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June 17, 2025

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Re: Ongoing violations from livestock grazing in the Sierra Nevada

Dear Supervisor Stansfield, Supervisor Gould, Supervisor Yen, Supervisor Carlton, Supervisor Barrett, and Supervisor Fris,

We are writing to express concerns about persistent and ongoing failures by permittees on the Dinkey, Patterson Mountain, Collins, Iron Creek, Mono, Kaiser, Mulkey, Antelope, Lone Rock, and Silver Creek allotments to follow the terms and conditions of their grazing permits, as well as the Forest Service's failure to take enforcement actions to address these violations, with respect to ESA-listed amphibians (Sierra Nevada yellow-legged frog, Northern Distinct Population Segment of the mountain yellow-legged frog, Yosemite toad, North Feather Distinct Population Segment and South Sierra Distinct Population Segment of the foothill yellow-legged frog) and species of conservation concern (willow flycatcher). The Forest Service must immediately address these violations in order to be consistent with the terms of the permits, as there is currently a lack of compliance with the grazing terms and conditions in these areas. The Service must also send the required letters of non-compliance to the permittees in question.

The Fish and Wildlife Service and the Forest Service originally consulted in 2014 regarding ESA-listed amphibians, resulting in the *Programmatic Biological Opinion on Nine Forest Programs in the Sierra Nevada of California for the Endangered Sierra Nevada Yellow-legged Frog, Endangered Northern Distinct Population Segment of the Mountain Yellow-legged Frog and Threatened Yosemite Toad* (2014 PBO), dated June 16, 2014. The Forest Service requested reinitiation of consultation in 2017 to address critical habitat that had recently been designated for the Sierra Nevada yellow-legged frog, northern distinct population segment of the mountain yellow-legged frog, and Yosemite toad, resulting in the 2017 Amendment of the PBO. The PBO was then amended again in 2023 in order to address (i) Best Management Practices (BMPs) revisions; (ii) Protocols, Reporting, and Monitoring; (iii) the newly listed North Feather DPS and South Sierra DPS of the foothill yellow-legged frog; and (iv) application of chemicals (e.g., herbicide, pesticide, fungicide, etc.). The 2023 Amendment also incorporated the Revised Forest Plans that had been completed for four of the nine national forests covered by the PBO—the Lake Tahoe Basin (2016 Revised Plan), Inyo (2019 Revised Plan), Sierra (2023 Revised Plan) and Sequoia (2023 Revised Plan).[1]

[1] The other five national forests (Lassen, Plumas, Tahoe, Eldorado, and Stanislaus) have not yet completed revised plans and therefore still rely on the 2004 Sierra Nevada Forest Plan Amendment.

The PBO and its Amendments rely on Standards and Guidelines ("S&Gs") and BMPs that, when properly implemented, and coupled with site-specific conservation measures in the above-mentioned allotments,[2] are intended to minimize the adverse effects to ESA-listed amphibian species resulting from the Forest Service's Range Management Program through protection of water quality; seasonal restrictions; and other activities. The requirements outlined by these documents covering the allotments are necessary to avoid jeopardizing listed species or adversely modifying their critical habitat. The PBO and its Amendments also explain that livestock grazing must be managed to attain desired conditions.[3] Moreover, the measures described in the 2014, 2017, and 2023 PBO/Amendments and Incidental Take Statements are "non-discretionary and must be implemented by the Forest Service so that they become binding conditions of any grant, contract, or permit issued by the Forest Service as appropriate, in order for the exemption in section 7(o)(2) [of the ESA] to apply."[4] Where livestock grazing is found to be contributing to a decline in the function of riparian systems, grazing practices are to be modified, and if those modifications are ineffective, livestock are to be removed from that area.[5]

Standards and Guidelines Applicable to Sierra Nevada Livestock Grazing

As discussed in the 2023 PBO Amendment, the Forest Service "has developed S&Gs and BMPs to reduce or avoid adverse effects to multiple habitats and species, including the four listed amphibians and their habitats." These S&Gs and BMPs are not only "an essential component of [the PBO]," they "are treated as minimums."[6]

There are two overarching categories of S&Gs for the nine national forests covered by the PBO: (1) the S&Gs found in the 2004 Sierra Nevada Forest Plan Amendment ("SNFPA"), which apply on the Lassen, Plumas, Tahoe, Eldorado, and Stanislaus National Forests, and (2) the S&Gs found in the recently revised forest plans for the Lake Tahoe Basin, Inyo, Sierra and Sequoia National Forests. However, as discussed in more detail below, the extent to which the S&Gs in the revised forest plans have been applied to allotments on the Sierra and Inyo National Forests with respect to ESA compliance remains unclear.

The 2004 SNFPA, S&G 120, states that for meadows in early seral status, livestock utilization of grass and grass-like plants must be limited to 30 percent (or minimum 6-inch stubble height),[7] and for meadows in late seral status, this utilization must be limited to a maximum of 40 percent

[2] The Silver Creek allotment on the Humboldt-Toiyabe National Forest is not covered by the PBO and instead has its own specific Biological Opinion.
[3] See, e.g., September 27, 2023, Amendment of the Programmatic Biological Opinion, p. 8 ("the Forest Service will ensure that all applicable Forest Service Best Management Practices (BMPs), Forest Plan components such as Desired conditions, Standards and Guidelines (S&Gs), and project-specific Design Criteria are Implemented").
[4] *Id.* at 69.
[5] *See, e.g.*, SNFPA S&Gs 53 and 54; Sierra National Forest 2023 Revised Forest Plan S&Gs, RANG-FW-STD-01.
[6] September 27, 2023, Amendment of the Programmatic Biological Opinion at pp. 15, 16.
[7] Sierra Nevada Forest Plan Amendment–Record of Decision (ROD), January 21, 2004, p. 65 (S&G 120). fsbdev3_046095.pdf S; *see also* Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest, High Sierra Ranger District, Fresno and Madera Counties, California, September 25, 2017, pp. 5, 19.

(or minimum 4-inch stubble height).[8] Degraded meadows require total rest from grazing until they have recovered and moved to mid- or late-seral status, and if meadow ecological status is determined to be moving in a downward trend, grazing must be modified or suspended.[9]

The 2004 SNFPA also contains S&Gs 53 and 54, which seek to conserve Yosemite toads and their habitat via exclusion of cows from wet areas in a grazing allotment.[10] S&Gs 53 and 54 state as follows:

> 53. Exclude livestock from standing water and saturated soils in wet meadows and associated streams and springs occupied by Yosemite toads or identified as "essential habitat" in the conservation assessment for the Yosemite toad during the breeding and rearing season (through metamorphosis). Wet meadow habitat for Yosemite toads is defined as relatively open meadows with low to moderate amounts of woody vegetation that have standing water on June 1 or for more than 2 weeks following snow melt. Specific breeding and rearing season dates will be determined locally. If physical exclusion of livestock is impractical, then exclude grazing from the entire meadow. This standard does not apply to pack and saddle stock.
>
> 54. Exclusions in standard and guideline #53 above may be waived if an interdisciplinary team has developed a site-specific management plan to minimize impacts to the Yosemite toad and its habitat by managing the movement of stock around wet areas. Such plans are to include a requirement for systematically monitoring a sample of occupied Yosemite toad sites within the meadow to: (1) assess habitat conditions and (2) assess Yosemite toad occupancy and population dynamics. Every 3 years from the date of the plan, evaluate monitoring data. Modify or suspend grazing if Yosemite toad conservation is not being accomplished. Plans must be approved by the authorized officer and incorporated into all allotment plans and/or special use permits governing use within the occupied habitat.

S&Gs 53 and 54 dictate that livestock must be kept out of wet areas but do not specifically provide for *how* permittees will ensure that cattle will remain out of these areas.[11] The data collected for compliance with S&G 54 is intended to help determine whether livestock are entering areas occupied by, or essential to, Yosemite toads.

Program managers within the Sierra National Forest have expressed concerns surrounding implementation of S&G 54.[12] Specifically, concerns have been expressed that consistent

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[8] Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest, High Sierra Ranger District, Fresno and Madera Counties, California, September 25, 2017, p. 19
[9] *Id.*
[10] Sierra Nevada Forest Plan Amendment –Record of Decision (ROD), January 21, 2004, p. 56 (S&Gs 53, 54). fsbdev3_046095.pdf.
[11] Topic for discussion for implementation of Standard and Guide 54, Stephanie Barnes, District Fish/Aquatic Biologist, 1-31-2011.
[12] Email from Fisheries Program Manager, Sierra National Forest, Philip Strand to Cathy Brown on March 9, 2011.

monitoring protocols and methodologies are lacking, and staff experienced challenges in identifying thresholds to evaluate and minimize effects to the Yosemite toad and its habitat.[13] Staff also stated that they were not comfortable with the population dynamics aspect of S&G 54 and could not make "any sense of trends in three years."[14] They also stated that they lacked a process to collect the necessary data and required oversight to ensure that the data is meaningful and can address population dynamics.[15] Questions also were raised concerning key aspects of habitat monitoring, such as what methods will be utilized in measuring forage utilization and long-term condition and trend determination, when annual monitoring of water table measurements will occur, as well as monitoring population dynamics.[16]

In May of 2023, the Sierra National Forest adopted a Revised Forest Plan, and consequently, the 2004 SNFPA S&Gs are no longer applicable on the Sierra National Forest, pursuant to the National Forest Management Act. Instead, the S&Gs found in the 2023 Revised Plan now apply, such as the following:

> Grazing management practices, such as deferred seasonal grazing, meadow fencing, and modifying grazing period, will be used to avoid negative impacts to Yosemite toad and their habitat to the maximum extent feasible.
>
> To minimize potential direct impacts to sensitive life stages of Yosemite toad, breeding and rearing season dates should be determined locally, based on weather and conditions and breeding and dispersal phenology. These dates are used to avoid co-occurrence of cattle grazing and egg masses, tadpoles, juveniles, and breeding adults to the maximum extent feasible.
>
> To help monitor if there is sufficient breeding and rearing habitat to support the survival and recovery of local Yosemite toad populations, grazing utilization should be restricted using Yosemite toad probability of occupancy or reproduction and rangeland habitat indicators (see table 9).

[13] *Id.* ("On the Forest scale, we are much more comfortable with monitoring physical aspects of habitat and recognize there a variety of methodologies that we might select from. Identifying thresholds to evaluate our ability to minimize effects to YT and habitat looks more challenging, in terms of a scientific basis to support a given threshold.")
[14] *Id.*
[15] *Id.*
[16] Management Plan Proposal – Sierra National Forest SNFPA ROD – Standard and Guide 54; Email from Sierra National Forest Aquatic Biologist Philip Strand to Amy Lind on October 6, 2011.

Table 9. Rangeland habitat indicators for grazing management based on Yosemite toad probability of occupancy or reproduction and meadow functional status

Meadow functional status	Known occupied meadows and/or highly suitable breeding and rearing habitats (utilization)	Known occupied meadows and/or highly suitable breeding and rearing habitats (disturbance)	Moderately and low suitable breeding and rearing habitats (utilization)
Properly functioning	Utilize no more than 35% of herbaceous vegetation.	Alter breeding habitat no more than 20%.	Utilize no more than 40% of herbaceous vegetation.
Functional at-risk with upward, static (stable), or unapparent trend	Utilize no more than 25% of herbaceous vegetation.	Alter breeding habitat no more than 15%.	Utilize no more than 30% of herbaceous vegetation.
Non-functional – stable (static)	Incidental grazing. Utilize no more than 10% of herbaceous vegetation.	Alter breeding habitat no more than 10%	Utilize no more than 30% of herbaceous vegetation.
Functional at-risk with trending downward, Non-functional – not stable (static)	Incidental grazing. Utilize no more than 10% of herbaceous vegetation.	Alter breeding habitat no more than 10%	Incidental grazing. Utilize no more than 10% of herbaceous vegetation.

> If meadow ecological status is determined to be moving in a downward trend due to grazing, grazing must be modified or suspended. Management of meadows that are in low ecological status or not in proper functioning condition and have active erosion to achieve or show substantial progress toward meeting mid- or late-seral status and proper functioning condition within 5 years must be modified.

The 2023 Sierra Nevada Forest Plan also includes S&Gs to protect the willow flycatcher, a species of conservation concern that is harmed by livestock grazing:

> In willow flycatcher occupied sites receiving late-season grazing, if habitat conditions are not supporting the willow flycatcher or are trending downward, modify or suspend grazing at those sites.
>
> During allotment management planning or when authorizing livestock or pack stock use, determine occupancy of willow flycatcher in affected meadows larger

than 15 acres that have standing water on June 1 and a deciduous shrub component capable of providing willow flycatcher habitat, using established protocols.

In meadows with occupied willow flycatcher sites, allow only late-season grazing (after August 15) in the entire meadow. This standard may be waived if an interdisciplinary team together with the affected grazing permittee has developed and implemented a site-specific meadow management strategy. The strategy must focus on protecting the nest site and associated habitat during the breeding season and the long-term sustainability of suitable habitat at breeding sites. It may use a mix of management tools, including grazing systems, structural improvements, and other exclusion by management techniques to protect willow flycatcher habitat.

Although the 2023 Amendment to the PBO incorporates revised forest plans, it remains unclear which S&Gs are currently being used for ESA compliance on the Sierra National Forest—the most recent Biological Opinion we are aware of that addresses the grazing allotments on the Sierra National Forest discussed below is dated April 2, 2018,[17] which predates the May 2023 Sierra National Forest Revised Forest Plan and September 2023 PBO Amendment. Thus, it appears that grazing permittees may still be relying on S&Gs from the 2004 SNFPA to comply with the ESA on the Sierra National Forest. Regardless, whether viewed through the lens of the 2004 SNFPA S&Gs, or the S&Gs found in the 2023 Sierra National Forest Revised Forest Plan, the grazing discussed below that is occurring on the Sierra National Forest is violating both sets of S&Gs.

Allotment Violations

We visited the following allotments between late June and early November 2024 and identified multiple violations. Specifically, and as described below, grazing in these areas exceeds allowable utilization of herbaceous vegetation, resulting in soil compaction and erosion, reduced vegetation, and decreased soil stability. Grazing activities are also degrading critical habitat for the above-listed species and are not in accordance with listed "desired conditions" for the species found in these allotments. The Forest Service's failure to enforce terms and conditions required by the PBO, its associated documents, and the revised Forest Plans—including sustaining suitability of aquatic and upland habitat—violates the Endangered Species Act and National Forest Management Act.

The following discussion details these problems for each of the allotments:

Sierra National Forest

The most recent ESA consultation we are aware of for the following allotments located on the Sierra National Forest was completed on April 2, 2018.[18] This April 2018 Biological Opinion

[17] Evaluation of Effects to Critical Habitat from 100 Projects in Six National Forests and Appendage to the 2017 Programmatic Biological Opinion, April 2, 2018.

[18] Evaluation of Effects to Critical Habitat from 100 Projects in Six National Forests and Appendage to the 2017 Programmatic Biological Opinion, April 2, 2018.

relies on "the S&Gs in the 2004 Sierra Nevada Forest Plan Amendment,"[19] and therefore we focus on those particular S&Gs, even though new (albeit similar) S&Gs were issued for the Sierra National Forest under the National Forest Management Act in May of 2023.

Dinkey Allotment: Sierra Nevada yellow-legged frogs and Yosemite toads occupy parts of this allotment, and designated critical habitat for the toad exists on 47% of the allotment's acres.[20] Documentation from the Sierra National Forest shows that this allotment uses a site-specific plan pursuant to SNFPA S&G 54, titled "Dinkey Allotment Adaptive Management Plan for Yosemite toad occupied meadows."[21] This Plan seeks to conserve Yosemite toads "by minimizing impacts to individuals and their habitat via managing movement of stock around wet areas."[22] The hydrologic function of the meadows in the allotment must provide a sufficient amount and duration of surface water suitable for toad breeding and rearing, i.e. shallow warm water that persists for a sufficient period of time during the season for tadpoles to metamorphose.[23] The Adaptive Management Plan dictates that cattle must avoid standing in water during breeding and rearing, and grazing cannot disturb habitat, where "disturbance" is defined as "evidence of the current season's hoof prints and evidence of past disturbance," and disturbance metrics include the presence of cattle signs within a breeding area and the percent of a breeding area with signs of cattle.[24] Permittees are required to avoid riding and trailing cattle through the breeding habitat and delay the timing that livestock are trailed or allowed to drive into portions of the allotment that have occupied habitat. Furthermore, S&G 54 dictates that grazing must be modified or suspended if Yosemite toad conservation is not being accomplished.[25] In addition, willow flycatchers occur in this allotment, and therefore the willow flycatcher standards apply as well.

Through our 2024 surveys and transects, we observed violations of SNFPA S&Gs 120 and 54, including grazed vegetation exceeding utilization standards, with trails plus wallows, rutting and compaction leading to more denuded ground and large areas of bare soils in meadows on the Bear Creek Pasture. Evidence was also documented of trailing leading to shearing and removal of portions of the streambank, leaving vertical surfaces. Significant streambank degradation was also noted in a number of areas, where every area accessible to cows was trampled and grazed and bank erosion was prevalent. In some areas, almost all of the surface water was gone.

Cabin and Exchequer Meadows were particularly hard hit. Cabin Meadow was heavily impacted (exceeding utilization standards)—grass had been grazed down to an inch or two throughout the Meadow, and every 100-foot stream had an eroding entry. There were also large, denuded areas and trails plus wallows, rutting, as well as compaction leading to more denuded ground and large areas of bare soils. The damage here is pervasive, with multiple locations of disturbance and multiple types of disturbances. Streambank degradation within this Meadow is also pervasive,

[19] *Id*. at 4.
[20] Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest, High Sierra Ranger District, Fresno and Madera Counties, California, September 25, 2017, p. 12.
[21] Dinkey Allotment Adaptive Management Plan for Yosemite toad occupied meadows (S&G 54), undated
[22] *Id*.
[23] *Id.*
[24] *Id.*
[25] *Id.*

with trailing leading to shearing and removal of a portion of the streambank leaving vertical surfaces.

Surrounding unnamed meadows in the Dinkey Allotment demonstrated similar issues, with grazing and ground cover damage that is pervasive, multiple grazed patches, and grazing pressure exceeding utilization standards of the area. Significant ground cover disturbance was also noted, with trails plus wallows, rutting, and compaction leading to more denuded ground and large areas of bare soil.

Cattle are also present in toad breeding habitat, i.e. wet meadows, which provide high quality habitat for Yosemite toad reproduction, cover, and feeding. There appears to be no measures in place to ensure that cattle will stay out of specific areas, including toad breeding areas and areas that are essential in the meadow for tadpoles, such as perennial streams and adjacent connected pooling areas. This is in direct violation of S&G 54, and the associated allotment-specific Adaptive Management Plan, which dictate that livestock must be excluded from "wet areas." Because Yosemite toad conservation is not being accomplished in this allotment, S&G 54 requires that grazing be "[m]odif[ied] or suspend[ed]." Furthermore, it appears that the required monitoring of, and evaluation of impacts to, a sample of occupied Yosemite toad sites is not occurring, in violation of S&G 54.

The above grazing impacts were documented before August 15, in meadows where habitat conditions are not supporting the willow flycatcher and are trending downward. There are no indications that nest sites and associated habitat are being protected during the breeding season, nor the long-term sustainability of suitable habitat at breeding sites maintained.

Evidence of the current season's hoof prints and evidence of past disturbance in the Dinkey allotment
Latitude 37; 11.9500000000116202; Longitude 119; 11; 6.72999999998136; Altitude 2239.73

Grazed vegetation in the Dinkey allotment
Latitude 37; 9; 3.97000000000112152
Longitude 119; 11; 22.0300000000279
Altitude 2244.28

Evidence of cows in wet meadows & streambank degradation, Dinkey allotment
Latitude 37; 4; 15.1400000000139734; Longitude 119; 4; 44.4699999999720674; Altitude 2215.09

Patterson Mountain Allotment: Sierra Nevada yellow-legged frogs and Yosemite toads occupy parts of this allotment, and there exist approximately 25,049 acres of designated critical habitat for the toad, comprising 45% of the allotment's acres.[26] Like Dinkey, documentation from the Sierra National Forest shows that the Patterson Mountain allotment uses a site-specific plan pursuant to SNFPA S&G 54, titled "Patterson Mountain Adaptive Management Plan for Yosemite toad occupied meadows," that seeks to conserve Yosemite toads "by minimizing impacts to individuals and their habitat via managing movement of stock around wet areas."[27] Willow flycatchers also occur in this allotment, and therefore the willow flycatcher standards apply to the allotment as well.

In the Hall Pasture, including in Ahart Meadow, we observed violations of the Adaptive Management Plan and S&G 120, such as disturbance to Yosemite toad habitat (where disturbance has been defined in the Adaptive Management Plan as "evidence of the current season's hoof prints and evidence of past disturbance"), including evidence of grazing, with multiple patches grazed and grazing which exceeded utilization standards. We also observed significant ground cover disturbance, with trails plus wallows, rutting, and compaction, leading to more denuded ground and large areas of bare soils. Evidence was also documented of trailing leading to shearing and removal of portions of the streambank, leaving vertical surfaces.

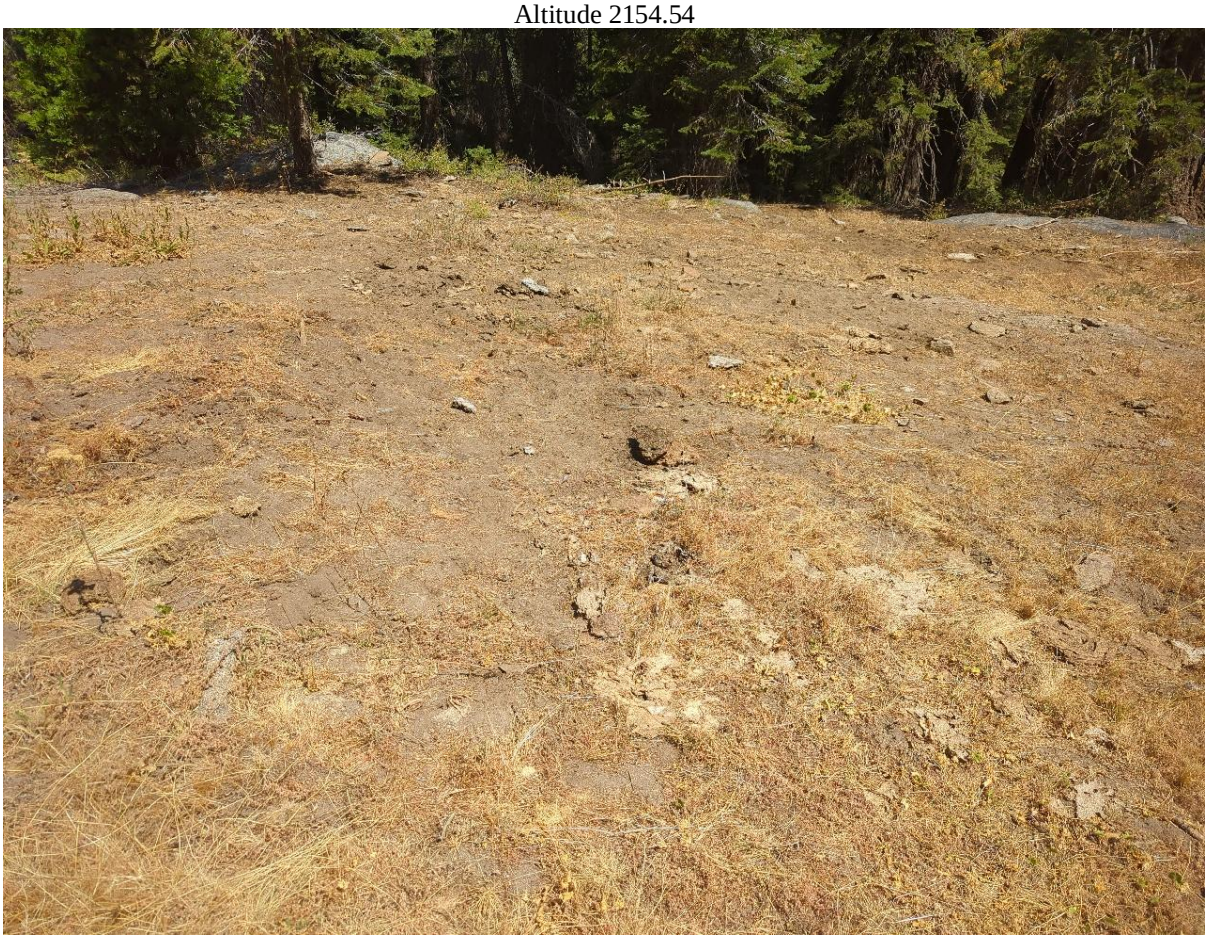
The Ahart and House Meadows, as well as East Fork Deer Creek, showed significant impacts, with multiple patches grazed, heavy grazing pressure (exceeding utilization standards), and pervasive ground cover disturbance (trails plus wallows, rutting and compaction leading to more denuded ground and large areas of bare soils). These Meadows also exhibited pervasive streambank degradation, with trailing leading to shearing and removal of a portion of the streambank, leaving vertical surfaces. There were also fences down that should otherwise exclude cattle from the wettest parts of the Meadows. In general, while fences were present in the Patterson allotment, most of them were down and in need of repair. These fences must be repaired immediately, or grazing must be excluded from the meadows, as is required by S&Gs 53/54.

Grazing activities were documented before August 15, in meadows where habitat conditions are not supporting the willow flycatcher and are trending downward. There are no indications that nest sites and associated habitat are being protected during the breeding season, nor the long-term sustainability of suitable habitat at breeding sites maintained.

Evidence of the current season's hoof prints and evidence of past disturbance, including evidence of grazing, with multiple patches grazed and grazing which exceeded utilization standards, Patterson allotment:

[26] Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest, High Sierra Ranger District, Fresno and Madera Counties, California, September 25, 2017, p. 11.
[27] Patterson Mountain Adaptive Management Plan for Yosemite toad occupied meadows (S&G 54), undated

Latitude 37; 0; 48.2900000000081491
Longitude 119; 2; 42.710000000020969
Altitude 2154.54



Latitude 37; 1; 37.4100000000034854; Longitude 119; 5; 32.15999999999743957; Altitude 2161.55

Streambank degradation & evidence of cattle failing to avoid standing water, Patterson allotment:

Latitude 37; 1; 31.4800000000104809; Longitude 119; 5; 10.2800000000279645; Altitude 2116.21

Latitude 37; 1; 8.42999999999301; Longitude 119; 2; 30.0700000000069849; Altitude 2189.76

Evidence of failure to exclude cattle from the wettest parts of the meadow, Patterson allotment
Latitude 37; 1; 15.730000000010485; Longitude 119; 4; 48.5700000000069707; Altitude 2082.9

Collins Allotment: Sierra Nevada yellow-legged frogs and Yosemite toads occupy this allotment, and critical habitat for the Yosemite toad is located in the eastern half of the allotment, comprising 57% of the total allotment acres.[28] Documentation from the Sierra National Forest shows that the Collins allotment is "managed under [SNFPA] S/G 53" with respect to meadows used by Yosemite toads.[29] Willow flycatchers also occur in the Collins allotment and therefore the willow flycatcher standards apply as well.

In the Smith Meadow Pasture, surveyors documented violations of SNFPA S&G 120, including significant damage to meadows in early seral status, with livestock utilization of grass and grass-like plants exceeding utilization standards and a failure to maintain even 2-inch stubble height. In addition, significant ground cover disturbance was observed, with trails plus wallows, rutting, and severe compaction, leading to more denuded ground and large areas of bare soil. Streambank degradation was also evident, with trailing leading to shearing and removal of a portion of the streambanks, leaving vertical surfaces.

Similarly, significant stream impacts were observed in tributaries of Rancheria Creek. The Rancheria pasture itself was grazed in excess of utilization standards and ground cover disturbance severe, with trails plus wallows, rutting, and compaction, leading to more denuded ground and large areas of bare soil in multiple locations. Trailing in this pasture has also created unstable banks and some chiseling.

There were also a number of unnamed meadows in the Collins allotment with grazing pressure exceeding utilization standards and ground cover disturbance, as indicated by the presence of

[28] Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest, High Sierra Ranger District, Fresno and Madera Counties, California, September 25, 2017, p. 13.
[29] *Id*. at 14.

trails plus wallows, rutting, and compaction leading to more denuded ground and large areas of bare soils. There was direct evidence that livestock were in standing water and saturated soils in wet meadows and associated streams, including evidence of trampling, damaged wet meadow plant communities, eroded banks, physical damage to soils, decreased abundance of shallow- and deep-standing water, and hoof puncturing and compaction. This is in direct violation of S&G 53, which mandates that livestock be excluded from standing water and saturated soils in wet meadows and associated streams and springs either occupied by Yosemite toads or identified as essential habitat in the conservation assessment. If physical exclusion of livestock is impractical, grazing must be excluded from the entire meadow.

The above grazing activities were documented before August 15, in meadows where habitat conditions are not supporting the willow flycatcher and are trending downward. There are no indications that nest sites and associated habitat are being protected during the flycatcher's breeding season, nor the long-term sustainability of suitable habitat at breeding sites maintained.

Evidence of disturbance and failure to maintain minimal stubble height, Collins allotment
Latitude 36; 56; 43.3500000000057639; Longitude 118; 58; 3.7399999999907152; Altitude 1987.14

Streambank degradation, with trailing leading to shearing and removal of a portion of the streambanks, leaving vertical surfaces. Lat 36; 59; 32.3099999999978138; Long 118; 56; 57.17999999999929; Alt 2374.88

Meadow in the Collins allotment
Lat 36; 56; 0.139999999994741; Long 118; 58; 16.9500000000114; Alt 2022.05

Iron Creek Allotment: Critical habitat for the Yosemite toad is located in the eastern portion of the Iron Creek allotment, comprising 43% of the total allotment acres.[30] As of 2017, there were 6 (44 acres) occupied Yosemite toad meadows and 331 (326 acres) suitable habitat meadows within the allotment.[31] Upland/terrestrial habitat accounts for approximately 4,862 acres of known occupied and 15,377 acres of suitable terrestrial habitat. Documentation from the Sierra National Forest shows that the Iron Creek allotment is "managed under Standard and Guideline 53" with respect to toad meadows.[32] In addition, approximately 2,185 acres of utilized unknown, and 9 acres of occupied, Sierra Nevada yellow-legged frog habitat are also within the allotment.[33] Willow flycatchers also occur in the allotment.

In our surveys, we found violations of S&G 120 and S&G 53. Several unnamed meadows near Grizzly Creek and North Fork Willow Creek exhibited grazing damage that includes evidence of wallows and rutting, as well as trailing leading to shearing and removal of a portion of the streambank, leaving vertical surfaces. Cattle were also present while these meadows were heavily saturated, with evidence of heavy cow usage and trampling near spring heads while the meadows were still wet; all in ideal Yosemite toad habitat. Perimeter fences were also down in these areas and need to be repaired immediately.

The above grazing activities were documented before August 15, in meadows where habitat conditions are not supporting the willow flycatcher and are trending downward. There are no indications that nest sites and associated habitat are being protected during the flycatcher's breeding season, nor the long-term sustainability of suitable habitat at breeding sites maintained.

[30] Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest High Sierra Ranger District, Fresno and Madera Counties, California. September 25, 2017, p. 17.
[31] *Id.*
[32] *Id.*
[33] *Id.*

Latitude 37; 29; 51.4400000000023283; Long 119; 28; 12.83000000000162; Alt 2432.84

Lat 37; 29; 52.400000000129052; Long 119; 28; 18.9899999999907; Alt 2433.58

Mono Allotment: The Mono allotment is occupied by the Yosemite toad and Sierra Nevada yellow-legged frog.[34] There are also approximately 16,478 acres of designated critical habitat for the Yosemite toad within the allotment, and 3,546 acres of critical habitat for the Sierra Nevada yellow-legged frog.[35] Critical habitat for the Yosemite toad is located in the north half of the allotment, comprising 44% of the total allotment acres, and critical habitat for the Sierra Nevada yellow-legged frog is located in the eastern quarter of the allotment, comprising 10% of the total allotment acres.[36] Documentation from the Sierra National Forest shows that the Mono allotment is "managed under S/G 53" with respect to toad meadows.[37]

Our surveys found significantly impacted pastures within the Mono allotment. Graveyard and Twin Meadows were particularly affected, with both areas exhibiting pervasive ground cover disturbance and streambank degradation, with trailing leading to shearing and removal of portions of the streambank leaving vertical surfaces. The stream in Graveyard Meadow was especially incised, with many trampled areas and chutes adjacent to the incised bank, indicating cattle impacts. The Twin Meadows stream also exhibited old streambank entries and chiseling.

Lat 37; 24; 32.8900000000138704; Long 118; 57; 49.8499999999768; Alt 2666.59

[34] Rangeland Cattle Grazing Allotment, Critical Habitat Assessment, USDA Forest Service, Sierra National Forest High Sierra Ranger District, Fresno and Madera Counties, California. September 25, 2017, p. 10.
[35] *Id*.
[36] *Id*.
[37] *Id*.

Lat 37; 24; 47.04999999998833’ Long 119; 0; 15.6799999999930133; Alt 2525.51

Lat 37; 24; 36.410000000003464; Long 119; 0; 15.7899999999790435; Alt 2518.58

Kaiser Allotment: This allotment contains Yosemite toad occupied habitat, and approximately 21,209 acres of toad critical habitat, comprising 55% of the total allotment acres.[38] Documentation from the Sierra National Forest shows that the allotment is "managed under S/G 53."[39]

Through our surveys, we found violations of S&G 53 present throughout the Kaiser allotment. Mary's Meadow in particular had significant grazing impacts, with hoof punches persistently present throughout the surveyed area, which was still very wet. There were also multiple examples of bank shears and hoof punches along soft riparian bank and evidence of grazing impacts along entire streams.

Similarly, grazing impacts were also documented at Home Camp Creek, with grasses impacted that exceeded utilization standards, and the presence of wallows, rutting, and unstable banks, some chiseling, and streambank degradation. Cows were also documented in wet meadows in direct violation of S&G 53.

Evidence of grazing impacts; Lat 37; 15; 49.329999999987173; Long 119; 13; 17.3599999999860

[38] *Id*. at 7.
[39] *Id*.

Evidence of cows in wet meadows; Lat 37; 15; 47.0899999999964791; Long 119; 13; 21.7600000000093

Inyo National Forest

Mulkey Allotment: This allotment is occupied by, and contains critical habitat for, the Northern Distinct Population Segment of the mountain yellow-legged frog.[40] Like the Sierra National Forest, the Inyo has revised its Forest Plan, and consequently the S&Gs of the 2004 SNFPA no longer apply on the Inyo, pursuant to the National Forest Management Act. However, we have been unable to determine the most recent Biological Opinion that applies to the Mulkey allotment, therefore it remains unclear which S&Gs are being applied with respect to ESA compliance. What is clear from our surveys is that this allotment contains very wet areas of standing vernal pools where cattle are present, and bank degradation is also significant. Livestock grazing is not being managed to attain the desired conditions in the 2019 Revised Inyo Forest Plan for meadows or riparian conservation areas, and these areas are in severe decline.

[40] June 12, 2018, Programmatic Biological Opinion for the Revision of the Inyo National Forest Land Management Plan ("livestock grazing (*i.e.*, cattle) does occur in occupied habitat for the MYLF in the Mulkey Allotment around Mulkey Meadows")

Lat 36; 24; 25.570000000007056; Long 118; 11; 1.71999999997204

Plumas National Forest

The most recent ESA consultation we are aware of for the Plumas allotments addressed below is the June 15, 2017, Biological Opinion, which applies the 2004 SNFPA S&Gs.[41] In general, there was a significant amount of impact found on the critical habitat in these allotments, as well as the utilization monitoring sites located outside critical habitat.

Antelope Allotment: This allotment is occupied by, and contains critical habitat for, the Sierra Nevada yellow-legged frog.[42] Pursuant to the desired conditions put forth in the Sierra Nevada Forest Plan Amendment and the 2017 Antelope Allotment Management Plan, the physical structure and condition of streambanks and shoreline must "minimize erosion and sustain desired habitat diversity."[43] Meadows are also to be "hydrologically functional," where they are "stabilizing or recovering" and vegetation roots occur "throughout the available soil profile."[44] Of key importance to this allotment—livestock must be removed from specific areas when any standard or guideline is reached or exceeded on any one of the monitoring areas.[45] It is the responsibility of the allotment permittee to ensure that rotation takes place once the allowable use level is reached within the pasture. This allotment also has specific fence maintenance standards designed to prevent livestock from entering the pasture outside of designated periods.[46]

[41] June 15, 2017, Appendage of 56 Projects in Six Forest Programs in Six National Forests to the Amended Programmatic Biological Opinion for the Endangered Sierra Nevada Yellow-legged Frog, Endangered Northern Distinct Population Segment of Mountain Yellow-legged Frog, and the Threatened Yosemite Toad
[42] *Id*. at 5.
[43] USDA Forest Service Antelope Allotment Management Plan, October 23, 2017, p. 8.
[44] *Id.*
[45] *Id*. at 9.
[46] *Id*. at 11.

The Antelope allotment is of particular concern, as there has been a history of non-compliance. Specifically, 2019 and 2021 rotation letters sent by the Plumas Forest Service indicate that there were significant issues of non-compliance and utilization exceedances.[47]

During our summer and fall surveys, in the Wheeler pasture, in particular, we found multiple wet areas where cows were present, and grazing impacts, with multiple patches showing grazing pressure exceeding utilization standards. Significant trail impacts were also noted, with wallows, rutting, and severe compaction leading to more denuded ground and large areas of bare soils. Ground cover disturbance was also pervasive, with multiple locations and types of disturbances present. Trailing also created unstable streambanks and chiseling.

Lowe Flat was also impacted, with grass impacted in patches, the presence of wallows and rutting, and streambank degradation, with trailing leading to shearing and removal of a portion of the streambank, leaving vertical surfaces.

The Antelope Red Rock and South Utilization Monitoring locations were also grazed and impacted in exceedance of utilization standards, with many muddy trampled pits by the stream.

Unstable streambanks and chiseling.
Lat 40; 15; 33.9299999999929724; Long 120; 35; 59.9000000000231; Alt 1816.91

[47] *See* rotation letters issued to Mr. & Mrs. Joe Egan and Mr. & Mrs. Richard Egan, dated April 7, 2021 (file code 2200) and June 20, 2019 (file code 2230).

Lat 40; 16; 35.5299999999987648; Long 120; 38; 53.2800000000280; Alt 1944.02

Lone Rock Allotment: This allotment is occupied by, and contains critical habitat for, the Sierra Nevada yellow-legged frog.[48] Also based on the Sierra Nevada Forest Plan Amendment, the 2017 Lone Rock Allotment Management Plan dictates very similar requirements, whereby habitat must support viable populations of native plants, invertebrates, and vertebrate riparian and aquatic-dependent species.[49] These desired conditions focus on the needs of native species in riparian areas and meadows (i.e. listed frogs) over invasive species (i.e. livestock), and emphasize the need to avoid adversely affecting the viability of native species and maintain desired conditions and ecological functions.[50] The same fence maintenance standards that apply to the Antelope allotment also apply to Lone Rock.[51]

Lone Rock Creek exhibited a significant amount of fresh impact, with cows apparently entering from the private in-holding upstream from where we surveyed. The riparian exclosure was deficient, with fencing degraded and failing to keep cattle out. In addition, in the Pierce Creek pasture, there were multiple wet areas where cows were present, with a significant amount of impact, and the small slightly flowing stream at the side of Hallett meadow was also exhibiting instances of pervasive streambank degradation and vertical shearing.

[48] June 15, 2017, Appendage of 56 Projects in Six Forest Programs in Six National Forests to the Amended Programmatic Biological Opinion for the Endangered Sierra Nevada Yellow-legged Frog, Endangered Northern Distinct Population Segment of Mountain Yellow-legged Frog, and the Threatened Yosemite Toad
[49] Lone Rock AMP at 7.
[50] *Id.*
[51] *Id.* at 11.

Lat 40; 12; 20.4800000000104276; Long 120; 37; 49.7499999999999

Humbolt-Toiyabe National Forest

Silver Creek Allotment: According to the Amended Biological Opinion for the Silver Creek S&G Allotment, authorized level of take will be exceeded if the following conditions are not met:

1) Livestock utilization of riparian herbaceous cover shall not exceed 30 percent utilization or a 15 cm (6 in.) minimum stubble height;
2) Livestock utilization of riparian woody vegetation shall not exceed 20 percent utilization of the annual leader growth of mature riparian shrubs and 20 percent utilization of individual seedlings; and
3) Livestock streambank alteration levels shall not exceed 10 percent in the occupied or essential stream reach.[52]

An unnamed meadow near Wolf Creek exhibited pervasive impacts from livestock grazing and also happens to include known occupied habitat for the Sierra Nevada yellow-legged frog and Yosemite toad.[53] It also contains designated critical habitat for Sierra Nevada yellow-legged frog.[54] We surveyed, and have documentation of, each of these above-mentioned conditions

[52] Reinitiation of the Biological Opinion for Continued Rangeland Management on the Silver Creek Sheep and Goat Allotment, Bridgeport Ranger District, Mono County, California, June 1, 2018, p. 5.
[53] Amended Biological Opinion for the Silver Creek S&G Allotment (2015), Mono County, California, July 15, 2015, p. 1.
[54] Reinitiation of the Biological Opinion for Continued Rangeland Management on the Silver Creek Sheep and Goat Allotment, Bridgeport Ranger District, Mono County, California, June 1, 2018, p. 4.

being violated in this unnamed meadow near Wolf Creek within the allotment; specifically, exceeding utilization standards of riparian herbaceous cover, less than the minimal stubble height, livestock streambank alteration levels that exceed percentage utilization in essential stream reach, and livestock utilization of riparian woody vegetation that exceeds utilization standards of the annual leader growth of mature riparian shrubs and individual seedlings. Stream and riparian habitat within the Silver Creek S&G allotment are not being protected from grazing and trailing effects.

We also noticed signs of grazing degradation from cattle in a neighboring allotment, **Highlands Lake,** which is also critical habitat for Sierra Nevada yellow-legged frog. This includes but is not limited to soil compaction and erosion, damage to native vegetation, and streambank degradation. The fencing was also all down and needs to be repaired immediately.

Lat 38; 21; 40.8699999999952723; Long 119; 34; 41.0900000000258

Lat 38; 21; 54.779999999987364; Long 119; 34; 15.5399999999791

Conclusion

The Forest Service's failure to ensure the terms and conditions of livestock grazing on these allotments are followed violates the Endangered Species Act and National Forest Management Act. Considering these violations, the Forest Service must immediately address these violations in order to be consistent with the terms of the permits, as there is currently a lack of compliance with the grazing terms and conditions in these areas. We would be happy to supply you with additional survey documentation, including additional maps, pictures, and GPS points.

Sincerely,

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Center for Biological Diversity
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Appendix A: Survey Protocols

Methods

Professional field biologists document livestock impacts to standing waters, riparian vegetation, soils, and streambanks within designated critical habitat and examine protective fencing where applicable. Hundreds of georeferenced photo points are taken along each segment to document evidence of livestock impacts. Using a standardized protocol, surveyors record:

(1) severity of grazing impacts on herbaceous vegetation and grasses;
(2) severity of browsing impacts on streamside woody regeneration;
(3) severity of ground disturbances from trailing, trampling, and wallowing;
(4) extent of ground disturbances from trailing, trampling, and wallowing;
(5) severity of streambank degradation; and
(6) extent of streambank degradation.

Each survey is broken down into ¼- ½ mile field-delineated segments of designated critical habitat based on topography, access, and trends in severity of cattle impacts. At each segment endpoint, a condition score is recorded for each of the six impact categories along a range of 0 to 4 based on the severity and extent of the impact. A segment is rated 0 for a particular category if no evidence of impact is observed, 1 if impacts are limited, 2 if impacts are light and scattered, 3 if impacts are moderate and widespread, and 4 if impacts are severe and pervasive. Following field surveys of designated stream reaches, each segment's "overall impact level" (defined as absent, light, moderate or significant) is calculated. To determine overall impact level, condition severity scores for each segment endpoint are collated and weighted (see Appendix A).

Survey Methods Tables

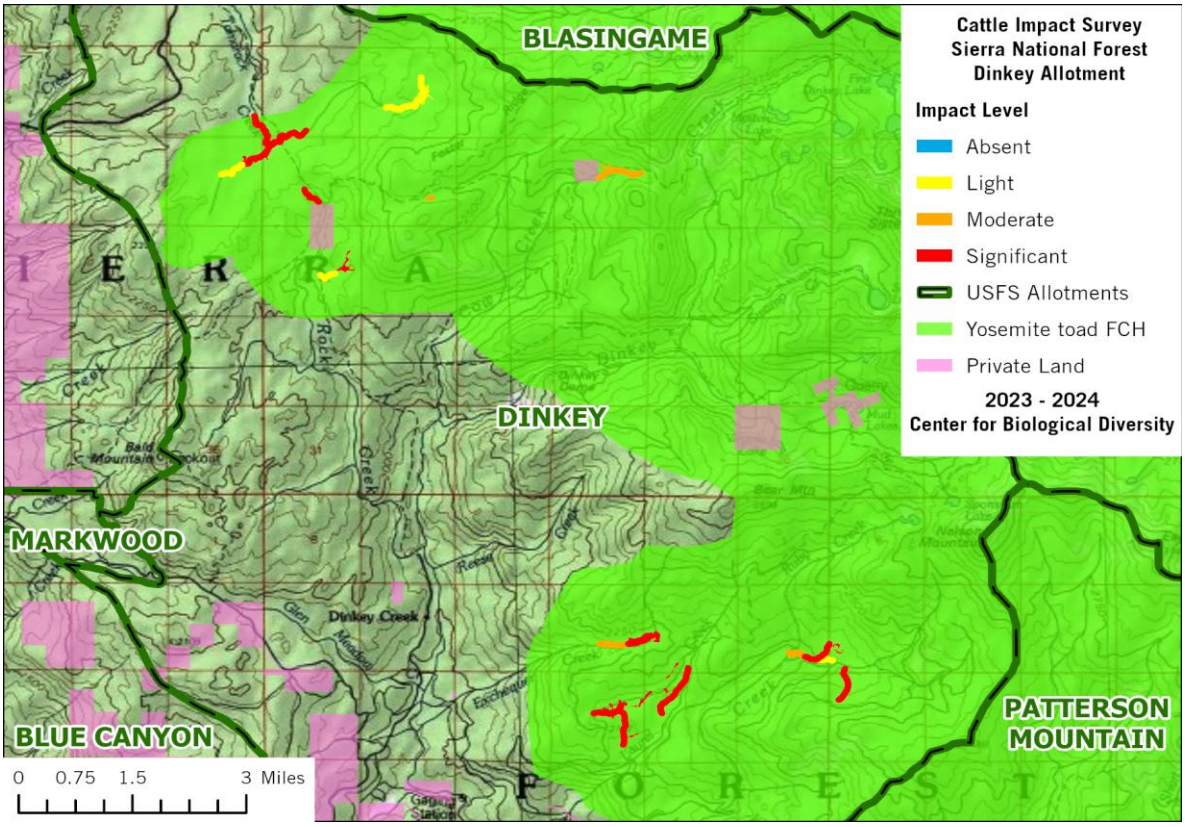
Table A-1. Condition descriptors and severity score guidelines for the six livestock impact categories used in the critical habitat assessment surveys.

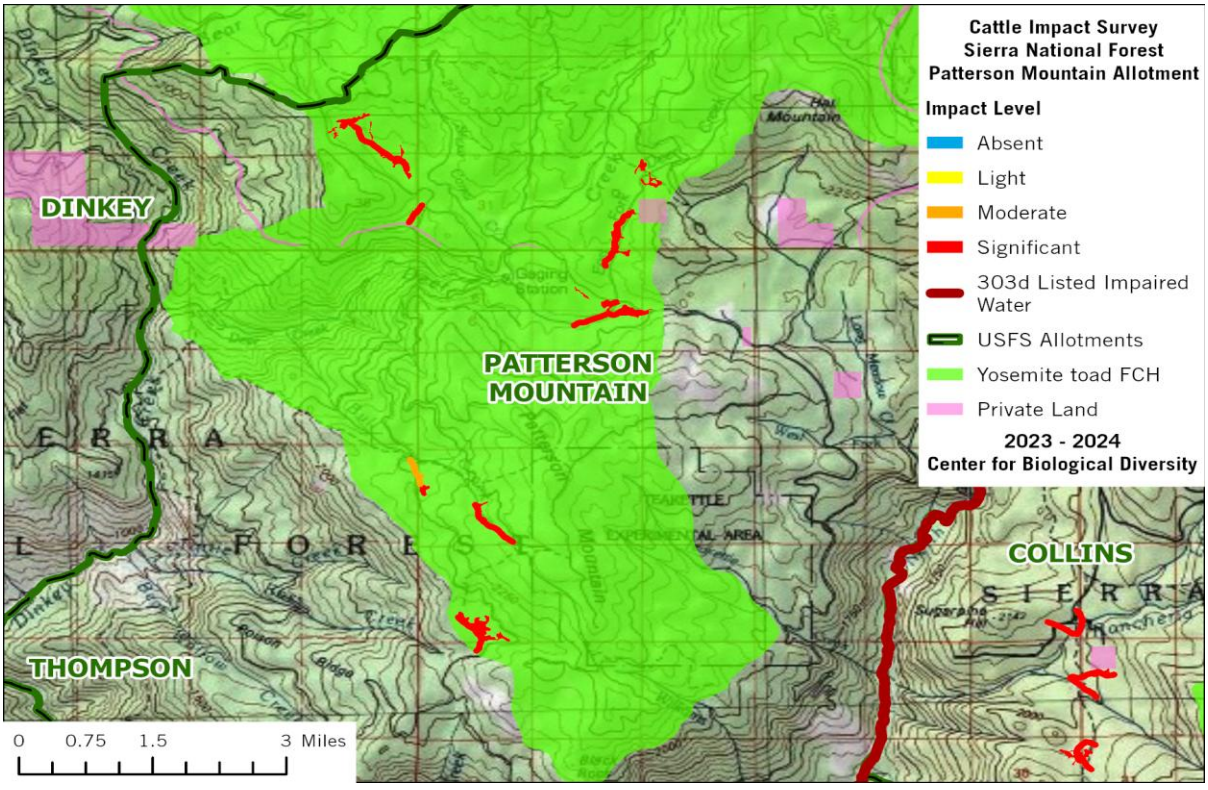
Category	Condition: 1	Condition: 2	Condition: 3	Condition: 4
GRAZING EVIDENCE ON GRASSES AND HERBACEOUS GROWTH	**LIMITED** Less than 1% of the grasses impacted.	**LIGHT** Few to some patches of grazed area or selective grazing in patches.	**MODERATE** Multiple grass patches grazed, more than 20% of grass impacted in patches.	**SEVERE/HEAVY** Multiple patches grazed, low grass heights less than 1 inch. More than 30% grazed in patches
BROWSE PRESSURE/WOODY Stems	**LIMITED** Less than 1% of woody stems impacted	**LIGHT** Browsing limited to multiyear stems	**MODERATE** Browse pressure on near channel woody recruitment	**HEAVY/SEVERE** Multiple green-line or near channel recruitment browsed
GROUND COVER DISTURBANCE/INTENSITY	**LIMITED** Limited to transient evidence of use.	**LOW** Isolated trailing and cow trails developing.	**MODERATE** Multiple trails and the presence of wallows and rutting areas. Some bare soils.	**SEVERE** Trails, plus wallows, rutting and compaction leading to denuded ground and larger areas of bare soils.
GROUND COVER DISTURBANCE/EXTENT	**LIMITED** Few examples of disturbance.	**SCATTERED** Trails or disturbances in more than one location in segment.	**MODERATE** Trails meander through entire segment and there are multiple moderate level disturbances (see above).	**PERVASIVE** Multiple locations of disturbance and multiple types of disturbances, including severe moderate and low (see above).
STREAMBANK DEGRADATION/INTENSITY	**LIMITED** No visible signs, but other cattle impact on both sides of river that evidence crossing.	**LOW** Trails leading to streambank and water's edge.	**MODERATE** Trailing and trails creating unstable banks, some chiseling, or in low relief banks-muddy compaction	**SEVERE** Trailing leading to shearing and removal of a portion of the streambank leaving vertical surfaces.
STREAMBANK DEGRADATION/EXTENT	**LIMITED** Isolated example of streambank entry.	**SCATTERED** Bank degradation of any intensity in more than one location.	**MODERATE** Multiple examples of low and moderate bank degradation (see above).	**PERVASIVE** Multiple examples of low, moderate, and severe degradation (see above).

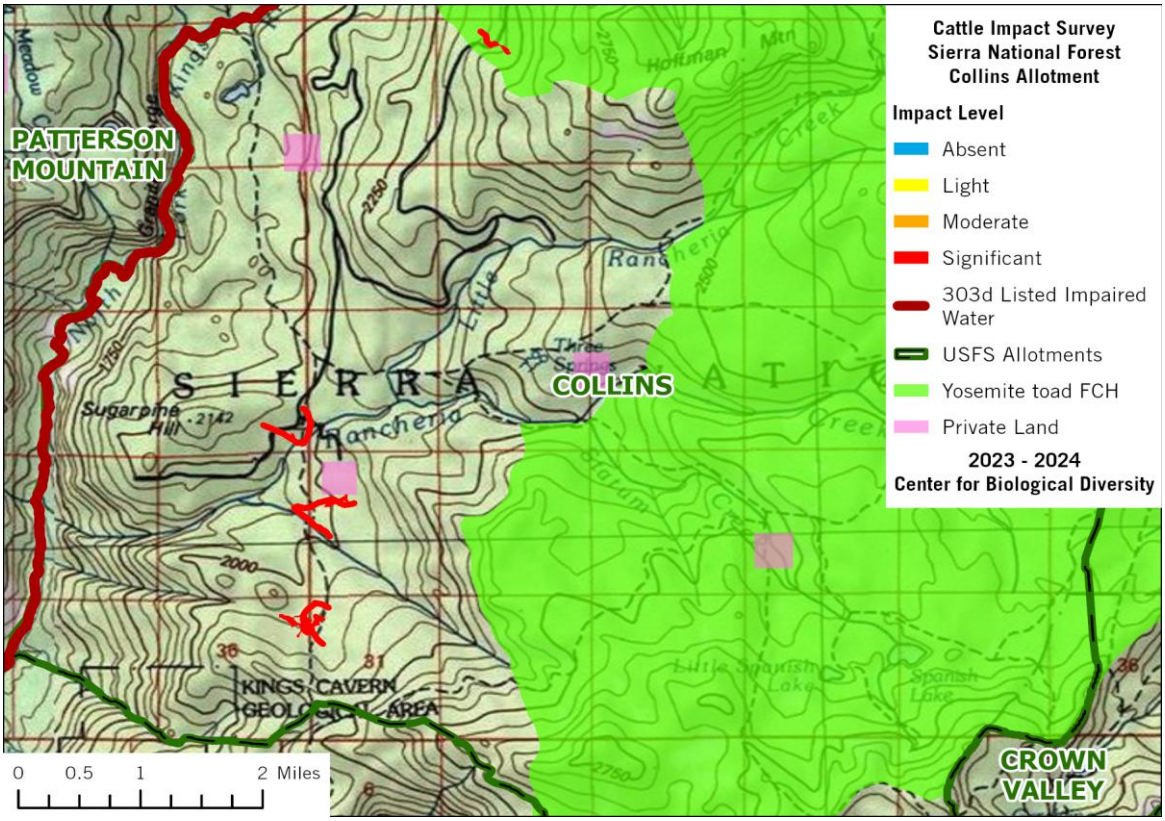
Table A-2. Weighting table for overall impact levels of stream reach segments based on condition scores (0-4) from the six categories of livestock impacts.

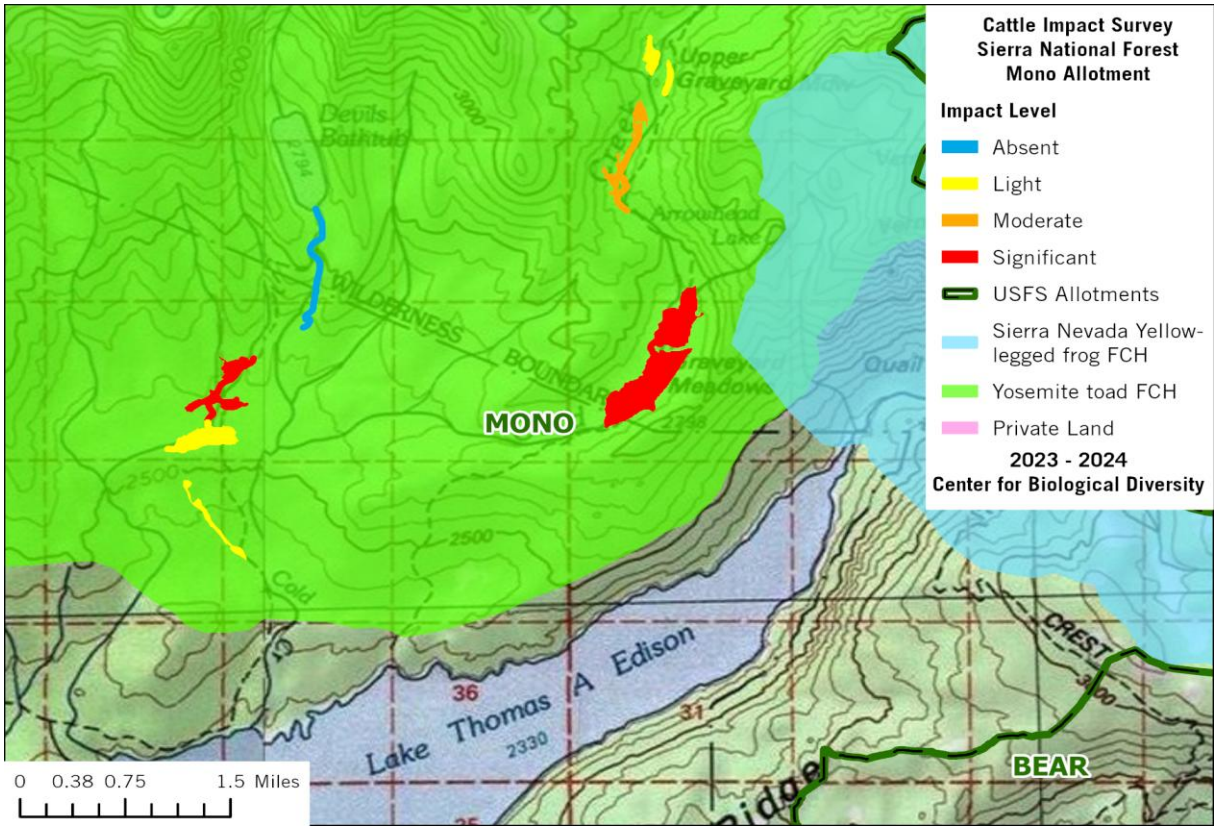
ABSENT	LIGHT IMPACT	MODERATE IMPACT	SIGNIFICANT IMPACT
ALL ZEROS	ANY COMBINATION OF ONE'S & TWOS & ZEROS	AT LEAST (5) TWOS WITH ANY OTHER NUMBER	ANY TIME THERE ARE (3) THREES WITH ANY OTHER COMBINATION OF NUMBERS
		ANY COMBINATION OF TWOS, THREES, AND ONE'S	ANY COMBINATION OF NUMBERS WITH AT LEAST (1) FOUR
	(UNLESS (5) TWOS-` then moderate)	*(UNLESS (3) THREES- then significant)*	

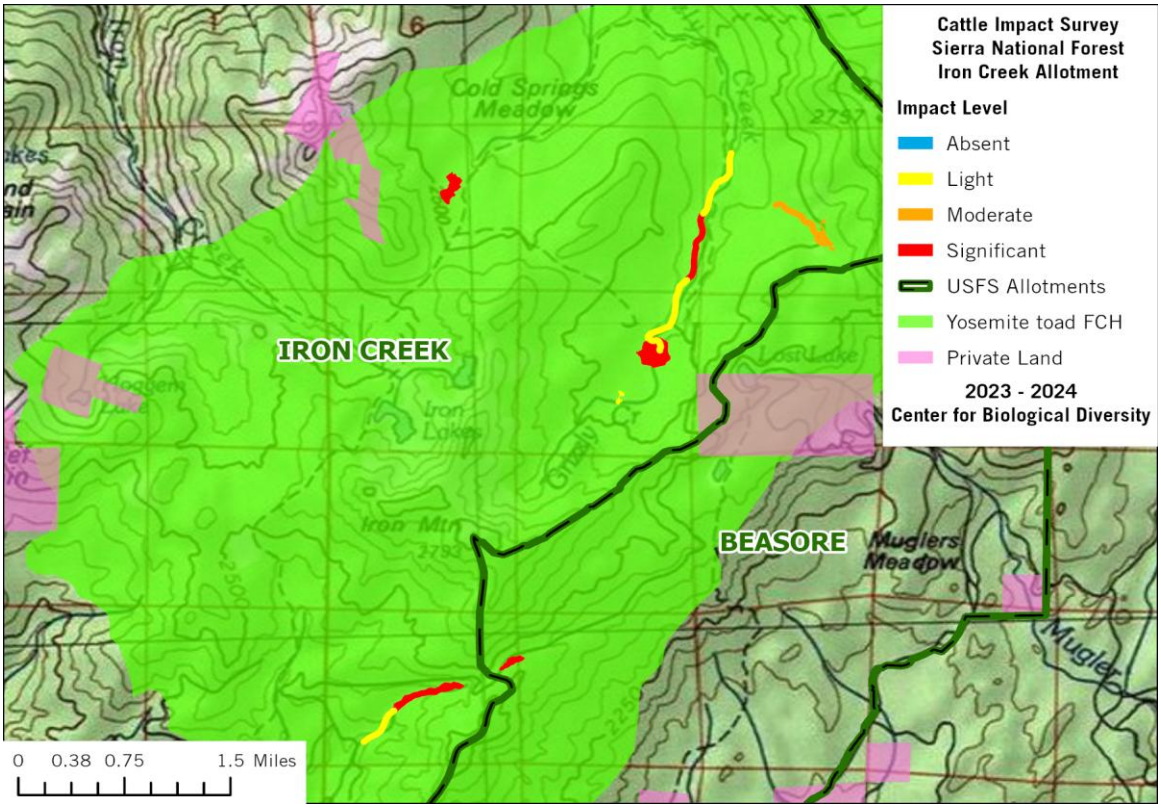
Appendix B: Allotment Impact Maps

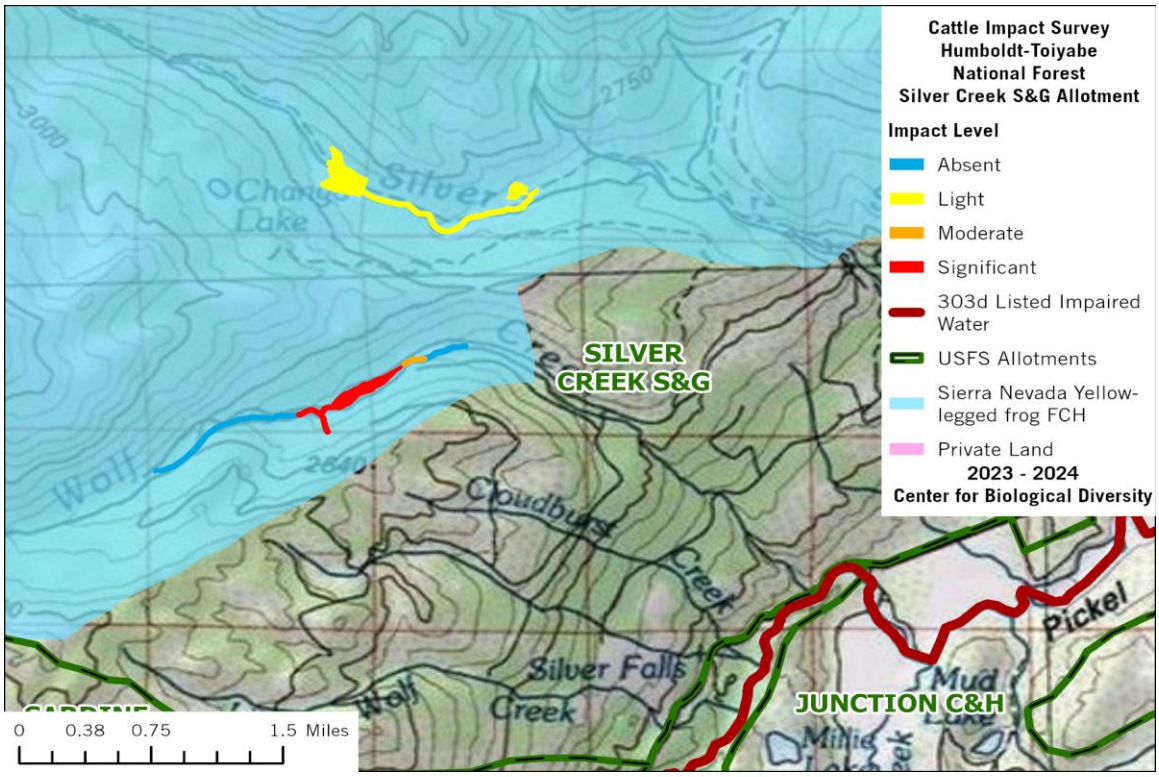


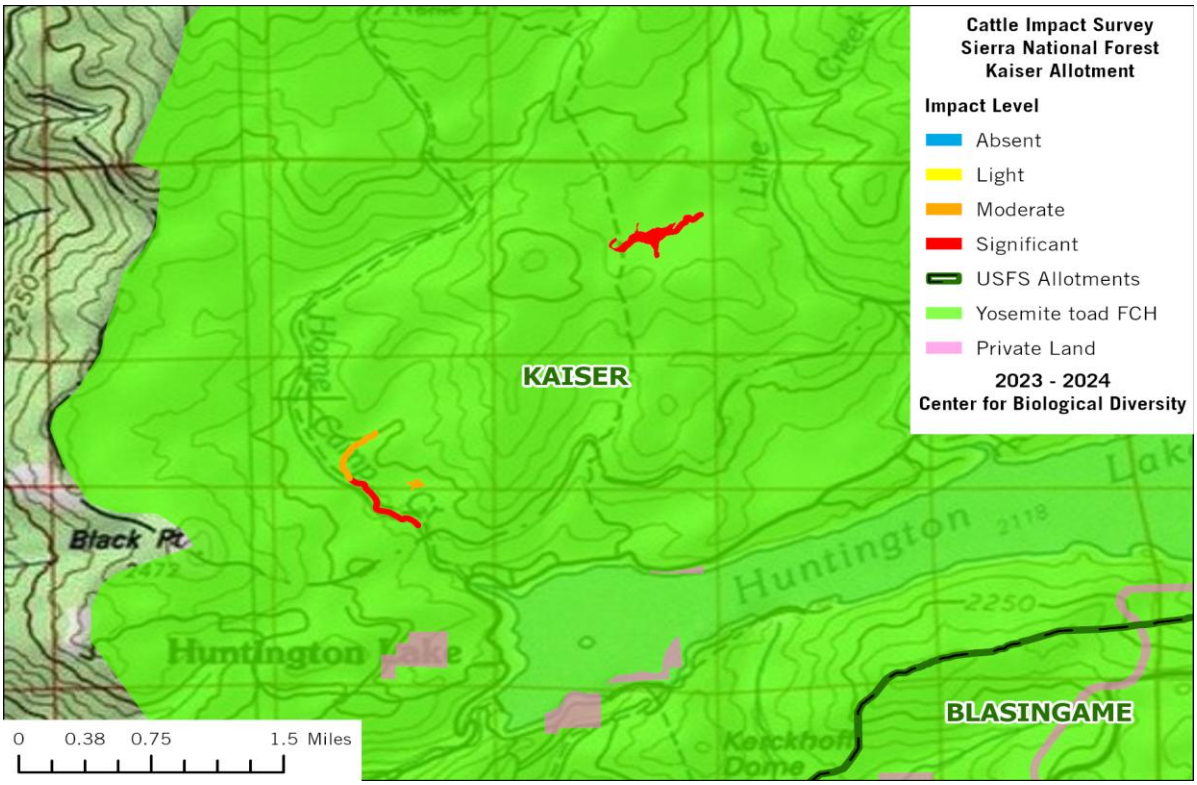


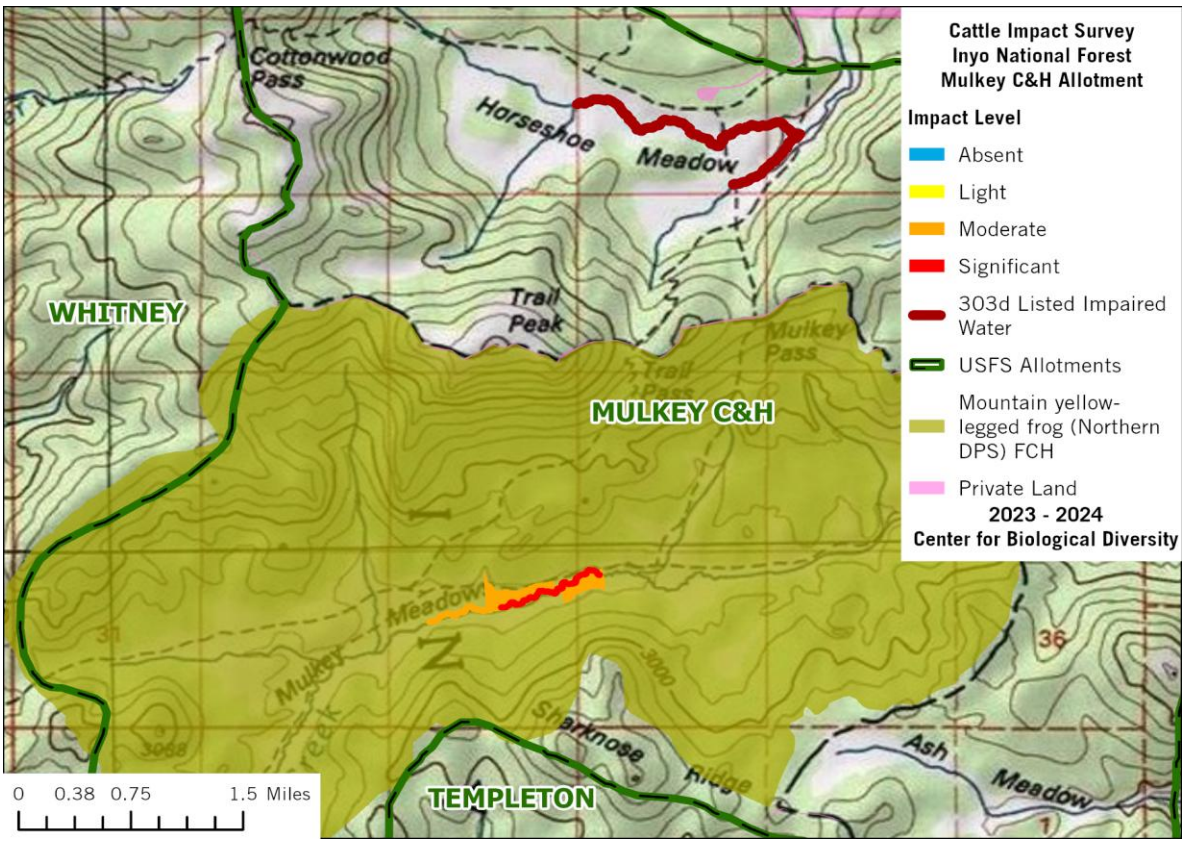

Cattle Impact Survey
Sierra National Forest
Collins Allotment
Impact Level
Absent
Light
Moderate
Significant
303d Listed Impaired Water
USFS Allotments
Yosemite toad FCH
Private Land
2023 - 2024
Center for Biological Diversity
PATTERSON MOUNTAIN
COLLINS
CROWN VALLEY
SIERRA
KINGS CAVERN
0 0.5 1 2 Miles

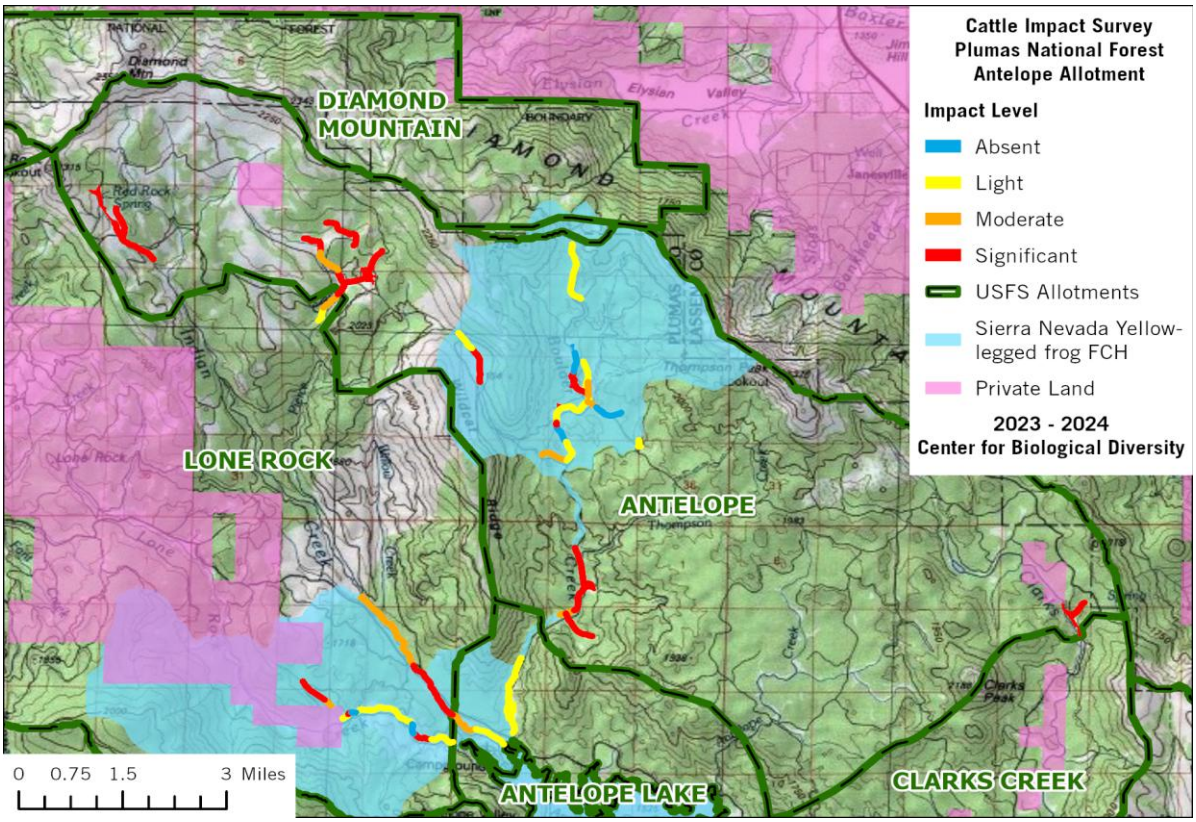

Cattle Impact Survey
Sierra National Forest
Mono Allotment
Impact Level
Absent
Light
Moderate
Significant
USFS Allotments
Sierra Nevada Yellow-legged frog FCH
Yosemite toad FCH
Private Land
2023 - 2024
Center for Biological Diversity
MONO
BEAR
Lake Thomas A Edison
0 0.38 0.75 1.5 Miles

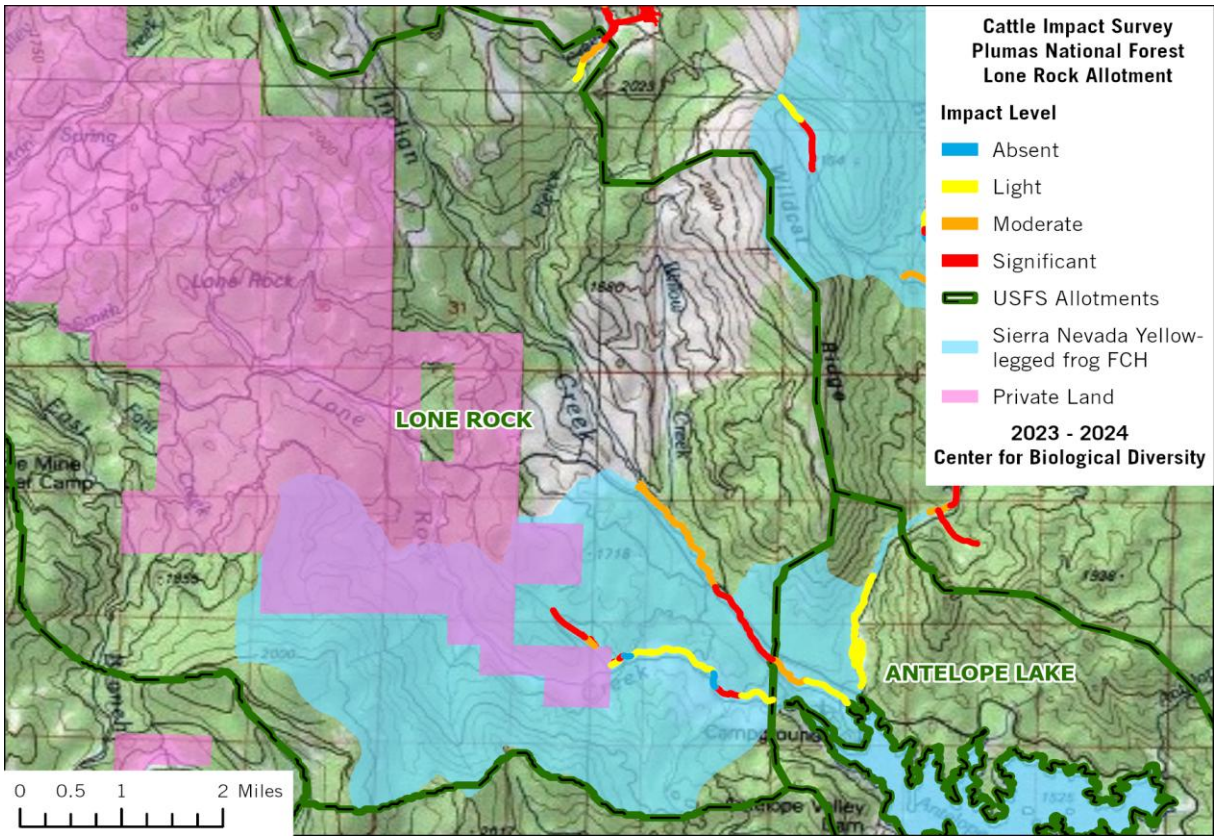

Cattle Impact Survey
Sierra National Forest
Iron Creek Allotment
Impact Level
Absent
Light
Moderate
Significant
USFS Allotments
Yosemite toad FCH
Private Land
2023 - 2024
Center for Biological Diversity
IRON CREEK
BEASORE
Cold Springs Meadow
Iron Lake
Mugler
0 0.38 0.75 1.5 Miles


Cattle Impact Survey
Humboldt-Toiyabe
National Forest
Silver Creek S&G Allotment
Impact Level
Absent
Light
Moderate
Significant
303d Listed Impaired Water
USFS Allotments
Sierra Nevada Yellow-legged frog FCH
Private Land
2023 - 2024
Center for Biological Diversity
SILVER CREEK S&G
JUNCTION C&H
Silver Lake
Cloudburst Creek
Silver Falls Creek
Pickel
Mud
0 0.38 0.75 1.5 Miles


Cattle Impact Survey
Sierra National Forest
Kaiser Allotment
Impact Level
Absent
Light
Moderate
Significant
USFS Allotments
Yosemite toad FCH
Private Land
2023 - 2024
Center for Biological Diversity
KAISER
BLASINGAME
Black Pt
Huntington Lake
Huntington
0 0.38 0.75 1.5 Miles


Cattle Impact Survey
Inyo National Forest
Mulkey C&H Allotment
Impact Level
Absent
Light
Moderate
Significant
303d Listed Impaired Water
USFS Allotments
Mountain yellow-legged frog (Northern DPS) FCH
Private Land
2023 - 2024
Center for Biological Diversity
WHITNEY
MULKEY C&H
TEMPLETON
Cottonwood Pass
Horseshoe Meadow
Trail Peak
Mulkey Pass
Sharknose Ridge
Ash Meadow
0 0.38 0.75 1.5 Miles


Cattle Impact Survey
Plumas National Forest
Antelope Allotment
Impact Level
Absent
Light
Moderate
Significant
USFS Allotments
Sierra Nevada Yellow-legged frog FCH
Private Land
2023 - 2024
Center for Biological Diversity
DIAMOND MOUNTAIN
LONE ROCK
ANTELOPE
ANTELOPE LAKE
CLARKS CREEK
0 0.75 1.5 3 Miles


Cattle Impact Survey
Plumas National Forest
Lone Rock Allotment
Impact Level
Absent
Light
Moderate
Significant
USFS Allotments
Sierra Nevada Yellow-legged frog FCH
Private Land
2023 - 2024
Center for Biological Diversity
LONE ROCK
ANTELOPE LAKE
0 0.5 1 2 Miles