



## COLORADO CATTLEMEN'S ASSOCIATION

*"Representing the interests of Colorado's beef industry since 1867"*

August 21, 2013

TO: Water Resources Review Committee  
FR: Terry R. Fankhauser, Executive Vice President  
RE: Forest Service Permitted Uses and Water Rights

On behalf of the members of the Colorado Cattlemen's Association (CCA), representing a preponderance of livestock producers who graze Colorado's Forest Service lands, I greatly appreciate the recognition from this committee that the Forest Service's attempts at conditioning permitted uses in exchange for water rights is a threat to our members' businesses and must be addressed. In the west, where roughly forty percent of the cow herd and fifty percent of the nation's sheep herd spend some time on public lands, the policies held by the Forest Service are of great importance to us.

As an organization that represents Colorado's public land grazing permittees, and as a member of the west-wide national Public Lands Council, we are seriously concerned by an increasing number of examples in which the Forest Service has made efforts to acquire ownership of water rights in return for the continuance of permitted activities on National Forest System lands.

We have witnessed this activity with the ski industry, with water districts, and recently, with permitted ranching activities. In Wyoming, ranchers report the Forest Service has recently become more aggressive about acquiring ownership of stockwater rights. In Nevada, the agency has delayed action on ranchers' requests for permits for maintenance of rancher-owned stockwater improvements because of the agency's disagreement with Nevada's state water law.

Our concern has been edified in writing, as was exemplified in an August 15, 2008 Forest Service briefing paper on Nevada State water law: "It is the policy of the Intermountain Region that livestock water rights used on national forest grazing allotments should be held in the name of the United States... The United States must have a water right recognized by the State before federal funds are expended for construction or reconstruction of any livestock water development or facility."

This has resulted in an under-utilization of the ranges by livestock due to a lack of full distribution of water resources on Forest Service permits. While the Forest Service generally has not formally rejected use permits, they have delayed issuing those permits in order to pursue their policy of obtaining stockwater rights. This delay has prevented the full use of the range by wildlife, as well as livestock... not to mention the corresponding water.

Thanks to improvements largely accomplished by ranchers' investments of their own time and resources on Forest Service lands, abundant wildlife habitat has sprung out of landscapes formerly lacking widely-dispersed water resources. Not only that, but many private stockwater owners on National Forest System lands have memorandums of understanding (or MOUs) with the Forest Service, where they voluntarily allow the agency to put a designated amount of water to use on agency initiatives. Now, the agency's demand for partial ownership of water rights is threatening these MOUs and the spirit of cooperation that has long existed on the range.

The Forest Service's attempt to secure water rights is contrary to the prior appropriation doctrine for water rights which exists in much of the west. The federal government, except in narrow cases, continues to give primacy over the waters within individual states to those states' laws, regulations, and agencies. For the benefit of the resource, which ranchers are striving every day to improve; and which the Forest Service is mandated to care for, the current Forest Service policy of delaying maintenance and establishment of stockwater resources needs to be re-evaluated and discarded.