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November 26, 2019

Honorable Governor Gavin Newsom
State Capitol
Sacramento, CA 95814

Dear Governor Newsom:

Effective January 1, 2019, compensation paid to sheepherders by employers with 26 or more workers increased by about 51 percent (combination of mandated increase by AB 1066 and Industrial Welfare Commission Order 14). Compensation paid to sheepherders by employers with 25 or fewer workers will be similarly impacted beginning in 2022. These increases are crippling to our industry. In addition, given the growing importance of sheep and goat grazing as a critical fuel load reduction tool throughout California, this increase could potentially eliminate or reduce the availability of targeted grazing as a cost-effective and environmentally valuable technique.

In 2015, President Obama's administration engaged in a rulemaking process which estimated hours worked by range herders (sheep and goats) to be 48 hours per week, even though they are available on a continuous basis. Multiple courts have upheld this interpretation as both reasonable and well-supported by available evidence. We are asking that the State utilize this same standard when calculating overtime hours pursuant to AB 1066. Further, we request that the State align with federal guidelines adopted by the Obama administration which established a \$400 per month value for meals provided by employers to range herders, and provide employers at least a partial credit of this amount against wages paid to range herders. These actions would help provide much needed consistency between state and federal requirements, continue to provide range herders with a fair wage, and provide equity between sheep and goat producers and the rest of the agricultural industry in California.

I have attached an information sheet which describes the situation and proposed solutions in greater detail. Please contact me at (530) 305-3270 or our Association Executive Director, Erica Sanko at (916) 444-8122 or on her cell at (303) 909-6245 so that we can begin to collectively correct this situation before sheep and goat producers are forced to sell or move out of California.

Thank you for your attention to this very pressing matter.

Sincerely,

Dan Macon, President
California Wool Growers Association

President
Dan Macon
Auburn, CA

Vice President
Ed Anchordoguy
Sebastopol, CA

Treasurer
Andrée Soares
Los Banos, CA

Executive Director
Erica Sanko
Sacramento, CA

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Attachments

cc: Senator Atkins
Senator Borgeas
Senator Caballero
Senator Dahle
Senator Dodd
Senator Galgiani
Senator Grove
Senator Hurtado
Senator Jackson
Senator McGuire
Senator Nielsen
Assembly Member Aguiar-Curry
Assembly Member Arambula
Assembly Member Bigelow
Assembly Member Cooper
Assembly Member Eggman
Assembly Member Fong
Assembly Member Gallagher
Assembly Member Gray
Assembly Member Irwin
Assembly Member Limon
Assembly Member Mathis
Assembly Member Patterson
Assembly Member Salas
Assembly Member Wood
Julie Su, Secretary, Labor & Workforce Development Agency
Karen Ross, Secretary, Department of Food and Agriculture
Victoria Hassid, Chief Deputy Director, Dept. of Industrial Relations
Rachel Wagoner, Deputy Legislative Secretary, Office of the Governor
Bill Lyons, Agricultural Liaison, Office of the Governor

AB 1066
Unintended Consequences
(Sheep/Goat Herder Compensation)

AB 1066 threatens the economic viability of California sheep and goat production and related businesses, and the functionality of the federal H-2A program.

Administrative Relief (Options)

1. 48 hour week

The work of range herders (sheep and goat) occurs, by definition, away from the employer's headquarters and away from managers, where actual hours worked cannot be tracked. Congress recognized this in exempting range herders from both the overtime and minimum wage requirements of the Fair Labor Standards Act (FLSA). The Department of Labor (DOL) under the Obama Administration further acknowledged this in a 2015 rulemaking process and set the estimated hours worked per week at 48 hours, even though range herders are available on a continuous basis. Multiple courts have upheld this interpretation as both reasonable and well-supported by available evidence. See, e.g., Hispanic Affairs Project v. Acosta, 901 F.3d 378, 391-393 (D.C. Cir. 2018). (Merrick Garland, Presiding Judge)

California Application: 25 or less employees (compensation per month – 4.333 weeks)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
(IWC Standard)	\$1955.74	\$2133.52	\$2311.24	\$2489.02	\$2666.81	\$2666.81	\$2666.81
(48 Hour Week)	\$1955.74	\$2133.52	\$2311.24	\$2489.02	\$2666.81	\$2750.15	\$2889.05
(AB1066)	\$1955.74	\$2133.52	\$2311.24	\$3444.64	\$3730.37	\$3777.05	\$4381.20

California Application: 26 or more employees (compensation per month – 4.333 weeks)

	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>2023</u>	<u>2024</u>	<u>2025</u>
(IWC Standard)	\$2133.52	\$2311.24	\$2489.02	\$2666.81	\$2666.81	\$2666.81	\$2666.81
(48 Hour Week)	\$2133.52	\$2311.24	\$2566.81	\$2889.05	\$2889.05	\$2889.05	\$2889.05
(AB 1066)	\$2952.64	\$3232.98	\$3518.71	\$4381.20	\$4381.20	\$4381.20	\$4381.20

2. Credit sheep and goat producers for meals provided to range herders:
\$400 per month value established by the Obama Administration
3. Financial support/tax credit in the State Budget: Environmental benefits provided by qualified sheep and goat producers