

**MEMORANDUM OF UNDERSTANDING**

Between The

**DIRECTOR OF THE MONTANA DEPARTMENT OF NATURAL RESOURCES &  
CONSERVATION**

And

**NORTHERN REGION**

**UNITED STATES DEPARTMENT OF AGRICULTURE (USDA) FOREST SERVICE**

And

**MONTANA/DAKOTAS STATE OFFICE**

**BUREAU OF LAND MANAGEMENT**

**UNITED STATES DEPARTMENT OF THE INTERIOR**

And

**EXECUTIVE DIRECTOR**

**MONTANA STATE UNIVERSITY EXTENSION**

**MONTANA STATE UNIVERSITY**

This **MEMORANDUM OF UNDERSTANDING** is hereby entered by and between the Montana Department of Natural Resources & Conservation, hereinafter referred to as Montana DNRC, the USDA Forest Service-Northern Region, hereinafter referred to as the Forest Service, the Bureau of Land Management-Montana/Dakotas State Office, hereinafter referred to as the BLM, and Montana State University Extension, hereinafter referred to as MSU Extension.

**I. PURPOSE:** It is the purpose and intent of this Memorandum of Understanding (MOU) to promote consultation, cooperation and coordination among the parties, lessees, permittees, and landowners involved in matters relating to Allotment Management Plans (AMP) and rangeland management on public lands of the United States in Montana administered by the BLM and Forest Service.

**II. AUTHORIZATION:**

**A. FOREST SERVICE & BLM-** Section 8 (d) of the Public Rangelands Improvement Act of 1978, (P.L. 95-514, 1978) and Section 402 (d) of the Federal Land Policy and Management Act of 1976 (P.L. 94-579, 1976) stipulate that AMPs within national forests in Montana and public lands administered by the BLM in Montana be developed in careful and considered consultation, cooperation, and coordination with lessees, permittees, and landowners involved within the area to be covered by an AMP. These statutes also stipulate that AMPs be developed in careful and considered consultation, cooperation, and coordination with the State of Montana when the State has lands within areas to be covered by an AMP.

**B. FOREST SERVICE –** Title 36, Section 222.7 (b) and (d) in the Code of Federal Regulations (CFR) authorize Forest Service officers to work cooperatively with state livestock organizations and other organizations which have an interest in the improvement of range management on public and private lands.

- C. **BLM-** Title 43, Section 4120.2(a) in the CFR authorizes the BLM to work cooperatively with state resource management agencies, interested livestock organizations, other organizations, and citizens to develop allotment management plans or other activity plans intended to serve as the functional equivalent of an AMP. Also, Section 202 of the Federal Land Policy and Management Act of 1976 provides, among other things, for meaningful public involvement of State of Montana officials in the development of land use programs, regulations, and decisions for federal public lands administered by the BLM in Montana.
- D. **MONTANA DNRC-**The Rangeland Resources Program is authorized in Montana Code Annotated (MCA), Title 76-14-102, (2). The purpose of the Rangeland Resources Program is to provide cooperation and coordination of range management activities between persons and organizations charged with or having the management of rangeland in Montana, whether private or public. MCA Title 76-14-105 (3) provides that the role of the Rangeland Resources Program Coordinator is to promote and coordinate the adoption and implementation of sound range management plans to minimize conflicts between governmental agencies and private landowners.
- E. **MSU EXTENSION-** The Smith-Lever Act of 1914 authorizes MSU Extension to disseminate unbiased information from the university to the public and to help people interpret and apply the information to solve practical problems identified by the people of Montana in their home communities. The MSU Extension Range Management Program helps people identify rangeland resource management strategies that are socially, economically, and ecologically sustainable, and MSU Extension Range Management facilitates collaborative conservation planning and conflict resolution among ranchers, other landowners, government agency personnel and others to help them sustain the varied uses and values of healthy rangelands.

**III. STATEMENT OF MUTUAL BENEFIT AND INTERESTS:** All parties in this MOU seek to promote cooperation through consultation and coordination in matters relating to allotment management planning on federal grazing lands in Montana. While conducting an environmental analysis in preparation of an Allotment Management Plan (AMP), all parties in this MOU seek to ensure full participation by the permittee(s) or lessee(s), landowners involved, and the State in the planning process, as stipulated by the Public Rangelands Improvement Act of 1978 and the Federal Land Policy and Management Act of 1976.

**IV. THE FOREST SERVICE and BUREAU OF LAND MANAGEMENT SHALL:**

- A. Inform individual permittees and other interested parties when the Forest Service or BLM begins work on the development or revision of allotment management plans, of the State's interest in providing assistance on AMP's that are likely to be controversial in nature, and of the opportunity to request such assistance.
- B. Inform the Rangelands Resources Program Coordinator at Montana DNRC and the Range Management Specialist in MSU Extension and provide them opportunity to participate in Forest Service and BLM meetings with permittees, lessees, and landowners involved related to major or controversial revisions or development of AMPs.

- C. Be responsive to requests from the State, livestock industry, permittees or lessees, or-landowners involved to participate fully in the revision or development of AMPs.
- D. Request advice or assistance when needed from the Montana DNRC Rangeland Resources Program Coordinator and the MSU Extension Range Management Specialist on matters of mutual interest in improvement of rangeland management on lands administered by the Forest Service or BLM in the State of Montana.
- E. Inform the Montana DNRC Rangeland Resources Program Coordinator and the MSU Extension Range Management Specialist early in the process of plans and projects which will result in decisions related to AMP's that are likely to be controversial and provide such information as needed to enable the Montana DNRC and MSU Extension to assist Forest Service and BLM permittees/lessees and other affected interests in the consultation, coordination and cooperation process that is essential to the orderly management of Montana's rangeland resources.
- F. Provide expertise, educate staff, and work collaboratively with the Montana DNRC Rangeland Resources Program Coordinator and the MSU Extension Range Management Specialist to facilitate the success of this program. To achieve the benefits of this program through improved rangeland management decisions, reduced appeals and litigation, increased scientific and management skills among staff. This is necessary to promote the collaborative nature of this process, promote scientific professionalism, a collegial approach to the process, and open-minded consideration of the efforts of the Core Teams and the Technical Review Teams.

**IV. THE MONTANA STATE DEPARTMENT OF NATURAL RESOURCES & CONSERVATION RANGELAND RESOURCES PROGRAM SHALL:**

- A. Participate in the improvement of range management on federal grazing lands in Montana through participation in the allotment management planning process and dissemination and collection of information as requested by individual permittees or the Forest Service or BLM.
- B. Respond to requests for advice from the Forest Service, BLM and/or permittees on allotment management plans.
- C. Provide expertise educate staff, and work collaboratively with the Forest Service, BLM, and MSU Extension to facilitate the success of this program. To achieve the benefits of this program through improved rangeland management decisions, reduced appeals and litigation, increased scientific and management skills among staff. This is necessary to promote the collaborative nature of this process, promote scientific professionalism, a collegial approach to the process, and open-minded consideration of the efforts of the Core Teams and the Technical Review Teams.

**V. MONTANA STATE UNIVERSITY EXTENSION SHALL:**

- A. Participate in the improvement of range management on federal grazing lands in Montana through participation in the allotment management planning process and dissemination and collection of information as requested by individual permittees or the Forest Service or BLM.
- B. Respond to requests for advice from the Forest Service, BLM and/or permittees on allotment management plans.
- C. Provide expertise educate staff, and work collaboratively with the Forest Service, BLM, and Montana DNRC to facilitate the success of this program. To achieve the benefits of this program through improved rangeland management decisions, reduced appeals and litigation, increased scientific and management skills among staff. This is necessary to promote the collaborative nature of this process, promote scientific professionalism, a collegial approach to the process, and open-minded consideration of the efforts of the Core Teams and the Technical Review Teams.

**VI. IT IS MUTUALLY AGREED AND UNDERSTOOD BY ALL PARTIES THAT:**

- A. OPERATIONAL GUIDELINES. As outlined by this MOU are found at the end of this MOU, Attachment A.
- B. FREEDOM OF INFORMATION ACT (FOIA). Any information furnished to the Forest Service or BLM under this instrument is subject to the Freedom of Information Act (5 U.S.C. 552).
- C. MEMORANDUM of UNDERSTANDING (MOU). Each provision of this instrument is subject to the laws and regulations of the State of Montana and the laws of the United States and the regulations of the Secretary of Agriculture or the Secretary of the Interior. Nothing in this agreement shall be construed to conflict with any existing statutes, regulations, policies, or procedures of the respective Parties.
- D. PARTICIPATION IN SIMILAR ACTIVITIES. This instrument in no way restricts the Forest Service, BLM, Montana DNRC, or MSU Extension from participating in similar activities with other public or private agencies, organizations, and individuals.
- E. MODIFICATIONS. Modifications within the scope of this MOU must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized, signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 30 days prior to implementation of the requested change.
- F. COMMENCEMENT/EXPIRATION/TERMINATION. This MOU takes effect upon the signature of the listed parties and shall remain in effect for 5 years from the date of execution. This MOU may be extended or amended upon written request of any of the listed parties and the subsequent written concurrence of the others. Any of the listed parties may terminate this MOU with a 60-day written notice to DNRC.

- G. RESPONSIBILITIES OF PARTIES. The listed parties and their respective agencies and offices will handle their own activities and utilize their own resources, including the expenditure of their own funds, in pursuing these objectives. Each party will carry out its separate activities in a coordinated and mutually beneficial manner.
- H. NONBINDING AGREEMENT. This MOU creates no right, benefit, or trust responsibility, substantive or procedural, enforceable by law or equity. The parties shall manage their respective resources and activities in a separate, coordinated and mutually beneficial manner to meet the purpose(s) of this MOU. Nothing in this MOU authorizes any of the parties to obligate or transfer anything of value.

Specific, prospective projects or activities that involve the transfer of funds, services, property, and/or anything of value to a party requires the execution of separate agreements and are contingent upon numerous factors, including, as applicable, but not limited to: agency availability of appropriated funds and other resources; cooperator availability of funds and other resources; agency and cooperator administrative and legal requirements (including agency authorization by statute); etc. This MOU neither provides, nor meets these criteria. If the parties elect to enter into an obligation agreement that involves the transfer of funds, services, property, and/or anything of value to a party, then the applicable criteria must be met. Additionally, under a prospective agreement, each party operates under its own laws, regulations, and/or policies, and any Forest Service obligation is subject to the availability of appropriated funds and other resources. The negotiation, execution, and administration of these prospective agreements must comply with all applicable law

Nothing in this MOU is intended to alter, limit, or expand the agencies' statutory and regulatory authority.

- I. PRINCIPAL CONTACTS. The principal contacts for this instrument are:

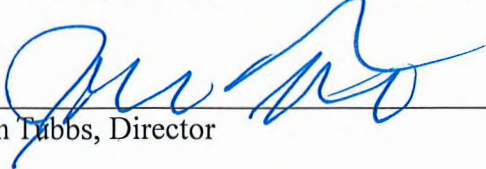
<i>Bureau of Land Management</i>	<i>U.S. Forest Service</i>
Floyd Thompson	Shawn Heinert
Rangeland Management Specialist	Range Management Program Lead
Montana/Dakotas State Office	USDA Forest Service -R1
5001 Southgate Dr.	26 Fort Missoula Rd
Billings, MT 59105	Missoula, MT 59807
406-896-5013	406-329-3564

<i>Montana State University Extension</i>	<i>Montana DNRC</i>
Dr. Jeff Mosley-Range Management Specialist	Stacey Barta-Coordinator
MSU Extension	DNRC Rangeland Resources Program
P.O. Box 172900	P.O. Box 201601
Bozeman, MT 59717	Helena, MT 59620
406-994-5601	406-444-6619
jmosley@montana.edu	sbarta@mt.gov

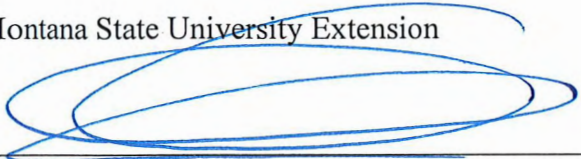
- J. NON-FUND OBLIGATING DOCUMENT: Nothing in this MOU shall obligate any of the listed parties to obligate or transfer any funds. Specific work projects or activities that involve the transfer of funds, services, or property among the various agencies and offices will require execution of separate agreements and be contingent upon the availability of appropriated funds. Such activities must be independently authorized by appropriate statutory authority. This MOU does not provide such authority. Negotiation, execution, and administration of each such agreement must comply with all applicable statutes and regulations.
- K. ESTABLISHMENT OF RESPONSIBILITY. This MOU is not intended to, and does not create, any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity, by a party against the United States, its agencies, its officers, or any person.
- L. SEVERABILITY: Should any portion of this MOU be judicially determined to be illegal or unenforceable, the remainder of the MOU shall continue in full force and effect, and any of the Parties may renegotiate the terms affected by the severance.
- M. FEDERAL ADVISORY COMMITTEE ACT (FACA): The Parties will comply with the Federal Advisory Committee Act to the extent it applies.
- N. INDEMNIFICATION: Each Party to this MOU shall assume the risk of any liability arising from its own conduct. None of the Parties agree to insure, defend, or indemnify any of the other Parties.
- O. COMMUNICATIONS: Each Party will obtain prior approval from the others prior to releasing all press releases, published advertisements, or other statements intended for the public that refer to this MOU or to the Parties, the name or title of any employee of the Parties, or other cooperating individuals in connection with this MOU.
- P. SIGNATURES: The Parties to this MOU, through their duly authorized representatives, have executed this MOU on the dates set out below, and certify that they have read, understood, and agreed to the terms and conditions of this MOU as set forth herein.

# Signature Page


Montana Department of Natural Resources & Conservation

 Date: 9-6-19  
John Tubbs, Director

Montana State University Extension

 Date: 9/30/19  
Dr. Cody Stone, Executive Director

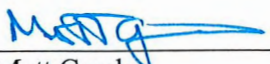
United States Forest Service, Northern Region

 Date: 8-29-19  
Leanne Marten, Regional Forester

Bureau of Land Management, Montana/Dakotas State Office

 Date: 9-13-19  
John J. Mehlhoff, State Director

The authority and format of this agreement have been reviewed and approved for signature.

 Date: 8.29.19  
Matt Gordon  
U.S. Forest Service Grants Management Specialist

## ATTACHMENT A

### MONTANA SECTION 8 PROCESS

Section 8 of the Public Rangelands Improvement Act of 1978 (Public Law 95-514) allows for *consultation*, *cooperation* and *coordination* in the development and execution of allotment management plans for grazing permits from both the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM). A Memorandum of Understanding exists among the USFS, BLM, Montana State University Extension (MSU Extension), and the Montana Department of Natural Resources & Conservation (Montana DNRC)

#### **Implementation of the Montana Section 8 Process consists of three steps:**

##### **Step 1.**

The permittee and the agency should make all efforts to meet and attempt to resolve the issue at the local level. The purpose of Step 1 is a good faith effort to resolve the issue in conflict with the permittee(s), the local range manager, the Field Manager/District Ranger, and the District Manager/Forest Supervisor.

##### **Step 2.**

If it is determined that a dispute cannot be resolved at the local level, either party is encouraged to request assistance from the MSU Extension Range Management Specialist at 406-994-5601. The MSU Extension Range Management Specialist will provide technical expertise and attempt to resolve the dispute. The parties in conflict may also use Montana Department of Agriculture Mediation Program. For more information regarding this option contact MDA at 406-444-5242.

**Step 3.** If the conflict cannot be resolved by steps 1 or 2, either party is encouraged to request conflict resolution assistance under Section 8 of the Public Rangelands Improvement Act of 1978 (Public Law 95-514) from the Montana DNRC Rangeland Resources Program Coordinator at 406-444-6619.

That process follows these steps:

- A. Permittee(s) request a Section 8 review in writing by submitting the request to the Montana DNRC Rangeland Resources Program Coordinator. The written request must contain contact information for the permittee(s), local agency contacts, a summary of the issue, any pertinent data, and the request must be signed and dated.
- B. Montana DNRC will establish a 3-person Core Team consisting of the Rangeland Resources Program Coordinator, a representative from the affected federal agency (BLM or Forest Service), and a permittee or their representative.
- C. The Core Team appoints a Technical Review Team (TRT). As appropriate, the TRT members may be drawn from some or all the following organizations:
  - a) Montana State University
  - b) Montana Department of Fish, Wildlife & Parks
  - c) Montana Department of Natural Resources and Conservation
  - d) Bureau of Land Management
  - e) U.S. Forest Service
  - f) Natural Resources Conservation Service



- D. The TRT conducts an on-site review. The goal of TRT is to examine the scientific background for the technical issues in question. The mission of the TRT is to look at the issue scientifically and resolve the dispute. Examples of the TRT efforts may include examining whether:
- i. The kind(s) of data and information used to support the proposed decision is rationally and scientifically applicable to that purpose.
  - ii. The studies used to obtain data and information for the proposed decision were conducted in accordance with established protocol and in a manner that yields valid and reliable scientific data and information.
  - iii. A preponderance of current science supports the interpretations and conclusions of the proposed decision.
  - iv. Other data or information rationally and/or scientifically conflicts with the accuracy of the data and information, interpretation, and conclusions used for the proposed decision.
  - v. Other relevant historical data and annual monitoring data that is allotment specific.
  - vi. The Environmental Assessment or Environmental Impact Statement supporting the decision provides an accurate, complete, and balanced evaluation of a full range of alternatives.
  - vii. The data and information along with their interpretation scientifically and rationally support the proposed management changes and/or actions.
  - viii. The “preferred” management strategy in the proposed decision has a high likelihood of achieving the objective(s) in a reasonable amount of time, and a low likelihood of unintended negative consequences.
  - ix. Other management changes and/or actions would be equally effective in achieving the objective(s) and should be evaluated as an alternative prior to a final decision.
- E. The TRT then prepares a report and recommendation, forwarding it to the Montana DNRC-Rangeland Resources Program, the permittee(s), and the state or regional office of USFS or BLM.
- F. The BLM or USFS will review the recommendation and make the final decision.
- G. The permittee(s) will retain the right to appeal the final decision, using the normal appeals procedures of either BLM or USFS.