

NATIONAL PUBLIC LANDS GRAZING CAMPAIGN

Where Would the Money for Publicly Funded Voluntary Grazing Permit Buyout Come From?

Limitations of Third-Party Buyouts of Federal Grazing Permits

Each year, a few conservation organizations (funded mainly by charitable foundations) buyout a few federal grazing permits with agreement from a cooperating federal land managing agency to administratively retire the associated grazing allotments. In a few situations, a second government agency has funded permit/lease buyouts. Perhaps two or three of these third-party buyouts occur each year, usually on specially designated landscapes where there is high political controversy over grazing in the area.¹

Although they serve as worthy examples of the value of voluntary permit/lease buyout, several factors conspire to severely limit the wide-scale application of third-party permit buyout as a tool to resolve grazing conflicts across the millions of acres of federal public lands where they occur. The two most important factors are *lack of permanence* and *lack of funds*.

1. Lack of Permanence. Permanent permit buyout is generally prohibited on lands managed by the U.S. Forest Service (USFS) and Bureau of Land Management (BLM), where the vast majority of federal livestock grazing occurs. Grazing is also allowed on National Wildlife Refuge units where it is found to be “compatible” with the purposes for which individual refuges were established.² Federal regulations generally proscribe grazing in national parks,³ but such regulations are subject to administrative change. (Yellowstone National Park is the only unit of the National Park System where livestock grazing is expressly banned by legislation.)⁴

Current policy requires USFS and BLM managers to transfer grazing permits to a new permittee upon the departure of the previous permittee. This is because the Taylor Grazing Act, Federal Land Policy and Management Act, and the National Forest Management Act require that if public lands can be grazed, they must be grazed (assuming a rancher can be found who wants to). Only when an agency finds a specific reason not to graze (a rare occurrence), and amends its land and resource management plans accordingly, can grazing be cancelled on a given allotment.

Where agencies do “retire” permits acquired by third-party conservation organizations, they only do so for 10-15 years, and often for lesser periods, by amending the current allotment and/or resource management plan to reallocate 100 percent of the available forage to wildlife and watersheds. These plans are regularly reviewed by the managing agencies pursuant to federal law, at which point they can choose to reopen allotments for grazing. Nothing prohibits an agency from reinstating livestock grazing on allotments retired by third-party buyout, and grazing could be reintroduced a variety of ways, including by decision of a local federal land manager via another planning amendment or by order of a new administration in Washington, DC.⁵

¹ Salvo, M. and A. Kerr. 2001. *Permits for cash: a fair and equitable resolution to the public land range war*. Rangelands 23 (1): 22-24.

² 16 U.S.C. § 668dd et al.

³ 36 CFR § 2.60 (2004); see also A. Kerr and M. Salvo. 2000. *Livestock Grazing in the National Park and Wilderness Preservation Systems*. Wild Earth 10(2): 45-52.

⁴ “The Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze livestock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created, except that this provision shall not apply to the Yellowstone National Park.” 16 U.S.C. § 3 (2004).

⁵ See NPLGC, “Limitations of Third-Party Buyouts of Federal Grazing Permits” (www.publiclandsranching.org/htmlres/pdf/FS_3rd_Party_Buyouts.PDF).

Due to this impermanence, grazing permit buyouts on National Park System and National Wildlife Refuge System lands are usually safer investments for third-party organizations because the mission of these agencies and the statutory and regulatory basis for managing those lands leans in favor of protecting the environment and natural resources and against livestock grazing. On the contrary, third-party permit buyouts on Forest Service and BLM lands can be a risky investment as the statutory and regulatory basis for managing these public lands, as well as the certain inclination of the Forest Service and BLM, is to graze whenever possible.

Given the general hostility of agency mission and the law to permit retirement, third-party grazing permit buyouts on USFS and BLM lands generally occur only in areas with high public profile, such as the Grand Staircase National Monument or within the Greater Yellowstone Ecosystem. In the latter case, the buyouts are centered on extremely controversial allotments that are home to highly charismatic megafauna (bison, wolves, elk, grizzly bears) that are eliminated or controlled to accommodate for domestic livestock. It is the fear of public backlash, rather than government policy, that restrain the Forest Service from reinstating livestock grazing on these allotments. However, in the former case, even designation of a national monument has not proven sufficient to counteract the pro-grazing tilt within the BLM.

2. Lack of Funds. Until conservation organizations (and their funders, the charitable foundations) are assured of permanence, relatively few third-party grazing permit buyouts will occur, and at level far below ecological demand or rancher supply. Hundreds of millions of dollars are needed to buyout allotments across the West to restore wildlife habitat and watersheds on millions of acres.

Available Public and Private Funds for Voluntary Grazing Permit Buyout

Once the matter of “permanence” is addressed,⁶ the question arises as to where the money would come from to pay public lands ranchers to waive their interest in public lands grazing allotments.

Public monies, both state and federal, are viable options, as are private monies, both philanthropic and pecuniary. Funds could come from a variety of sources:

- **Federal land management agency budgets.** Taxpayers would benefit if agency funds that are now spent to support public lands grazing were used to buyout permits.
- **Range Betterment Fund.** A portion of the below market federal grazing fee is presently used to support public lands livestock grazing in the form of water developments, fences and other misnamed “range improvements.” These funds could be better used for grazing permit buyout.
- **Reallocating federal grazing fee revenue.** Congress could choose to earmark the relatively small portion of the federal grazing fee that actually is received by the federal treasury for permit buyout.
- **Land and Water Conservation Fund.** A certain portion of federal offshore oil and gas royalties are currently earmarked for acquiring more public lands for public purposes. Buying federal grazing permits from willing seller-permittees could be included among the goals for LWCF monies.
- **State or federal fish and wildlife agencies.** Retiring federal grazing permits is an excellent way for state and federal fish and wildlife agencies to help fulfill their mission to conserve and restore wildlife and their habitat.
- **Other state and federal agencies.** Other government agencies often have an obligation to mitigate for the impacts of their activities, including the Bonneville Power Administration, Bureau of Reclamation, and Department of Defense.

⁶ Both the Voluntary Grazing Permit Buyout Act (H.R. 3324, 108th Congress) and the Arizona Grazing Permit Buyout Act (H.R. 3337, 108th Congress) would provide permanence to third-party buyouts.

• **Private firms with legal obligation to mitigate for their activities.** Under certain circumstances, private firms are required to mitigate for their activities. For example, a geothermal power company in California bought out federal grazing permits to compensate for the loss endangered desert tortoise habitat due to its activities. When the sage grouse is listed under the Endangered Species Act, it is likely that oil and gas companies will be required and/or willing to buy out grazing permits elsewhere to mitigate for the impacts of their activities on the grouse.

• **Private firms seeking public relations benefits.** Some corporations, seeking good will for doing good, will want to buy out federal grazing allotments.

• **Conservation, wildlife, recreation and related organizations.** The Grand Canyon Trust, National Wildlife Federation, Rocky Mountain Elk Foundation and other organizations have already bought out grazing permits to further their organizational missions. They, and others, would buyout more, once the permanence issue is addressed.

Public versus Private Funds

Conservation organizations that advocate using private funds over public funds to retire grazing permits offer two major reasons for their position. First, they are generally opposed to the idea of paying above market value for a grazing permit, and note that private non-profit organizations are somewhat restrained by interpretations of IRS tax law from doing so. Second, these organizations fear that government funding is a zero-sum game: if public money is spent to retire grazing permits, then it cannot be spent on other “good” government activities such as habitat conservation and land acquisitions elsewhere. Even if this fear was valid, it is just as likely that money for permit buyout will come at the expense of bad government activities (like paying off Halliburton or hiding the deficit). Also, it is not true that a zero-sum exists. If conservationists and ranchers approach Congress hand-in-hand seeking funds for buyout, the likelihood of obtaining such funds is much higher and it might well come from sources that are under-allocated, such as the Land and Water Conservation Fund, than from other “good” government programs.

Another constituency that often advocates (and sometimes demands!) that private rather than public funds be used to retire permits is the public lands livestock grazing industry. They reason that, since it was those “damn environmentalists” who made grazing untenable on public lands in the first place, they should be forced to pay all—or at least a part—of the cost of buying out grazing permits. In response to these ranchers and others who believe private funds ought to be spent in order to “save” public money from being used for buyouts, it must be noted that even “private” funds from nonprofit, tax-exempt organizations have a significant public money component to them. Gifts to nonprofit conservation organizations are exempt from income tax to both the giver and receiving organization. Depending on the giver’s tax bracket and other accounting assumptions, income taxes not paid to public treasuries by the giver and nonprofit organization might amount to 40-74 percent of a given conservation organization’s expenditures.