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February 13, 2017

Ms. Melany Glossa
Forest Supervisor
USDA
Beaverhead-Deerlodge National Forest
420 Barrett Street
Dillon, MT 59725

RE: MWGA comments on the Draft review of new information pertinent to Domestic Sheep Allotment Management Plans in the Gravelly Mountains

Dear Ms. Glossa:

I write on behalf of the Montana Wool Growers Association and its membership. The Association appreciates this opportunity to submit these comments.

The Association concurs with the Department's findings that the five issues raised by the Gallatin Wildlife Association in Federal District Court Case No. 2:15-cv-00027-BMM) do not constitute significant new circumstances warranting a full environmental review for the AMPs to be updated. As is correctly noted in the draft analysis, and as correctly pointed out during the actual legal case, the time for conducting any such additional analysis is the time set by the Secretary of Agriculture under the current schedule, i.e. 2019, for the sheep AMPs. Further, a quick review of the Review of New Information shows that the Department has met its obligation to review and consider the relevant factors it was required to be the Court

As the Department is aware, in addition to the present analysis related to the environmental impact of domestic sheep grazing in the Gravelly Mountain landscape, the Department conducted an analysis on the same issues as part of the Department's 2011 Report to the Chief and as part of the recent analysis performed on the MOUs. The final Review of New Information should reference and discuss that previously conducted analysis as part of the final review of new information because such analysis has already touched on each of the five issues raised by the Gallatin Wildlife Association as part of its Court case. The fact that the Department has already analyzed, and analyzed in depth, the issues discussed in the current AMP analysis indicates that Gallatin Wildlife has failed to identify any issues that constitute

'significant new information' as that term applies to the National Environmental Policy Act (NEPA).

It is clear from reading the Draft Review that the Department has done an excellent job of thoroughly analyzing the relevant factors. However, the Association encourages the Department as part and parcel of its final Review to include a section specifically discussing why the 'new information' analyzed does not constitute 'significant new circumstances or information' for purposes of preparing an SEIS.

The Association recommends that the final review walk through the factors identified by the Ninth Circuit Court of Appeals for identifying when new information constitutes significant new circumstances or information. *See, e.g., Warm Springs Dam Task Force v. Gribble*, 621 F.2d 1017, 1024 (9th Cir. 1980). Under the applicable jurisprudence, no SEIS is needed "unless the new information provides a seriously different picture" of the environment than that previously analyzed.

As that standard is applied here, none of the new information analyzed as part of the 'Review of New Information' paints a seriously different picture of the environmental situation at either the time the Greenhorn Bighorn Sheep herd was introduced into the gravelly mountain landscape in 2003 or at the time the forest plan amendment was conducted in the 2009-2010 time period. This is because as the 2011 Report to the Chief determined comingling between the domestic sheep running on the BDNF sheep allotments and the bighorn sheep in the Greenhorn Mountains has not occurred and is unlikely to occur both due to geographic barriers and due to management prescriptions put in place by Montana Fish, Wildlife and Parks (MT FWP), such as those set forth in the analyzed MOU(s).

Further, as specifically found in the 2011 Report to the Chief, the Department has already analyzed the 2011 listing of Bighorn Sheep as a 'sensitive species' and, as a result of that analysis, concluded that both the BDNF Forest Plans and the strategies for the AMPs at issue provided sufficient direction for management of bighorn sheep on the BDNF. What is more, as to the MOUs, some form of that document has been in existence since the time of the reintroduction of bighorn sheep into the greenhorns. As previously analyzed, the MOU was put into place to protect the newly introduced herd, and as determined in both the current draft Review of New Information and in the recent Draft Supplemental Environmental Impact Statement, that document has served its purpose.

Also, the assertion by Gallatin Wildlife during the legal proceedings that were the grazing permits pulled, MT FWP would use the closed allotments for reintroduction of bighorn sheep is not even a credible assertion in the first instance. MT FWP has never indicated that it will or would reintroduce sheep into the gravelly mountain range if the BDNF sheep allotments at issue are vacated and/or retired. Also, Gallatin Wildlife's assertion is undermined by the facts that, as the draft Review properly denotes, the domestic sheep allotments are not suitable for

bighorn sheep winter habitat and the area is proximate to large swaths of lodge pole pine, which house predator populations – thereby rendering the area less than key habitat for bighorn sheep. Finally, Gallatin Wildlife’s assertion that the presence of domestic sheep on the BDNF is prohibiting hunting opportunities is undermined by the new information attached as Appendix “B” to the Draft Review, i.e. the email from Dean Waltee to various parties, including to Glenn Hockett. In that email, Waltee represents that the Greenhorn herd has meet 3 criteria for establishing a hunting season for each of the last two years, which translates to a possible harvesting opportunity in the fall of 2018.

In sum, the Association believes the Draft Review properly identifies and adequately analyzes the relevant environmental issues identified by both the Court and the Plaintiff Gallatin Wildlife Association. It is clear that the ‘new information’ analyzed does not provide a seriously different picture of the environmental condition(s) that the current AMPs are constructed upon. Therefore, the current AMPs adequately protect bighorn sheep and are in no need of revision presently. Further, the Department should continue proceeding on the track it was prior to the filing of the lawsuit in question by completing any additional environmental analysis on the sheep AMPs by 2019. However, this being said, the Association does urge the Department to include additional analysis applying the criteria set forth by the 9th Circuit Court of Appeals as to whether ‘new information’ constitutes ‘significant new circumstances or information.’”

On behalf of Montana’s sheep producers, I appreciate this opportunity to provide comment on the Draft Review of New Information Pertinent to Domestic Sheep Allotment Management Plans in the Gravelly Mountains.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. E. Brown', with a long horizontal line extending to the right.

James E. Brown, Esq.

cc: MWGA Board of Directors