



File Code: 2230

Date: JAN 18 2011

Ms. Greta Anderson  
Center for Biological Diversity  
Post Office Box 710  
Tucson, AZ 85702

Dear Ms. Anderson:

This responds to your Petition for Rulemaking to Amend Grazing Fee Regulations to Reflect the Fair Market Value of Federal Forage, dated November 8, 2005, and your addendum to the petition, dated February 20, 2009. Following the transition to the current Administration, Acting Deputy Under Secretary Ann Bartuska provided an interim response to your petition on April 24, 2009. This letter constitutes our final response to your petition.

I have considered your petition and determined not to initiate the rulemaking you requested at the present time due to other high priority efforts within the Forest Service. Completion of rangeland management analyses in compliance with the National Environmental Policy Act (NEPA) and Congressional direction set forth in the 1995 Rescissions Act (Sec. 504, Pub. L. No. 104-19) is a significant undertaking directly related to improved rangeland management. Currently, approximately 4000 grazing allotments are in need of NEPA analysis. Completion of those analyses and implementation of the related decisions is the most effective method available for ensuring proper management of rangeland resources on National Forest System (NFS) lands. The information gathered through those analyses serves as the basis for authorizing livestock grazing on individual allotments. That information also identifies the parameters within which the grazing may occur and is pivotal in determining stocking rates on NFS lands. This major effort will require focused agency range management technical expertise and funding and is not expected to be completed for several years. Rangeland resource conditions would be negatively affected by diverting the Forest Service rangeland management staff to pursuing the rulemaking you requested at this time.

In addition to these rangeland management efforts, the Forest Service is currently engaged in other major regulatory initiatives, including the revision of the forest planning rule (74 F.R. 67165 (December 18, 2009)) and responding to a petition from the State of Colorado requesting a state-specific roadless rule for NFS lands in the State of Colorado (73 F.R. 43544 (July 25, 2008)). Both of these rulemakings represent major undertakings for the Forest Service and involve significant investments of limited agency resources and limited staff time. In preparing the proposed forest planning rule, the Forest Service has gone to extraordinary lengths to engage the public in a collaborative process that has already involved a national Science Forum, 4 national roundtables, 34 regional roundtables, 2 national tribal roundtables, and 3 regional tribal roundtables. The Agency will shortly begin additional public collaboration with the expected publication of the proposed planning rule and draft environmental analysis. The Colorado roadless rule effort has involved considerable collaboration with representatives of the State of



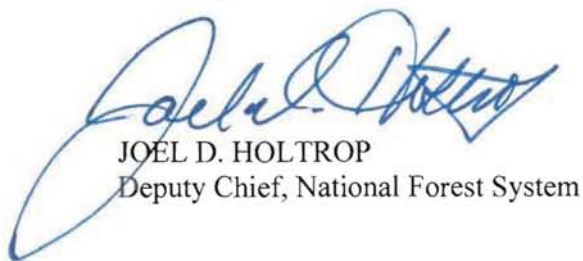
Colorado and other interested stakeholders. In the coming months, the Department anticipates issuing a new proposed rule and environmental analysis for the Colorado rule. Each of these important tasks is already underway and will require a considerable amount of the Agency's limited resources available for rulemaking activities.

A recent order from a Federal District Court in Montana also requires the Forest Service prepare an environmental impact statement to allow the Agency to continue the use of aerial application of chemical fire retardant to fight wildfires throughout the nation. Forest Service Employees for Environmental Ethics v. United States Forest Service, C.A. No. 08-43-M-DVM (D. Mont. July 27, 2010). The Court imposed a very tight deadline to complete this analysis and stated that the failure to meet this deadline could result in sanctions, including contempt and an injunction against the future use of fire retardant. The Agency must provide the resources necessary to complete this task to comply with the Court's order so that the Agency can continue its firefighting efforts to protect the public safety.

Given these and other significant agency priorities, I am reluctant to burden the Agency's limited resources by initiating an additional major rulemaking endeavor at the present time and; therefore, your petition is denied. I believe that the most effective way to improve rangeland health is to focus agency range management resources on completing NEPA analyses for ongoing grazing. I am willing, however, to reassess this matter as the Administration moves forward with its regulatory agenda. In that regard, please note that although the Department does not agree with the legal arguments offered in your petition concerning the legality of the current fee structure, the Department may, in the future, consider initiating a rulemaking regarding the grazing fee formula.

Thank you for your letter and your thoughtful petition, and I apologize for the delay in responding.

Sincerely,



JOEL D. HOLTROP  
Deputy Chief, National Forest System