

Fixing What's Wrong With Federal Government Wilderness Livestock Grazing Rules

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In February of 1990, a House Committee (the Committee on Interior and Insular Affairs) adopted House report 101-405 and attached it to HR 2570 a bill designating Wilderness for U.S. Forest Service Lands in Arizona. The bill was to be called the "Arizona Desert Wilderness Act of 1990."

Since that time the language in the House report has been referenced in Wilderness Bills of all types and for various areas around the country. Just trying to find what the language actually said has become a problem, since all that is mentioned is that whatever Wilderness designation bill is being considered just refers to "in accordance with Section 4(d) (4) of the Wilderness Act" continuing with references to the guidelines set forth in Appendix A of the report made by the House committee.

The basic concept is that if livestock grazing was happening prior to the enactment of whatever designation Act went into effect – livestock grazing would be able to continue. This promise of being able to continue has been attempted to be the silencing leverage to keep livestock grazing allotment owners from objecting to over-reaching Wilderness designation.

"You got nothing to complain about," the argument goes, ***"you can keep grazing just like you have been..."***

Yea, well...there might be a little less to that "promise" as you might have thought...

In reviewing Appendix A – and "the Grazing Guidelines," Nevada Farm Bureau has been suggesting that some adjustments be made in lands bills being contemplated for Nevada. Going through the proactive process of writing the new language should also cause federal land management agencies to change their handbooks and process for how they are going to "manage" livestock grazing in areas that are designated as Wilderness.

Use Of Motorized Equipment For Supporting Facilities:

The current wording states, ***"Where practical alternatives do not exist, maintenance or other activities may be accomplished through the occasional use of motorized equipment."***

By the time this "guidance" reaches the Bureau of Land Management's handbook, it turns into this:

"d. Grazing facilities.

i. *Structures and installations used for livestock management existing at the time of designation* may be maintained. Maintenance may be done by the occasional use of motorized equipment where:

A. practical non-motorized alternatives do not exist; and

B. the motorized use is expressly authorized in the grazing permit and advanced written permission for each maintenance activity is granted by the BLM; and

C. the motorized use was allowed prior to wilderness designation.

In most situations, authorization for motorized use would be considered on a case-by-case basis—for example, to remove sediment from a stock reservoir. In some cases, a schedule could be established—for example, hauling water to fill a tank. In all cases, authorization should be for no more than is practically necessary to support the livestock grazing program and for actions that would not have a significant adverse impact on the natural environment. The use of an existing route and mode of travel also must cause the least impact on wilderness character and be similar to what was allowed prior to wilderness designation. These decisions are made during the grazing permitting process with the use of a Minimum Requirements Analysis (see Appendix B), completed in conjunction with the associated NEPA analysis, through which alternatives are analyzed to determine the method that least impacts wilderness character while remaining consistent with the rule of practical necessity and reasonableness in supporting the livestock grazing program. Actual authorization is granted, consistent with the NEPA analysis, in a letter of authorization. Authorizations need to be consistent with the Decision Document, including specified design features or mitigation measures and any specified follow-up actions. Authorizations will include exact travel routes to be followed by any motorized equipment or mechanical transport, as well as rehabilitation requirements.

Where practical alternatives to the use of motor vehicles exist—for example, using horses to distribute small quantities of salt or repair short sections of fence—the BLM will only authorize non-motorized activities.

ii. *Reconstruction or replacement of existing facilities* will require the use of natural materials if their use would not impose unreasonable added cost for the grazing permittee. An exception is when use of other materials would require less frequent motorized or mechanized access to perform maintenance.

iii. *New facilities* will be permitted by the BLM only for the purpose of enhancing the protection of wilderness character.

e. **Use of motorized equipment.** Except as allowed under sub-section 9.d, above, the use of motor vehicles, motorized equipment, or mechanical transport to carry out a lawful grazing-associated activity is limited to emergencies only, such as rescuing sick animals or placing feed in emergency situations. In emergencies, permittees do not need prior authorization for these uses, but must notify the BLM of their use reasonably soon thereafter. The use of motor vehicles, motorized equipment, or mechanical transport is not allowed for herding animals or routine inspection of the condition of developments or the condition of the range.”

The Reality:

In other words – if you think you have a reason to seek permission from the BLM for using motorized equipment for the purpose of doing something that needs to be done...you can ask and that will be decided by someone in the agency, possibly at some point...

Nevada Farm Bureau’s proposed language would change the language in the House report to state – ***“Where motorized equipment was used to establish livestock facilities or has been used to maintain these facilities since being established, the use of motorize equipment will be continued to be allowed as necessary for maintenance.”***

Other language in the report, which gives every justification for motorized equipment to not be used for maintaining supporting facilities, existing in an area prior to its classification as Wilderness is also proposed by Farm Bureau’s proposal to be deleted... This includes deleting – ***“Such occasional use of motorized equipment should be expressly authorized in the grazing permits for the area involved. The use of motorized equipment should be based on a rule of practical necessity and reasonableness. For example, motorized equipment need not be allowed for the placement of small quantities of salt or other activities where such activities can reasonably and practically be accomplished on horseback or foot. On the other hand, it may be appropriate to permit the occasional use of motorized equipment to haul large quantities of salt to distribution points. Moreover, under the rule of reasonableness,***

occasional use of motorized equipment should be permitted where practical alternatives are not available and such use would not have a significant adverse impact on the natural environment.

Elsewhere in the same paragraph, the existing language that is shown here as being crossed out and would be deleted, under Nevada Farm Bureau's proposal. "Such motorized equipment uses will ~~normally~~ only be permitted in those portions of a wilderness area where they had occurred prior to the area's designation as wilderness. ~~or are established by prior agreement.~~"

In the portion of the House Report No. 101-405, which deals with the materials to be used for replacement or reconstructed, Nevada Farm Bureau proposed to delete the weasel-out language that stipulates when "natural materials" are not required. The proposed deletion would remove – ***"unless the material and labor costs of using natural materials are such that their use would not impose additional costs on grazing permittees."***

In Short – Just Fix What Needs Updating:

Those who advocate Wilderness and promote willingness to work through compromise language don't ever seem to have to compromise anything. Bills like the Washoe County Lands Bill (now slated to be called the "Truckee Meadows Public Lands Management Act") even go beyond designating areas that have been locked up in de facto "Wilderness Study Areas" to be included in their desired land use of Wilderness. Areas that weren't in Wilderness Study Areas are now being proposed to be added under the nomenclature of "Lands suitable for Wilderness."

Also, the original idea of releasing unsuitable "Wilderness Study Areas" is being changed to lock away released lands into other designations, such as Natural Conservation Areas. The notion of not having designations of some type to classify restricted land uses apparently is no longer allowed and Heaven help anyone considering "multiple use" as a legitimate practice for land managers to practice...

Long-term sustainability of the ability for ranchers to practice sound resource management by having the tools necessary to accomplish effective and cost-efficient livestock management requires the changes to the outdated, 1990 agreement worked out in a House committee room. Change the language in that report and print it into actual legislation, as opposed to passing references that are buried in unread files.

Then change the BLM and U.S. Forest Service Manuals to recognize that things are different and necessary use of motorized equipment for proper livestock management is automatically allowed.