

DARIN D. SMITH  
 United States Attorney  
 C. LEVI MARTIN (WY Bar #6-3781)  
 Assistant United States Attorney  
 P.O. Box 668  
 Cheyenne, WY 82003-0668  
 Telephone: 307-772-2124  
[christopher.martin@usdoj.gov](mailto:christopher.martin@usdoj.gov)

**IN THE UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF WYOMING**

|                                               |   |                          |
|-----------------------------------------------|---|--------------------------|
| WESTERN WATERSHEDS PROJECT,                   | ) |                          |
|                                               | ) |                          |
| Petitioners,                                  | ) |                          |
|                                               | ) |                          |
| v.                                            | ) | Case No. 1:26-cv-236-KHR |
|                                               | ) |                          |
| UNITED STATES FOREST SERVICE;                 | ) |                          |
| TOM SCHULTZ, in his official capacity as      | ) |                          |
| Chief of the United States Forest Service;    | ) |                          |
| and CHAD HUDSON, in his official              | ) |                          |
| capacity as Forest Supervisor of the Bridger- | ) |                          |
| Teton National Forest,                        | ) |                          |
|                                               | ) |                          |
| Respondents.                                  | ) |                          |

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**RESPONSE IN OPPOSITION TO PETITIONERS’ MOTION FOR TEMPORARY  
 RESTRAINING ORDER AND PRELIMINARY INJUNCTION**

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Respondents, by and through Assistant United States Attorney, C. Levi Martin, hereby submit the following response in opposition to petitioners’ *Notice of Motion and Motion for Temporary Restraining Order and Preliminary Injunction*. (Dkt. 2).<sup>1</sup>

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<sup>1</sup> On information and belief, the State of Wyoming intends to seek intervention in this matter in support of respondents but is unable to draft a response in time for the August 14, 2026 deadline.

### **Introduction**

Less than five days before a limited number of cattle were to be allowed grazing access in the area known as the “Elk Ridge Complex” as temporary relief from the impacts of the 2025 Dollar Lake wildland fire, petitioners filed suit seeking to prevent it. In support of their request for a temporary restraining order, petitioners: (1) provide arguments which misconstrue the level of analysis needed under the National Environmental Policy Act (NEPA) for this limited federal action; (2) ignore the consultations and reviews that have actually taken place which determined the action to be appropriate; (3) speculate as to their potential harm; and (4) fail to acknowledge the harm that an injunction would cause other public interests, including the resources which the United States Forest Service (Forest Service) seeks to protect by implementing this action *and* to the producers who will be harmed if the substitute grazing is not made available to them. Indeed, petitioners appear to lack any real appreciation for the significance of the approximately 14,787 acres that were burned in the Upper Green River Rangeland Management Area and the damage it inflicted upon the landscape and the grazing operations of several permittees.

Regardless, the Forest Service developed strategic modifications to grazing plans for *the already existing grazing permits* to be used in the 2026 grazing season (and potentially the 2027 grazing season). They identified allotments in the Elk Ridge Complex as a vital and temporary relief option (for up to two months each year) in order to accommodate displaced livestock. The limited duration, timing, and cattle numbers are well within the sideboards of the 1978 Environmental Assessment (EA)—an assessment which carefully analyzed, and subsequently approved, cattle grazing within the Elk Ridge

Complex. Further, consultation with the United States Fish and Wildlife Service (FWS) confirmed there are no anticipated changes in the level or scope of effects for all relevant species in the area. Accordingly, this court should deny petitioners' request for any injunctive relief and, instead, allow the temporary grazing modifications to be implemented for the benefit of the burned-out landscape and the permittees' operations.

### **Factual Background**

#### **I. The Environmental Assessment**

The Elk Ridge Complex EA was developed specifically to evaluate grazing in that forested area. *See* HUDSON DECL. at ¶ 10; *see also* Ex. A (1978 EA). This included an analysis of the impacts of grazing on resources, including vegetation, soils, watershed condition and wildlife habitat. *See id.* at 10. The selected alternative and Finding of No Significant Impact (FONSI)<sup>2</sup> allowed for grazing of both cattle and sheep, and it defined grazing seasons and pasture rotations. *See id.* at ¶ 11; *see also* Ex. A at 5.<sup>3</sup>

Accordingly, cattle grazing in the Elk Ridge Complex had already been determined as environmentally appropriate since the EA was completed in 1978. Although the area was predominately grazed by sheep up until 2016, nothing has abrogated that environmental assessment and the overall grazing levels developed in it, regardless of the

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<sup>2</sup> The exact finding is slightly different than the modern-day usage of the acronym FONSI. The 1978 finding was that the proposed activity is not considered major Federal action significantly affecting the quality of the human environment” and the “actions that could adversely affect the quality of the physical and biological components ... will be sufficiently minimized to prevent long-term environmental impacts.” Ex. A at 5.

<sup>3</sup> The exhibits have been cataloged and indexed as one .pdf document. Pin citations in this response will be to the page number assigned by the .pdf file with all exhibits.

fact the area has been rested for the last ten years. *See* Ex. C (6.22.26 Environmental Compliance Review) at 102 (acknowledging EA established a grazing system for Elk Ridge Complex that included a rest rotation).

## II. Damage from the Dollar Lake Fire

As discussed briefly above, in the fall of 2025, the Dollar Lake wildland fire burned a substantial portion of several pastures in the Upper Green River Rangeland Management Area, requiring they be rested for rehabilitation. *See* Ex. D (Amendment to Upper Green River Rangeland Project) at 106; *see also* HUDSON DECL. at ¶ 5. The pastures impacted were the Roaring Fork Pasture (536 ac), Upper Gypsum Pasture (13,230 ac) and Lower Gypsum Pasture (1,021 ac). HUDSON DECL. at ¶ 5.

The Upper Green River Management Area encompasses six allotments totaling 170,643 acres. *Id.* There are eleven permittees that hold fifteen permits to graze within the Upper Green allotments. *Id.* Only two permittees are specifically authorized to utilize the three burned pastures on an annual basis consistent with the terms and conditions of the grazing permits. *Id.* However, the impact from the loss of use of these pastures will directly or indirectly affect all eleven permit holders. *Id.* The permittees are part of an association which integrate management of six allotments to support consistent and sound management. *Id.* Thus, when one allotment cannot be fully grazed, those cattle are shifted to another allotment if consistent with the terms and conditions of the permits to help offset the impact. *Id.*

The Upper Green River Cattle Allotment experienced impacts from two fires (Pack Trail and Dollar Lake) during the last two grazing seasons resulting in a reduction in acres

available to graze. LANDERS DECL. at ¶ 4. If the Elk Ridge allotments are not utilized for the displaced livestock, the permittees will need to move livestock to other pastures within the Upper Green allotments earlier than usual which will result in reaching utilization levels earlier and eventually require livestock to be removed from the National Forest earlier than planned. HUDSON DECL. at ¶ 21. Accordingly, temporary grazing adjustments were critically necessary from the impact of the fire on the three damaged pastures.

The Forest Service identified four allotments as potentially available temporary replacements: the Elk Ridge, Lime Creek, Rock Creek, and Tosi Creek allotments, also known as the Elk Ridge Complex. *See* Ex. D (Biological Assessment Amendment) at 106. By using these allotments, livestock use will be limited in the burned pastures in the Upper Green River Rangeland Project area until Forest Service standards for vegetative ground cover can be met, which are anticipated to be within two years. *See id.* & HUDSON DECL. at ¶ 8. Importantly, if the standards are not met within the two-year timeframe, the Forest Service has committed to implementing alternative grazing options. *See* Ex. D at 106.

### III. Proposed Grazing Modification

The Forest Service proposed authorizing a total of 650 cow/calf pairs for grazing on the Elk Ridge allotments from August 15 through October 15, 2026. *See* HUDSON DECL. at ¶ 7; *see also* Ex. D at 106. During this temporary use of the Elk Ridge allotments, permittees will be required to follow the terms and conditions associated with their Upper Green Allotment permits, which is based on the Environmental Impact Statement (EIS) and Upper Green Record of Decision (ROD). *See* HUDSON DECL. at ¶ 7, citing Ex. F.

As directed in the ROD, livestock management for riparian and aquatic resources includes: (1) Maximum forage utilization on key forage species in riparian and meadow areas is 50% (Forest Plan Direction is 65% or less); (2) A 4-inch stubble height for herbaceous riparian/mesic meadow vegetation in all greater sage-grouse habitat post breeding and nesting season (from July 1 to November 30), a 4-inch stubble height equates to a utilization level of approximately 37–44%; and (3) Retain a 4-inch stubble height minimum at the greenline of all streams. HUDSON DECL. at ¶ 7. Notably, these standards are more restrictive even than what was authorized in the decision notice of the 1978 EA. *Id.* Finally, various management tools, including active riders that manage livestock and virtual fencing methods will be utilized to ensure operations are consistent with the Annual Operating Instructions. *Id.*

#### IV. NEPA analysis

Prior to authorizing this temporary use of the Elk Ridge Complex, the Forest Service conducted a compliance review of the 1978 EA (to ensure authorized grazing was consistent with the analysis and decision notice), and they engaged in formal consultation with FWS on species of concern. *See* HUDSON DECL. at ¶ 9; Ex. C (Rev. of Envmt'l. Compliance Docs) at 100-03; & Ex. D (Initiation of Formal Consultation with FWS) at 104-05.

The compliance review of the EA and decision notice, as described *supra*, determined that the temporary and limited use of the allotments for displaced livestock aligned with the season and maximum allowable use identified in the EA and fell within the scope of effects analyzed in the EA. The District Ranger determined that “[n]o

additional effects beyond what have already been disclosed in environmental compliance documents (the Management Plan and EA) will occur as a result of allowing permittees to temporarily graze the Elk Ridge Allotment for two seasons.” *See* Ex. C at 102. Accordingly, it was concluded the action “will not have a reasonably foreseeable significant impact on the quality of the human environment.” *See id.* at 103, citing 7 CFR Part § 1b.6(b)(3) (definition of a Finding of No Significant Impact (FONSI)).

As for the formal consultation with FWS, on May 6, 2026, the Forest Service provided FWS with the amendment to the 2025 Upper Green River Area Rangeland Project Biological Assessment (BA). *See* HUDSON DECL. at ¶ 14, citing Ex. D. The BA outlined the proposed modifications and the Forest Service requested “concurrence on all ‘not likely to adversely affect’ species as well as an updated biological opinion for grizzly bears, relative to this project.” *See* Ex. D at 105. As a part of this consultation, the Forest Service affirmed its commitment to maintaining all livestock management strategies, Animal Units of Measurements (AUMs), livestock numbers, kind, and seasons of use as outlined in the 2025 Biological Opinion (BO) for the Upper Green allotments. HUDSON DECL. at ¶ 14, citing Ex. D at 106.

On, May 21, 2026, the FWS stated it “anticipates no change in the level or scope of effects, nor any change to the final conclusions in the BO.” Ex. E at 110. The FWS further confirmed that the effects on the grizzly bear from this temporary change in grazing allotment use are within the scope of the 2025 Biological Opinion (Ex. J). HUDSON DECL. at ¶ 14, citing Ex. E. Although not explicitly stated in the May 21, 2026 transmittal letter, the same determinations were made for the other ESA listed species, namely whitebark

pine, wolverines, and Canada lynx. HUDSON DECL. at ¶ 14. For clarification and documentation purposes, the Forest requested that the FWS issue a final, amended BO (Amendment) based on the amended BA. *Id.* In the Amendment, the FWS states: “In our May 16, 2025, BO the Service concurred with the Forests ‘may affect, not likely to adversely affect’ determination for whitebark pine (*Pinus albicaulis*), North American wolverine (*Gulo gulo luscus*), Canada lynx (*Lynx canadensis*), and its designated critical habitat. Based on our review of the amended BA, these determinations remain unchanged.” Ex. G at 169.

Having concluded the proposed action was compliant with prior environmental analyses, and with FWS’s concurrence that there are no anticipated changes in the level or scope of effects for all relevant species in the area, the Forest Service then issued the 2026 Annual Operating Instructions (AOIs) for the Upper Green River. *See* Ex. B at 96-99.

### **Legal Background**

#### **I. Injunctions**

Rule 65 of the Federal Rules of Civil Procedure governs injunctions and restraining orders. A temporary restraining order, like a preliminary injunction, is “an extraordinary remedy never awarded as of right.” *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008); *see also Downer v. Bureau of Land Mgmt.*, No. 20-CV-191-SWS, 2020 WL 13049422, at \*11 (D. Wyo. Nov. 2, 2020) (holding plaintiffs not entitled to the “extraordinary relief” of a temporary restraining order). A temporary restraining order is “simply a highly accelerated and temporary form of preliminary injunctive relief,” which requires that the party seeking such relief establish the same four elements for obtaining a

preliminary injunction. *Hassani v. Napolitano*, No. 3:09-cv-1201-D, 2009 WL 2044596, at \*1 (N.D. Tex. 2009).

The four elements, which are the movant's burden to establish, include: (1) substantial likelihood that the movant will eventually prevail on the merits; (2) a showing that the movant will suffer irreparable injury unless the injunction issues; (3) proof that the threatened injury to the movant outweighs whatever damage the proposed injunction may cause the opposing party; and (4) a showing that the injunction, if issued, would not be adverse to the public interest. *Lundgrin v. Claytor*, 619 F.2d 61, 63 (10th Cir. 1980). The last two factors merge when the government is the opposing party. *Nken v. Holder*, 556 U.S. 418, 435 (2009).

## II. NEPA

NEPA requires an environmental impact statement only where a proposed action “has a reasonably foreseeable significant effect on the quality of the human environment.” 43 U.S.C. § 4336(b)(1). Where an agency finds a proposed action will not have such a reasonably foreseeable significant effect, it issues a “finding of no significant impact.” *Id.* at § 4336(b)(2); *see also id.* § at 4336e(7) (defining “finding of no significant impact”). The U.S. Department of Agriculture issued a final rule adopting NEPA regulations in April 2026. *See Nat'l Env'tl Policy Act*, 91 Fed. Reg. 17062, 17063 (Apr. 3, 2026).

These regulations allow the Forest Service to “apply any format” it chooses for the finding of no significant impact, so long as it documents “the reasons why the responsible official has determined that the proposed action or selected alternative will not have a reasonably foreseeable impact on the quality of the human environment.” 7 C.F.R. §

1b.6(b)(3). As the Supreme Court recently emphasized, this type of informed decision is within the agency’s expertise and is subject to “substantial deference.” *Seven Cnty. Infrastructure Coal. v. Eagle County*, 605 U.S. 168, 180-82 (2025) (explaining that agency’s predictive and scientific judgments about whether impacts are significant requires “a reviewing court . . . [to] be at its most deferential”).

### **Discussion**

Petitioners fail to appreciate the limited scope of the temporary modifications to the grazing plans for the already existing grazing permits. The environmental compliance review and the consultation with FWS on potential impact to relevant species were all that was necessary. Accordingly, petitioners are not likely to succeed on the merits of their claims. Further, petitioners’ claim of potential “aesthetic and environmental interests” is as amorphous as it is speculative. (Dkt. 2 at 24).<sup>4</sup> Further, those interests will not be materially impacted by the temporary modifications to the plans for the already existing grazing permits and those interests certainly do not outweigh the public’s interests in having the impacted land recover from the fire or the permittees’ interests in providing for their cattle. The motion should be denied.

#### I. Petitioners cannot demonstrate a substantial likelihood of success on the merits.

Petitioners’ entire argument is based upon the mistaken belief that somehow NEPA required an additional EA be conducted before *any* cattle grazing in the Elk Ridge Complex

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<sup>4</sup> Respondents will refer to the page number assigned by ECF at the top of the .pdf document, not the page number at the bottom of the brief.

could be allowed. *See* Dkt. 2 at 15 (“Defendants violated NEPA . . . by authorizing the 2026 AOIs without preparing an Environmental Assessment (EA) to evaluate environmental impacts”).<sup>5</sup> However, there was no additional environmental assessment required because the agency found the limited temporary action would have no impacts outside of those analyzed in the 1978 EA and it fit within the management sideboards of that 1978 EA. The Forest Service is allowed to apply any format it chooses for the finding of no significant impact, so long as it documents “the reasons why the responsible official has determined that the proposed action or selected alternative will not have a reasonably foreseeable impact on the quality of the human environment.” 7 C.F.R. § 1b.6(b)(3).

In this case, and as discussed *supra*, the deciding official reviewed the existing EA and decision notice which had already determined cattle grazing was appropriate in the Elk Ridge Complex. Based on that evaluation, it was determined that the temporary and limited use of the allotments for displaced livestock aligned with the season and maximum allowable use identified in the EA and fell within the scope of effects analyzed in the EA. HUDSON DECL. at ¶ 12, citing Ex. C.

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<sup>5</sup> Petitioners also misquote and misinterpret a 2016 Forest Service letter in support of their assertion that the Forest Service committed to initiate further NEPA review before allowing any grazing. Their failure to include that letter as an exhibit is telling, and this court should disregard the assertion entirely because of this failure. In the event petitioners improperly include it as an exhibit in their reply in an attempt to cure the deficiency, however, respondents would point out that the reference to the potential future NEPA analysis was to be considered in advance of any “term permitted cattle grazing.” The Forest Service did not issue permits for new “term permitted cattle grazing” in this case. The AOI’s simply adjusted their plans for the existing permits temporarily. Further, and as stated in Mr. Hudson’s declaration, the Forest Service remains committed to completing the appropriate environmental analysis prior to issuing any new term grazing permits for the area. *See* HUDSON DECL. at ¶ 20.

The Forest Service also consulted with the FWS regarding relevant species in the area. The Amended BO from the FWS serves to demonstrate that the effects on ESA listed species due to grazing at an alternative, adjacent, location are within the scope of the 2025 analysis and remain valid, as analyzed and described in the 2025 revised BO. *See* HUDSON DECL. at ¶ 14; Ex. E (5.21.26 FWS concurrence); & Ex. G (8.12.26 clarification of concurrence). That was all that was required for the deciding official to determine “that the proposed action or selected alternative will not have a reasonably foreseeable impact on the quality of the human environment.” 7 C.F.R. § 1b.6(b)(3). That determination is entitled to “substantial deference” from this court. *Seven Cnty. Infrastructure Coal.*, 605 U.S. at 180.

Petitioners assert the EA is stale and list a number of conditions in the area that have changed since the 1978 EA. *See* Dkt. 2 at 16-17 (listing of changes to the ecosystem since 1978). As already discussed, all applicable changed conditions were evaluated by the Forest Service, however, the other “changed conditions” found in petitioner’s list were not relevant for consideration. For instance, wolves are not a federally listed species in Wyoming and not a Forest Service Sensitive Species. HUDSON DECL. at ¶ 15. Similarly irrelevant, the designated pronghorn migration corridor on the Bridger-Teton National Forest does not cross through any of the Elk Ridge Complex allotments. *Id.* at ¶ 16. Finally, the designation of the Gros Ventre Wilderness area in 1984 does not change the analysis either because the area now designated was identified as a Wilderness Study Area (WSA) and was under consideration for Wilderness designation. HUDSON DECL. at ¶ 18. The 1978

EA analysis repeatedly considered impacts to Wilderness characteristics anticipating that it would be designated in the future. *Id.*

Petitioners' concern over certain species that rely on riparian or wet areas (i.e., Western (Boreal) Toad, Columbian Spotted Frog, Boreal Chorus Frog, and Colorado River cutthroat trout) is equally unavailing. As discussed in the Range Specialist Report, conditions in the allotments are meeting or moving towards desired conditions for riparian functionality. *See* Ex. H at 196-97. Baseline data shows that all three riparian monitoring sites are meeting the allowable guidelines as established in the streambank alteration guidance. *See id.* Additionally, in riparian and meadow areas, the grazing strategy dictated by the Upper Green decision limits the forage utilization of key forage species to 50%. This is a reduction of 15% from the amount described in the Forest Plan (65%). *See* Ex. I at 390; Ex. F at 140.

Petitioners also complain that the action does not comply with the 1990 Forest Plan. *See* Dkt. 2 at 23-24 (alleging the 2026 AOIs and grazing in general is inconsistent with the 1990 Forest Plan). A review, and broader understanding of the relevant aspects of that Forest Plan, dispels this notion.

The Forest Plan describes Desired Future Conditions (DFC) for areas managed in different ways and includes specific prescriptions for certain activities, such as range management. HUDSON DECL. at ¶ 19. Because the same standards and management practices that are detailed in the Upper Green ROD will be applied to the Elk Ridge allotments, DFC 10 and DFC 6B are the focus. *Id.* The range prescription for areas managed under DCF 10 (Simultaneous Development of Resources, Opportunities for

Human Experiences, and Support for Big Game and a Wide Variety of Wildlife Species) provides that the “[r]ange is managed to maintain and enhance range and watershed conditions *while providing forage for livestock and wildlife.*” *Id.*, citing Ex. I at 527 (emphasis added). The range prescription for areas managed under DCF 6B (Wilderness) provides that “[r]ange is managed to maintain and enhance range and watershed conditions *while providing forage for livestock and wildlife.*” *Id.*, quoting Ex. I at 479 (emphasis added). Accordingly, the temporary authorized grazing is entirely consistent with the 1990 Forest Plan.

Finally, the Forest Service’s determination is also supported by the current conditions of the allotments as revealed in a Range Specialist Report from 2021. *See* HUDSON DECL. at ¶ 13, citing Ex. H. (Range Specialist Report) at 183-205. The report describes the historic and current uses that have influenced the existing conditions in the project area and demonstrates that the resource conditions are meeting or moving towards Forest Plan desired conditions. HUDSON DECL. at 13.

The Forest Service’s finding that the temporary grazing in the Elk Ridge Complex would have no significant impact is adequately supported by the record and it is entitled to “substantial deference”. Petitioners cannot meet their burden of demonstrating a “substantial likelihood that the[y] will eventually prevail on the merits.” *Lundgrin*, 619 F.2d at 63. Accordingly, the court can deny the motion on this basis alone.

## II. Petitioners claimed potential harm is speculative.

“To satisfy its burden of proving irreparable harm, the party seeking injunctive relief must show that the harm is ‘certain and great’ and not speculative.” *Gunnison Cnty.*

*Stockgrowers' Ass'n, Inc. v. U.S. Fish & Wildlife Serv.*, 707 F. Supp. 3d 1056, 1066 (D. Colo. 2023), quoting *N.M. Dep't of Game & Fish v. U.S. Dep't of Interior*, 854 F.3d 1236, 1250 (10th Cir. 2017). A mere possibility of irreparable harm is not enough. *Id.* at 1066 (citation and quotations omitted).

In addition to the fact that petitioners fail to identify any potential harm beyond their nebulous “aesthetic and environmental interests,”<sup>6</sup> it is pure speculation to assume temporary and limited grazing in an area for which an EA has already determined grazing is appropriate will likely cause any harm. Indeed, the FWS concurred that the action was unlikely to adversely affect species of concern either. *See* HUDSON DECL. at ¶ 14; Ex. G at 169. Petitioners fail to establish the required second *Winter* factor that they are “likely to suffer irreparable harm in the absence of preliminary relief” because their alleged potential harm is speculative. *Winter*, 555 U.S. at 20.

### III. The proposed injunction would harm the interests of the public, including the permittees.

Petitioners’ analysis of this factor focuses mostly on the claimed “public interest in ensuring that federal agencies operate within the scope of their authority.” Dkt. 2 at 26. This limited view is contrary to the reality. As described in Mr. Hudson’s declaration, without the ability to utilize the Elk Ridge allotments, grazing would likely continue in the pastures affected by the fire until upland and/or riparian utilization levels are reached. HUDSON DECL. at ¶ 22. Once reached, cattle would need to be moved, however, inevitably, cattle would travel through and graze opportunistically within the burned area, causing

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<sup>6</sup> Dkt 2. at 24.

resource issues like decreased aspen regeneration, forb recruitment, shrub regeneration, and decreased ground cover. *Id.* Long-term effects could also occur including soil erosion, increased exotic annual grasses (e.g., cheatgrass) and reduce perennial bunchgrasses. *Id.* These shifts can increase future fire risk and hinder post fire recovery. *Id.*

Further, if the Elk Ridge allotments are not utilized for the displaced livestock, the permittees will need to move livestock to other pastures within the Upper Green allotments earlier than usual which will result in reaching utilization levels earlier and eventually require livestock to be removed from the National Forest earlier than planned. HUDSON DECL. at ¶ 21.

As stated by Coke Landers, President of the Upper Green River Cattle Association, if the Upper Green River Cattle Association and its permittees cannot utilize the Elk Ridge Complex Allotment this grazing season, they would have no opportunity to find alternative pasture at this late date in the grazing season. *See* LANDERS DECL. at ¶ 3. They are concerned that putting more cattle into units that are already struggling with drought will force cattle into the riparian areas which will result in meeting use objectives on the stream's edge sooner than if they were able to utilize the Elk Ridge Complex. *Id.* at 4. When those cattle reach those use objectives on the riparian areas, then they must be moved off the allotment. *Id.* at 5.

If cattle move back to the ranches earlier than expected, then those ranches will end up utilizing their available fall forage sooner than expected. *Id.* When cattle run out of available forage on the ranches, then the rancher must start utilizing their hay crop sooner than expected, purchase hay, sell market cattle early or downsize herds cattle. *Id.* at 6. Hay

prices are expected to be at all-time highs, with limited availability because of the low snowpack and drought. *Id.* The purchasing of additional hay, mineral, and protein supplement will lead to additional costs incurred because of the loss of pasture on the Elk Ridge Complex. *Id.* Ranchers may also need to move their steers and heifers to market earlier, which will result in fewer pounds and fewer pounds means few dollars *Id.*

An injunction prohibiting temporary livestock grazing on the Elk Ridge allotments will have significant impacts to the landscape and the grazing operations and permittees. Accordingly, the balance of harms and public interest factors weigh in favor of denying the request for a temporary restraining order too.

### **Conclusion**

Petitioners cannot carry their heavy burden in demonstrating they are entitled to the extraordinary relief they request. The Forest Service's decision to allow for temporary and limited grazing in an area for which an EA has already determined grazing is appropriate, and in which the FWS has concurred there will be no adverse impacts to relevant species, was sound. Petitioner's claimed potential harm from implementation of that decision is speculative and certainly outweighed by the potential harm to the concrete public interests which would manifest were this court to enjoin the activity.

Dated this 14th day of August 2026.

Respectfully Submitted,

DARIN D. SMITH  
United States Attorney

By: /s/ C. Levi Martin  
C. LEVI MARTIN  
Assistant United States Attorney