

NATIONAL PUBLIC LANDS GRAZING CAMPAIGN

How to Retire Your Federal Grazing Permit or Lease for Compensation

A Primer for Federal Grazing Permittees and Lessees

What is voluntary grazing permit/lease buyout?

Voluntary grazing permit/lease buyout provides federal grazing permittees and lessees the option to waive their grazing permits or leases to the appropriate managing agency in exchange for compensation; upon payment, the government cancels the permit/lease and closes the associated grazing allotment(s) to commercial livestock grazing.

Why retire your grazing permit/lease?

...because ranchers wish to get out of public lands ranching.

The reasons that ranchers cite for wanting to sell their interest in a federal grazing permit/lease are as numerous and varied as the ranchers themselves, although there are some common themes among the reasons given.

- **Changing land use.** Part or all of their grazing allotment is now or will become a designated Wilderness, national monument, Wild and Scenic River or the like.
- **Recreation conflicts.** Irresponsible recreationists cut fences, open gates and shoot-up water developments.
- **Environmental conflicts.** The presence of endangered species, fish and wildlife management, or water quality issues have resulted in restrictions on the frequency (how often), intensity (how many livestock), timing (when) and/or the duration (how long) grazing may occur on their allotment.
- **Chronic drought.** Either agency-enforced or voluntary reductions in permitted AUMs due to drought have rendered their public lands grazing operation uneconomic.
- **Desire to retire.** Many public lands ranchers have no heir who is willing or able to come back and take over the ranch.
- **Frustration with federal overseer.** Some ranchers who have opted for permit/lease buyout in the past have used the money to reconfigure their operations exclusively on private lands to get out from under the thumb of a federal agency.
- **Changing economics.** Foreign beef imports, consolidation in the meatpacking industry, changing consumer preferences, and other economic factors are making beef production more challenging, particularly on federal public lands which tend to have the lowest forage productivity.
- **Stranded investment.** The capital value of federal grazing permits/leases has declined in real dollars in recent decades. Voluntary grazing permit/lease buyout is a way to recapture that stranded investment.

....because conservationists dislike public lands grazing.

In the past conservation organizations have sought to achieve their goal to reduce or reform public lands grazing through regulation, including the use of litigation or by attempting to raise the grazing fee. They rely on an impressive body of research to argue that livestock threaten sensitive species, trample vegetation, steal forage from native wildlife, accelerate soil erosion, spread noxious weeds, alter natural fire regimes and

reduce water quantity and quality on public lands. Conservationists have had some success at reforming public lands grazing by these methods. However, times have changed and today a critical mass of the conservation community recognizes that compensating federal grazing permittees/lessees for waiving their grazing permits/leases to the government is more effective, politically sensible and simply the right thing to do. Rather than just trying to regulate and sue livestock grazing off the public lands, the conservation organizations advising the National Public Lands Grazing Campaign (NPLGC) strongly support the federal government paying fair and generous compensation to retire grazing permits/leases as an alternative to more unfriendly means to remove livestock from federal public lands.

Political Precedent for Voluntary Grazing Permit Buyout

Federal grazing permits/leases have been purchased and retired for the past fifty years. Sometimes the federal government has bought permits. Sometimes third-party conservation organizations/funders are the buyers. The federal government usually pays market value for grazing permits/leases, but has paid far more than market rate on some occasions. Third-party conservation buyers usually restrict themselves to paying market rate to retire permits/leases.

Perhaps two or three permit/lease buyouts occur each year, usually in specially designated areas such as national parks and Wilderness areas, or to reserve lands for military purposes, reallocate public lands forage for big game and other wildlife, or restore critical habitat for a threatened or endangered species.

What strategies are available for creating a voluntary grazing permit/lease compensation program?

National Voluntary Grazing Permit Buyout Legislation

In June 2005, Rep. Raúl Grijalva (D-AZ) and 10 cosponsors introduced the Multiple-Use Conflict Resolution Act (H.R. 3166, 109th Congress) to create a national voluntary grazing permit/lease buyout program. The bill authorizes \$100 million dollars to buyout grazing permits/leases from any federal public lands grazing permittee/lessee who wants buyout at a rate of \$175/permitted AUM (animal unit month; the amount of forage necessary to sustain one cow and calf for one month). If there is more demand for permit buyout than funding appropriated, the bill prioritizes allotments for compensation based on environmental and other criteria. The legislation has been referred to the House Resources Committee. Given the opposition by the National Cattlemen's Beef Association and several western Members of Congress to a national permit compensation program, this bill will not be going anywhere soon.

Site-Specific Voluntary Grazing Permit Buyout Legislation

Unlike the national permit/lease buyout legislation, site-specific (local) voluntary grazing permit buyout legislation has a much better chance of passing Congress and becoming law. In fact, site-specific legislation is and will likely be supported by many of the same Members of Congress who oppose a national grazing permit/lease buyout program. These legislators usually favor local grazing permit/lease compensation programs under certain conditions in their own congressional districts.

For example, Rep. Mike Simpson (R-ID) introduced the Central Idaho Economic Development and Recreation Act (CIEDRA; HR 3603, 109th Congress) in spring 2005. Title IV of that legislation would compensate ranchers who voluntarily relinquish their permits to graze public lands in a defined area in Rep. Simpson's district. The rate of compensation is not explicitly stated in the legislation, but Rep. Simpson has publicly and repeatedly announced that it will be \$300/permitted AUM.

Senator Gordon Smith (R-OR) is also working with conservationists and ranchers in the Cascade-Siskiyou National Monument to develop legislation to fairly compensate ranchers for ending their grazing in and near the monument. The price per AUM has not been set, but conservationists and ranchers have agreed to the concept of compensation being based on the capitalized cost of obtaining replacement forage on nearby private lands.

Finally, a coalition of ranchers and conservationists in Arizona are working together to create a grazing permit compensation program on the Tonto National Forest, where grazing is increasingly burdened by recreation conflicts and where allotments have suffered from chronic drought.

Other potential conservationist-rancher alliances are always in the works.

Third-Party Grazing Permit Buyout

In some cases, private third parties (conservation organizations, hunting groups) have paid ranchers to waive their interest in federal grazing permits/leases. Third-party buyouts are three-way agreements between (1) a permittee who is willing to end his/her grazing in exchange for compensation; (2) a land management agency that agrees to retire the allotment from further livestock grazing; and (3) a conservation or hunting organization/funder willing and able to pay the permittee to relinquish his/her permit or lease back to the government. In a few situations, a second government agency has provided the funding for third-party buyout.

Third-party buyouts are limited by the finite amount of private funding available for permit/lease acquisition and the inescapable fact that they are not *permanent*. Permit/lease buyout is generally prohibited under current law, which generally requires agency managers to transfer grazing permits to new graziers upon the resignation or retirement of the previous permittee (this is why NPLGC advocates for legislated, permanent permit/lease buyout). Agencies willing to participate in third-party buyouts typically "retire" permits for 10-15 years, and sometimes for lesser periods, by amending the current allotment or resource management plan to reallocate 100 percent of the available forage to wildlife and watersheds. However, these plans are regularly reviewed by the same managing agencies pursuant to federal law, at which point they can choose to reopen allotments for grazing. No law prohibits an agency from reinstating livestock grazing on allotments retired by third-party buyout, and livestock grazing could be reintroduced in several ways, including by a local district manager via another planning amendment or by order of a new administration in Washington, DC. For this reason, most conservation organizations will not participate in third-party buyouts unless Congress enacts legislation ensuring that the allotments will be closed permanently.

The Best Option for Grazing Permittees/Lesseees: Site-Specific Voluntary Grazing Permit Buyout Legislation

For the reasons listed below, NPLGC is devoting most of its resources to pursue opportunities to enact legislation to create site-specific voluntary grazing permit buyout programs. These opportunities usually develop from a shared goal among conservationists and ranchers to retire certain grazing lease(s)/permit(s), effective communication and cooperation between both groups, and hard-nosed dedication to pass permit buyout legislation in Congress.

Political Elegance

Successful politics is effective coalitions. Rarely does one constituency have the power to get what it wants from Congress. Only by having a common goal with others, even if the reasons for having the goal are different, can a constituency succeed in politics. Site-specific voluntary permit buyout legislation draws together different, even feuding constituencies to support a common goal of "cash for removing cows."

Voluntary grazing permit buyout has a political elegance that attracts politicians. Consider the endless public lands grazing wars from the perspective of a Member of Congress who represents a congressional district where the conflict exists. Most, but not all, of these Members are conservative Republicans who view ranchers as part of their political "base" (voters they can count on to support them in every election). Yet, they represent ever-increasingly urbanized districts, and most of their constituents live in urban areas (a significant portion of which cannot be counted upon to vote for them, but some of whom the politician needs to win re-election). Many of these urban constituents value public lands for purposes other than livestock grazing. So, while these politicians feel the need to take care of their rural base (good politics), the electoral math also requires that they pay some attention to their "green" urban constituency.

So imagine the reaction in Washington, DC, when a coalition of ranchers and conservationists approach a politician with a proposed voluntary grazing permit buyout program – that everybody wants. For the elected

official the opportunity is a cherished and rare “twofer.” They can help their base (ranchers) and also do something that pleases other constituents (conservationists) who won’t automatically vote for them in the next election. They can do something that reduces conflict, and appeases both sides, rather than the usual case of sort of pleasing one side, while trying not to greatly annoy the other side.

Political Opportunities

If a critical mass of public lands ranchers are interested in waiving their grazing permits/leases in exchange for compensation in an area that is also a priority for the conservation community, then a political opportunity exists! However, these historically warring parties must be willing to politically “hold hands” to enact buyout legislation (even if wearing rubber gloves).

Political Analysis

As an opportunity arises to enact site-specific voluntary grazing permit buyout legislation, NPLGC makes a political analysis of the situation. Where is permit buyout proposed (and who are the U.S. Senators that would be involved)? What congressional district would be involved (what U.S. Representative, and from which political party)? Why do public lands ranchers seek to retire their grazing permits/leases for compensation (environmental conflict, drought, changing land use, recreation conflict, etc.)? What is the posture, or what might be (or most importantly, what can be) the posture of local elected officials and local public opinion on the proposed buyout program? What is the status of the public land involved (Wilderness, potential Wilderness, critical habitat for an endangered species, etc.)? What is the attitude of the land management agency that would administer the buyout program (in the end, politicians do what they believe is best for their re-election regardless of an agency’s position, but agency support, even behind the scenes, is always helpful)? If it appears politically feasible through the joint efforts of conservationists and ranchers to enact site-specific legislation, then NPLGC is willing to proceed with a legislative strategy.

Political Realities

While the proposed rate of compensation in permit buyout legislation is often several times greater than the market value of the permits/leases to be retired, all parties to the legislative negotiations must remember that there is a limit to how much the compensation can be. It must pass the political “laugh test” (see “Amount of Compensation for Permit/Lease Buyout” below). NPLGC advocates for generous compensation for permit/lease buyout, well-above market value, because it is socially just and politically pragmatic to retire grazing permits by this method. We defend our position by citing the significant environmental benefits of removing livestock from public lands and the fiscal savings to taxpayers of not having to subsidize livestock grazing any longer on the retired allotments.

Political Timetable

Assuming political feasibility, NPLGC estimates that no longer than two to four years should be required (one to two election cycles) to enact site-specific voluntary grazing permit buyout legislation in Congress. Obviously, the sooner conservationists and ranchers build trust, open communication, and join together in an effective political coalition, the sooner we can get to the real work of enacting buyout legislation.

Various Issues to Consider in Voluntary Grazing Permit/Lease Buyout Legislation

What Conservationists must have in Voluntary Grazing Permit/Lease Buyout Legislation

Two issues are generally non-negotiable for conservationists in voluntary grazing permit/lease buyout legislation: *permanence* of the buyout, and total *elimination* of livestock from the associated grazing allotment(s).

- **Permanence.** Given that compensation proposed in permit/lease buyout legislation is at least, and usually several times more than, the market value of grazing permits/leases, taxpayers would be ill-served buying a grazing permit/lease only to have a federal land management agency reissue it for livestock grazing again in the future. Grazing permits/leases waived for compensation must be *permanently* retired, and the associated grazing allotments *permanently* closed to livestock use.

- **Elimination of Livestock.** It is also not good public policy to compensate a rancher to merely reduce the number of livestock on a grazing allotment. Reduced grazing does not benefit the environment (livestock still congregate in riparian areas) as much as eliminating grazing in a particular area, and it would be quite easy for a federal agency to slowly increase AUMs again on a partially bought out allotment over time.

NPLGC also insists that, where a grazing permittee or lessee waives a permit or lease to graze a shared or “common” allotment, the managing agency secure a proportional area of the shared allotment from grazing representative of the amount of forage authorized for use under that permit or lease.

Including these elements in any compensation package is critical to conservationists because we must be able to politically justify the expenditure of taxpayer monies, especially amounts far in excess of the market value, to retire grazing permits/leases.

Amount of Compensation for Permit/Lease Buyout

The average west-wide value of a federal grazing permit/lease is between \$50-75/permitted AUM. In some cases, a permit/lease may sell for \$100/AUM or more (e.g., Northern Rockies national forest with ample water and a productive growing season), while in other cases permits/leases may be worth as little as \$5-10/AUM (California Desert, where grazing livestock require several hundred acres per animal just to survive).

Some conservation organizations are opposed to paying anything to retire grazing permits/leases (see “Is public lands grazing a privilege or a right?” below), while others object to paying more than appraised (market) value. Fortunately for public lands ranchers, most of the conservation community now favors asking taxpayers to pay more than market value to buyout grazing permits/leases. However, there is still a political limit on how high the compensation can be.

Factors that tend to drive up the rate of compensation include: the presence of endangered species; the permit authorizes grazing on specially designated public lands (Wilderness, national park, national monument, national conservation area, Wild and Scenic River, wilderness study area); and the personal situations of the interested grazing permittees/lessees. A factor that tends to drive down the rate of compensation is if developers or mining companies hold the grazing permits/leases to be retired.

NPLGC wants ranchers to receive as much money as possible for retiring their grazing permits/leases, but we cannot support, and Congress ultimately will not accept, outlandish rates of compensation.

Agreeing to Disagree

There are certain issues central to public lands livestock grazing upon which conservationists and ranchers will likely never agree. Two are listed below.

- **Is public lands grazing a privilege or a right?** Conservationists contend (and the Supreme Court unanimously agrees) that federal grazing permits and leases only allow the permit/lease holder the privilege to use publicly owned forage. The permits/leases do not bestow a *right* to permittees/lessees to graze federal lands. Therefore, a federal agency may modify or revoke a grazing permit/lease at any time and not be required to compensate the permittee/lessee for any lost AUMs. By contrast, some ranchers believe that public lands grazing is a right, and that any reductions in AUMs must be compensated by the federal government.

Fortunately, this dispute need not be resolved to enact voluntary grazing permit/lease buyout legislation. Under a buyout program, the elimination of grazing is effectively compensated (and at far greater than market value or “just” compensation), which pleases ranchers; while conservationists are also pleased because the buyout is done as a matter of government policy, not as a matter of right, and the retired grazing permits/leases are *permanently* wiped from the books.

- **Is public lands grazing beneficial or harmful to public land and resources?** This is not something we are likely to agree on but, whatever our reasons—environmental reasons for conservationists or business/personal reasons for ranchers—we can agree that buyout is a practical solution to grazing conflicts.

Continued Battling on Other Fronts

Working cooperatively for fair and generous compensation for permit/lease buyout doesn't mean that conservationists and ranchers will quit trying to advance their respective interests to administrative agencies, in the courts and in Congress. We are both going to do what we have to do.

The only thing that conservationists and public lands ranchers have to agree on is that if a rancher, for whatever reason, wishes to waive their interest in a federal grazing permit/lease back to the federal government, that rancher ought to be fairly and generously compensated, and the associated grazing allotment should be permanently closed to commercial livestock grazing.

Regardless of our different stations in life, NPLGC has discovered that, as conservationists and ranchers work together to achieve a common goal, they inevitably get to know each other better and in almost all cases find each other to be tolerable, if not downright likable.

Public Lands Grazing Industry Membership Versus the Leadership

It is our observation that the *membership* of the public lands grazing industry generally favors having the option to retire their grazing permit/lease for compensation, while the public lands grazing industry *leadership* is generally opposed to voluntary permit/lease buyout. However, because many ranchers are suffering financial and/or regulatory distress, it is difficult for ranching organizations to oppose relief in the form of permit/lease buyout for local situations. For example, the National Cattlemen's Beef Association opposes a national grazing permit buyout program, but leaves it to state affiliates to decide whether to support site-specific permit compensation legislation. In the examples of site-specific buyout legislation above (Idaho, Oregon, Arizona), the state affiliate cattle growers associations support two of the three proposed buyout programs.

Trust

To work cooperatively for a common political goal, ranchers and conservationists must have a certain level of trust in each other. Gaining and projecting trust requires maturity from all parties. There must be enough trust to enact legislation in Congress. But it's not like we have to get married; it's more like we're buying and selling a piece of property.

For More Information

Complete information about voluntary grazing permit buyout is available at www.permitbuyout.net.

If you are interested in retiring your grazing permit or lease for compensation and you are willing to work cooperatively with conservationists to achieve that goal, let's explore the possibilities. Please contact us.

If you live in:

Arizona, California, Colorado, Kansas, Nebraska,
Oklahoma, New Mexico, Texas, Utah,

Idaho, Montana, North Dakota, Oregon, South Dakota,
Washington, Wyoming

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