oppose the bills unless amended as discussed below.

#### "ENVIRONMENT" AND "NONENVIRONMENT" IMPACT IMPROVEMENTS

Defenders of Wildlife is opposed to any attempt to legislate a distinction between "environment" and "nonenvironment" impact improvements and, thus, to undermine the existing NEPA process. While the provisions in S. 2475 would dangerously exempt certain types of improvements from review, those in H.R. 10587 would modify the Secretary's discretion under NEPA.

Fence construction, vegetative manipulation through grazing management, and water developments, to name only a few of the range improvements defined in these bills as "nonenvironment" impacts can and have had significant adverse impacts upon the environment. Range improvements must be considered on a case-by-case basis through the EAR, and when necessary EIS, processed to ensure adequate protection for other users of the public rangelands and the environment.

Therefore, we urge the deletion of all language abridging NEPA from these bills.

#### AUM ALLOCATION

Defenders is convinced that range restoration cannot be accomplished unless AUM allocations are brought into line with range carrying capacities.

While appropriate adjustment in AUM allocation is now within the Secretary's discretionary power under FLPMA, existing political pressures all too often impede and/or prevent the necessary cutbacks (as evidenced recently by the transfer of Gary McVicker, BLM's area director in Kingman, Arizona). It is increasingly apparent that a Congressional mandate is required to bring about change. Specifically, we urge this Subcommittee to incorporate one of the following measures into the bill it reports out:

1. *Mandatory* biennial evaluation of range carrying capacities and consequent adjustment in AUM allocation where necessary or \* \* \*
2. *Mandatory* review of range carrying capacity and adjustment in AUM allocation accompanying every transference or resinsurance of a grazing lease or permit.

#### GRAZING FEES

The controversy over the Administration's fee formula and the Technical Committee formula, contained in H.R. 10587 and S. 2475, is perceived primarily as a policy question—fair market value (FMV) vs. ability-to-pay.

Defenders contends that, in reality, the policy question is moot. We cannot accept the Administration's formula as an accurate reflection of FMV. By its failure to reflect FMV, the formula represents subsidization and should be recognized as such.

The average private land lease rate for the eleven western states, in 1978, is approximately \$7.00 per AUM. By the Administration's formula, "FMV" for public lands in 1978 equals \$2.38 per AUM. It is claimed that the discrepancy between the private and public land lease rate reflects the additional cost to the operator of grazing livestock on public lands.

If this, in fact, were the case, subleasing of public land allotments for private land lease rates would not be profitable for the sublessee. Although illegal, subleasing of public land allotments is profitable and known to be occurring. Some allotments leased from the BLM for \$1.51 per AUM are being subleased for \$7.00 per AUM. Under these circumstances FMV is, clearly, not \$2.38.

As the above example illustrates, the cost differential for operation on public land incorporated into the Administration's formula is excessive. In addition, there is no reason—except for subsidy—that the public should pay for: lost animals, association fee, veterinary, moving livestock to and from herding, salt and feed, travel to and from water, horses, fence maintenance, water maintenance, development depreciation, and other costs.

Among other traditional subsidies are massive predator control at the taxpayers' expense and range improvement work solely for the benefit of livestock and often to the detriment of wildlife.

For the reasons given below, Defenders is not opposed to the subsidization of livestock operations through low grazing fees. But it seems to us that persons privileged to use the public lands at low cost, should be required to use them in a manner which does not degrade them. They should be required, moreover, to adapt their use to the character of the public lands, and not expect that the land be modified for their benefit.

Defenders believes that the perpetuation of family-based livestock operations on the public lands, if properly regulated, is in the best interests of the public and wildlife. To this end, we support subsidization of small, incumbent family-based operations on the "ability-to-pay" basis. We believe such subsidization is not only important to prevent the divestiture of these operations, but also consistent with the Jeffersonian ideal which dominated land policies for a century or more.

While we are, therefore, somewhat in agreement with the fee formula favored by the Subcommittee and livestock interests, we urge the Subcommittee to restrict the applicability of the fee formula in these bills solely to small, incumbent, family-based operations. An across-the-board application of the "ability-to-pay" principle for all grazers of public lands would set a dangerous precedent. Further, we see no public benefit in assisting absentee landowners and corporations, other than family corporations formed for the sole purpose of conducting livestock operations, in this manner. In fact, since primary objectives of public land policy should be to benefit the socio-economic community and wildlife, we have sincere doubts as to the desirability of grazing on public lands by large absentee corporations.

In any event, if less than actual FMV fees are charged to grazers of public lands it should be recognized as subsidy and not cloaked by a misnomer. In all instances, grazing on the public lands should be strictly regulated and kept consistent with the carrying capacity through mandatory review of AUM allocations.

#### THE WILD, FREE-ROAMING HORSES AND BURROS ACT

Defenders supports the present form of the Wild, Free-Roaming Horses and Burros Act, and is opposed to Section 7 of H.R. 10587 and S. 2475. We believe Public Law 92-195 is reasonable and provides the best means for protecting our remaining bands of wild horses and burros while safeguarding wildlife and wildlife ecosystems. The Act states that horse and burro management shall be "designed to achieve and maintain a thriving natural ecological balance on public lands" and to that end mandates consultation with state wildlife agencies [Sec. 3(a)]. It further provides for the destruction of old, sick or lame animals and removal of wild horses and burros, for adoption, if overpopulation occurs [Sec. 3(b)] and for their humane destruction when removal is not possible [Sec. 3(c)].

The issues have become :

1. When and upon what basis does the BLM initiate removal, and
2. What is to be done with the animals removed from the range?

Based on our knowledge of manipulative range management practices for the benefit of livestock, the high numbers of trespass animals on the range, and other range abuses that decrease the long term productivity of out public lands, the BLM's persistent focus on removing "excess" horses is both inappropriate and inconsistent. However, when and if horses or burros are demonstrably causing significant range depletion problems, erosion, or adverse competitive pressures on native wildlife, removal is justified. Any and all removal plans must be weighed against this standard.

The BLM's horse and burro population estimates, supposed reproductive rates and definition of "excess" animals are highly suspect. Further, we believe it is important to put the wild horse and burro "crisis" in perspective. Using the BLM's current maximum population estimates, there are approximately 62,000 wild horses and burros currently on the range. We believe this is too high an estimate, but even if it were accurate the horse and burro populations are small compared to the estimated 3.3 million cattle, 4 million sheep, 15,000 domestic horses and 5 million big game animals on the range.

Much to the dismay of Nevada officials and livestock interests, over half of the wild horse population is concentrated in their state. Assertions that the horses are ruining the range and must be reduced drastically in Nevada might be more favorably received if livestock trespass were not so prevalent. Last year, the BLM cited and fined 80 Nevada operators for trespass, totaling over 20,000 animals. Certainly, many other trespass animals were never discovered.

Finally, concerning the distribution of captured horses and burros, defenders cannot support the transfer of unrestricted title to private parties. Unrestricted title would allow the sale of these animals for commercial purposes and would put the "mustangers" back in business, subsidized by Government conducted round-ups. Although well-intentioned, the limit of five placed upon the number of animals for which title may be granted in Section 7 of H.R. 10587, will not prevent abuses.

Restricted title (prohibiting sale for commercial purposes such as meat and rodeo), temporary sterilization of herd stallions, or reduction of herd reproductive capacity through sex and age ratio manipulation represent potential alternatives more in keeping with the intent of the Act. At present, however, the demand for animals for adoption is well above the supply. The BLM's Denver Service Center currently has a refined list of 7,000 people wishing to adopt animals. Approximately, one thousand of these are seeking burros.

At this time, we see no justification for transfer of title or a mandate to destroy "excess" animals as contained in Section 7 of H.R. 10587 and S. 2475. Such provisions, intended to facilitate the removal of horses and burros ignore the essence of the current controversy. Namely, when are horses and burros legitimately in "excess" and what are appropriate "management levels".

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#### STATEMENT OF OREGON ENVIRONMENTAL COUNCIL, PORTLAND, OREG.

A careful assessment of this legislation reveals unnecessary extravagant expenditure of public funds in a time when "spending bills" such as this legislation authorizes should be eliminated as public policy. Further, Section 401 of Public Law 94-579, the BLM Organic Act, "directs that 50 per centum of all moneys received by the United States as fees for grazing domestic livestock on public lands \* \* \* shall be credited to a separate account in the Treasury, \* \* \* and made available \* \* \* for the purpose of on-the-ground range rehabilitation, protection, and improvements \* \* \* as the Secretary directs." Director Gregg of the BLM reports that \$20.7 million are budgeted for fiscal year '79, which he reports is all that can be "efficiently and effectively" spent for range improvements. Therefore, the need for more money is questionable and must be regarded as unnecessary.

Other problems we find in the bill are that it proposes to circumvent the application of the National Environmental Policy Act. It also directs selling of grazing from public lands for less than reasonable market value. As this legislation benefits only one segment of the livestock industry (public land grazing permittees) while in no way helping ranchers who operate wholly on privately owned land, it is discriminatory in its application.

OEC recognizes that widespread overgrazing and unsatisfactory conditions prevail on public grazing lands; that cutbacks in livestock grazing are urgently needed and are more effective in restoring the productivity of the land than heavy investments in physical improvements. In the history of public land administration the mere construction of improvements without commensurate reductions in livestock grazing has not accomplished the objective of improving the condition of the public rangelands. There is substantial evidence that constructing range improvements without curtailing livestock grazing fails as a practical solution to improving range conditions.

OEC recommends adoption of range management programs prepared from the findings of the environmental impact statements being prepared for 212 areas of the western range as the most practical and acceptable solution to improving public grazing lands. No additional legislation is needed to carry forward a sound and efficient program of range rehabilitation. The expenditure of \$360 million at a time when the federal budget should be reduced is unsound and wasteful.

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STATEMENT OF MONS L. TEIGEN, EXECUTIVE VICE PRESIDENT, MONTANA STOCKGROWERS ASSOCIATION

The Montana Stockgrowers Association, which I serve as Executive Vice President, wishes to go on record strongly endorsing the passage of H.R. 10587, the Public Rangeland Improvement Act of 1978. This legislation is long over due and will assist in bringing about improved management of the public rangelands of the west.

It will provide the federal administrators with greatly improved tools to manage wild horses and burros. These animals must be managed just the same as wildlife is managed. The present law precludes such an effort. To the extent that H.R. 10587 frees the managers hands to do a better job, we support the amendment.

The range improvements projects which will be authorized over the next 20 years as a result of the passage of this Act, will go a long way to improve the public lands of this nation for the benefit of users and general public alike. The fact that all major farm organizations are strongly endorsing this legislation is an indication of the importance of this bill to the west.

The grazing fee formula contained in this bill will provide some additional stability for public land users in the west by building confidence that the formula cannot be manipulated according to the whims of the Administration or the agency involved.

Recent comments by representatives of the Administration have made much over the fact that the fee formula will not result in a fair market value fee. Our Association would dispute this claim. In fact, by the Administration's own admission, the fee formula if it had been in effect in recent years, would have generated more revenue than the system suggested by the Administration.

For the sake of argument, however, let us assume that fair market value is mandated for all uses of public lands. How then might we ask, is the public being compensated for the use of public lands by recreationists, hunters, fisherman, wilderness back-packers, etc. Or for that matter, the opportunity for an individual to acquire an oil and gas lease for a \$10 deposit and 50¢ per acres, or the calculation of stumpage values on the basis of what the market for finished lumber is in the region, less the road construction costs, etc. We submit that the Congress in its wisdom, has authorized payments for less than market value as determined in the market place for many commodities. It is for this reason that we believe that the fee as developed by the Technical Committee which was set up by Congress to study grazing fees in a previous action, satisfies the fair market test and is fully in line with precedents already established.

In states such as Montana, one has only to look at the map showing the scattered land pattern to realize that many ranchers have little choice but to lease adjacent intermingled public lands in order to make an economic ranching unit. This is certainly not a "willing buyer-willing seller" situation. In previous hearings on this grazing fee issue, we have pointed out the invalidity of much of the private lease rate data. The documentation for much of this data is based on an extremely small sample of lands. Special arrangements between lessee and lessor generally require that the lessor provides for developments and management services which are paid for by the lessor. Add to this the fact that private lease arrangements are never entered into unless there is some assurance that the grass

is there to feed the livestock. Contrast that with the federal arrangement where an individual pays his money and takes his chances, whether there is grass available for the entire season or not. In an arid state such as Montana, there is considerable fluctuation from year-to-year and from area-to-area as to moisture conditions. This has a tremendous effect on the forage supply.

I would like to ask in closing that your committee approve H.R. 10587 in its present form. Doing so will benefit the general public, the livestock industry and the land resource itself.

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STATEMENT OF WILLIAM E. TOWELL, EXECUTIVE VICE PRESIDENT,  
THE AMERICAN FORESTRY ASSOCIATION

Mr. Chairman and members of the Committee, I am William E. Towell, Executive Vice President of The American Forestry Association, the nation's oldest citizen conservation organization, with a long history of interest and involvement in public lands issues. We appear in support of S. 2475 or H.R. 10587, as passed by the House, with one major exception.

Restoration and multiple use management of the public rangelands is long overdue. These lands should serve all the people in a way that provides the greatest public interests and benefits. For too long they have been used to the benefit of a few. We particularly support the multiple use funding proposal in S. 2475 for range, wildlife and watershed values. It is important to remember that range use involves more than domestic livestock, however, and should be planned and managed as a part of total multiple resource use. Wildlife species also must be considered in the allocation of public lands usage.

The great objection we have to the legislation, as no written, is in Section 5(a) pertaining to grazing fees. The bill's language now provides a method for establishing grazing fees that is not in the best public interest. Fair Market value for a public resource would be discarded as a national policy in favor of a formula based upon the user's ability to pay. How can we with a clear conscience dedicate our public lands to multiple use, inaugurate a long-overdue program for range rehabilitation with public funds, and then permit private use of an expanded resource at a cost less than its true value? This is contrary to a well established policy for other resources on public lands where the user is required to pay a fair market value. Ability to pay or "the economic value of the use to the user" is not a fair method to establish the value of a public resource. We strongly support an amendment that emphasizes "fair market value" as the price determining method for use of public rangelands.

Other provisions of S. 2475 (H.R. 10587) generally meet with our approval. The main objective of this legislation is to improve public rangelands, and this is highly commendable. It will take more money than we have been willing to spend in the past, but it also will take better planning and more intensive management. One range resource that must be controlled is the wild horse and burro population. We cannot allow emotionalism to dictate poor management. This bill provides for humane but orderly control of these animals. We support it enthusiastically.

With the exception of Section 5(a), we endorse the Public Grazing Lands Improvement Act of 1978 and urge its prompt enactment.

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SIERRA CLUB, SOUTHWEST OFFICE,  
Santa Fe, N. Mex., August 18, 1978.

Hon. DALE BUMPERS,  
Chairman, Subcommittee on Public Lands and Resources, Energy and Natural Resources, U.S. Senate, Washington, D.C.

DEAR SENATOR BUMPERS: It was a pleasure to testify before your subcommittee during its consideration of the "Public Rangelands Improvement Act of 1978" last August 9. This letter is to set forth in more detail than time permitted at that hearing some of the concerns behind the request that the subcommittee legislate a study to stabilize the turnover of district level BLM personnel.

I have discussed this problem over the last several years with representatives of major environmental organizations, officials of the BLM, and individual ranchers. A clear consensus has emerged to the effect that those BLM personnel who are most intimately in contact with range conditions, wildlife and its habitat, and the scenic and recreational resources of our public lands are in their positions

too short a time to be effective and sensitive resource managers. In the arid southwest, for example, a rest/rotation grazing cycle can cover 3 to 4 years, and the responsible BLM official may last only two years before they transfer elsewhere. It is not surprising, therefore, that ranchers view succeeding BLM field employees with skepticism and decreasing respect. Similar circumstances apply to wildlife populations and their habitat requirements. An increasing deficiency is also recognized as the BLM attempts to inventory roadless areas and potential wilderness candidates. The vast areas to be reviewed do not lend themselves to the rapidly rotating personnel system now in effect. The necessary field studies cannot be adequately performed by these personnel who may move from the area or district before they have even seen it all. Thus, for all users, inadequate data is a likely product; and for the BLM continuing controversy and dispute are a constant, uneconomic drain.

How then can the problem be solved? The answer probably lies in an incentives approach rather than a restrictive one. Lower level employees transfer now to improve salaries. They do this by applying for jobs of higher classification and pay scale. They also seek to transfer in order to broaden their field experience and diversify their exposure within the BLM. Both of these benefits could be made available without penalizing an employee who remains in a given field position. Salary incentives or bonuses which lasted for only four years, for example, could neutralize the economic disadvantages of moving without making the benefits so permanent that stagnation resulted. During that period the employee might be eligible for an annual tour of detached duty or special training from 4 to 6 weeks in duration, thus allowing for diversification in professional background and expedience. Such a program would also allow the BLM to build special task forces to do special jobs in districts which would otherwise not acquire sufficient personnel.

Whether through these ideas or better ones, the BLM and other agencies should be required to address the original problem and produce an adequate remedy. So long as these resource agencies view it as a civil service exercise and not as a management problem, the resources themselves will suffer. I urge your committee to use the legislation before you as a vehicle for the needed reform. You could mandate a study with a congressional report. You could require a trial program, or even a departmental policy. You might wish to address the matter through your own staff study, a GAO study or proposal or some other device. Your own view of what would be effective, of course, is the most experienced. However done, I assure you that the problem is widely perceived and an attempt to solve it would be widely appreciated.

If I can be of further assistance, I would be glad to work with your committee and staff.

Sincerely,

BRANT CALKIN,  
*Southwest Representative.*

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WYOMING FARM BUREAU FEDERATION,  
*Laramie, Wyo., August 8, 1978.*

HON. DALE BUMPERS,  
*Chairman, Subcommittee on Public Lands and Resources, Senate Committee on Energy and Natural Resources, Dirksen Senate Office Building, Washington, D.C.*

DEAR SENATOR BUMPERS: Please include the following letter in the hearing record as your subcommittee considers proposed federal range land improvement legislation.

The Wyoming Farm Bureau Federation is a general agricultural organization of 23 county Farm Bureaus, representing ranchers and farmers who produce all the types of agricultural commodities grown in our state. Many of our member families are grazing permittees on federal lands administered by the Bureau of Land Management and Forest Service. Many live in valleys, communities and counties which are vitally affected by the livestock herds which graze on these federal lands. These families are also concerned with the watershed, recreational and wildlife resources of the federal lands. Therefore, Farm Bureau has a sincere interest in the wisest and most efficient management of these important land resources.

We agree that current range conditions can be substantially enhanced, but let's also recognize the valuable contributions that federal land grazing per-

mittees and lessees have made over the past 40-some years. These range operators have made extensive investments of private capital in range improvements on federal lands. Without such private dollars and tireless personal range management practices, the federal range land would probably be providing substantially less forage for the vast number of wildlife and domestic livestock which graze these lands.

However, private investment in federal range improvements alone cannot produce the optimum level of range conditions which should be achieved. That's why it's important to implement a comprehensive federal range improvement program, which includes federal funding along with private capital investments by lessees and permittees for on-the-ground range improvements. A reasonable and responsive system to accomplish such a desirable goal must be developed to assure (1) lessees or permittees with security of their investments (10-year permits or leases) and (2) that authorized federal funds are actually available to federal land administration agencies to accomplish the range improvements.

We commend the committee for conducting a hearing and accepting other written testimony on this important subject. We appreciate the opportunity for Farm Bureau members in Wyoming to express our ideas and will address these comments to an omnibus bill.

We urge your favorable consideration of H.R. 10587 as passed by the U.S. House of Representatives. While it may not be perfect, we think its objectives would significantly improve the laws governing grazing on federal lands. We would be negligent if we didn't point out some areas of this legislation which could be further refined. In addition, we want to offer supportive comments about some key provisions.

In Section 2(a) the National Grasslands are exempted from this measure. However, when discussing the proposed grazing fee formula contained in Section 5 of H.R. 10587, many National Grassland users in Wyoming are not aware of its design or how it could operate. Once understood they seem to favor it. We wonder if the Section 2(a) exclusion or exemption should be reconsidered.

Section 2(e) defines "range conditions" in language which is too restrictive and environmentally unsound. Instead we suggest the following modification. After the words "range conditions" strike the balance of the language and substitute the following: "means the current productivity of a range relative to what that range is naturally capable of producing, and can be identified in terms of forage values, wildlife habitat and watershed values."

Section 2(f) contains the definition of "native vegetation" which also needs revision. We suggest the following modification to read:

"The term 'native vegetation' means those plants species, communities or vegetative associations which are endemic to a given area and WHICH ARE PART OF THE ORIGINAL FLORA OF THE AREA." [The language in all caps replaces the remainder of definition 2(f) of contained in H.R. 10587 as passed by the House.]

We think it's important to create an appeal procedure at the local level rather than having to use the procedure in Public Law 94-579.

Therefore in Section 2 we recommend adding a new subsection which would read as follows: "(k) The term 'review board' means a board of three individuals who have training in federal and private rangeland management and who have personal knowledge of the land management involved in any controversy to be arbitrated."

Section 4, Range Improvement Funding, is an essential part of this legislation. We basically support the funding provisions of H.R. 10587. We must strongly emphasize that it is imperative that Congress not only provide such funding, but ensure that such dollars go into on-the-ground improvements and are not diverted for the so-called "desk and drafting board" (administrative) costs.

For many years we have urged the federal land administration agencies to spend more of their funding for actual on-the-ground range improvements and less for strictly administrative work. However, we think the administrative costs have reduced available range improvement funds which could have benefited the federal rangelands. Thus, on-the-ground improvements and maintenance funding cannot be over-emphasized. We appreciate the stipulations on the percentages of authorized appropriations in 4(e) which limit the amounts which may be spent on the administrative activities.

However, we view with some concern subsections (f) and (g) of Section 4. While Congress may enact this legislation intended to improve our federal rangelands, we can see that much of it may be delayed. To expedite the process and ensure that range improvement funds begin doing what they were designed

to do, we think it's necessary to have a simpler and more effective approach. This could be accomplished by exempting from allotment management plans or environmental impact statements all "normal agricultural practices".

Section 5 dealing with grazing fees is extremely important. For many years Farm Bureau has appealed to Congress to set a statutory grazing fee rather than leaving it to the whims of the administrative agencies of the Departments of Agriculture and Interior. Farm Bureau policy supports the recommendations of the Grazing Fee Technical Committee. We feel that the committee's recommended formula is far more equitable than the formula proposed by the Secretaries of Agriculture and Interior last fall.

Obviously, the two Departments don't want to relinquish the power of setting grazing fees to a Congressional decision as H.R. 10587 provides. Criticism by Administration officials of the proposed grazing fee formula contained in Section 5 necessitates comment.

The proposed formula is a compromise despite Administration claims to the contrary. For many years Farm Bureau argued that the cost of permit (commonly referred to as "permit value") should be included in any formula. It is the largest single cost to ranchers in federal land grazing. We have modified our position to accept the technical committees' formula, which ignores permit value, but does incorporate the price of beef cattle and cost of production. Such a formula will add stability to the livestock industry. When prices rise, fees will rise. When prices drop, fees also are reduced.

Critics claim the use of cost of production figures in such a formula is precedent setting and unfair. We believe if one checks prices paid in timber sales—one would find that cost of production is included there. Then why not for grazing?

Section 5 only sets this fee for a seven-year period, during which some experimental programs are to be initiated. By providing incentives (including the possibility of lower grazing fees), we think the federal land users will respond positively to such a challenging program.

Section 6 requires the secretary to issue 10-year permits or leases, except where he determines on a case-by-case basis, as opposed to the blanket basis, that a shorter term is necessary. That's a step in the right direction. We encourage the subcommittee to place even more stringent requirements on the secretary to issue 10-year permits unless there's overwhelming reason to do otherwise. Such a requirement would alleviate one of the primary problems facing federal land users—the need for continuity and flexibility. Such ranchers must have assurance that they will be allowed to remain on the federal lands long enough to do a job of range improvement while utilizing his allotted forage. Ten-year leases or permits will also encourage the investment of greater amounts of private capital in range improvements to complement any federal investments.

We support the provision of Section 7 dealing with wild horses and burros, which allows the secretary additional discretion and control over those animals. We think there must be greater flexibility and latitude for humane disposal of wild horses and burros.

We support Section 8, dealing with Allotment Management Plans which was added in the House-passed version of H.R. 10587.

We also recommend creation of a new subsection, 11. This should be entitled "Review Boards". The review board would be defined in Section 2 as subsection (k). Here's how it would function.

Section 11. As defined in Section 2(k), review boards are hereby authorized.

(a) A review board shall be established when requested by one of the following: a secretary, lessee, permittee or local government.

(b) The composition of a review board: one member shall be selected by the appropriate secretary; one member shall be selected by the other party (lessee, permittee or local government); and the third shall be selected by the other two members already selected by parties to the controversy.

(c) When duly constituted a review board shall act upon any appropriate local dispute, including but not limited to the following: proposed allotment management plans, proposed forage reductions; allocation of additional forage; trespass conflicts; and disputes between local government and federal land administration agencies.

(d) The review board shall make recommendations to the appropriate secretary as to "whether" and "how" a controversy shall be equitably settled.

Thank you for the opportunity to present our views of and suggestions on this important legislation.

Sincerely,

DAVID A. FLITNER, *President.*

WILD HORSE ORGANIZED ASSISTANCE,  
*Canterbury, N.H., August 16, 1978.*

HON. DALE BUMPERS,  
*U.S. Senate, Committee on Energy and Natural Resources, Subcommittee on  
 Public Lands and Resources, Washington, D.C.*

DEAR CHAIRMAN BUMPERS: I am writing in regard to S. 2475 and H.R. 10587. I will refer to H.R. 10587 as it has been through the House and I assume is the measure you will deal with primarily. I would like this to be part of the Congressional Record as I heard of the hearing too late to be on the list to testify.

FINDINGS AND DECLARATION OF POLICY

Both wildlife and horses will be affected negatively by construction of fences. BLM was confronted by a problem with fences in the plains states; many of the larger wild animals ran into, and died on the fences. The same problem will arise with the wild horses, deer and antelope. Fencing without extremely careful planing will disrupt natural migration patterns for both wildlife and the horses. If those patterns overlap, it would be impossible to avoid interference with one group or the other. Many improvements can be made to our rangeland without the use of fencing.

RANGELANDS INVENTORY AND RANGELANDS IMPROVEMENT FUNDING

Certainly rangelands inventory is a crucial part of any long term management program and has been neglected for too many years. Rangeland improvement funding should be carefully scrutinized to be sure that it is beneficial to ALL user groups . . . livestock, wildlife and horses. The language in the bill is definitely not specific enough in this area. The intent appears to concentrate on commercial users to the near exclusion of other groups.

Reference to research in both Inventory and Funding is noticeably absent. Without proper research of forage habits, population increase and control and migration patterns of the user groups, it would be virtually impossible to arrive at a sound management program.

GRAZING FEES

I strongly favor lower grazing fees for those who use the land properly and as an incentive to improve the condition of rangelands under permit or lease. This type of BLM policy is long overdue.

WILD HORSES AND BURROS

The amendment to Section 7, Subsections 3(b) and (c) of the December 15, 1971 Act mandating the Secretary to "maintain a current and scientific inventory of wild and free-roaming horses and burros on the public lands" in intent is excellent but with no specific funds for the research, is worthless.

I do not think the Secretary should be authorized to destroy excess animals unless they are old, sick or lame. I have been involved with the adoption program since its inception. The BLM has not made a sincere effort to make the program work; they have improved greatly in the past year but still have a ways to go. I have two wild mares here, eligible for adoption, having been approved as a satellite distribution center. I have the BLM adoption applicants list from the Denver computer. None of the applicants I have called, at my own expense, had any idea that there were wild horses available for adoption in the East. BLM should have arranged for computer letters to go to all applicants in the Eastern United States on that list when the 33 wild horses arrived at the distribution center in Massachusetts in November!

I do not agree with the transfer of title even after the one year holding period. The Bureau isn't doing its job checking on adopted horses now. Consequently, it is doubtful that anyone would "insure that adopted animals are receiving humane treatment and care" before title is transferred. Contracting with animal protective organizations may be a viable solution. However, the transfer of title should be deleted until such time that the Secretary finds that such a program will work. Section (c), p. 19 & 20 should be deleted.

I appreciate the opportunity to provide testimony on S. 2475 and H.R. 10587.

Sincerely,

KATHRYN M. CUSHMAN,  
*Eastern Representative for Wild Horse Organized Assistance  
 and a Satellite Distribution Center.*

UTAH DEPARTMENT OF AGRICULTURE,  
Salt Lake City, Utah, August 3, 1978.

HON. DALE BUMPERS,  
Public Land and Resources Subcommittee,  
Washington, D.C.

GENTLEMEN: We are writing to voice our support for HR 10587 (Public Range Lands Improvement Act of 1978). We feel this bill which goes to committee on August 9, 1978, is a very important bill concerning Utah's agriculture and Utah's Federal Range Land.

Our Range Land is an important underdeveloped resource and we strongly urge your support on this important issue.

Enclosed find a more detailed statement of our support of the Public Range Lands Improvement Act of 1978.

Thanks.

Sincerely,

KENNETH B. CREEB, *Commissioner.*

Enclosure.

PUBLIC RANGE LANDS IMPROVEMENT ACT OF 1978

The Utah Department of Agriculture supports the basic concepts contained in HR 10587 which recently passed the House by voice vote.

We strongly support the updating, developing and maintaining on a continuing basis an inventory of range conditions and records of trends of range conditions on public grazing land. This has been needed for a long time and will be very helpful in dictating range use.

We also support the principle that the goal of management shall be to improve the rangeland so they become as productive as possible.

The Department strongly supports the authorization of an additional \$15,000,000 annually in fiscal years 1979-86; we also support the funding of an additional \$5,000,000 from 1987-98. We feel this is a very good start, but \$15,000,000 will not go far when divided up among several states. To get public rangeland producing to its maximum potential much more money will need to be appropriated; however, we support the law as now stands.

The Department also strongly supports the mandate that no less than 80% of the funds shall be used for on-the-ground use, rehabilitation, maintenance and construction. We appreciate the opportunity for local range users including advisory boards to have a say in the distribution of funds.

We would like to see funds going for all range improvements, i.e., environmental and nonenvironmental range improvements instead of only nonenvironmental projects and we agree with the concept presented in the bill incorporating the EIS and land use plans and AMP into one consolidated unit plan and EIS.

We support the grazing fee formula as stated in the bill. We support the provisions in the bill concerning wild horses and burros. We especially support the humane destruction of old, sick, lame and unwanted animals. The Department supports private ownership of adopted horses immediately, but feels ownership of horses in one year is a step in the right direction.

[Mallgram]

SENATE PUBLIC LANDS AND RESOURCE SUBCOMMITTEE,  
Washington, D.C.

The Prairie County Cooperative State Grazing District representing 160 members would appreciate your support on H.R. 10587 and S. 2475.

PRAIRIE COUNTY COOPERATIVE STATE GRAZING DISTRICT.



