

NATIONAL PUBLIC LANDS GRAZING CAMPAIGN

Explication of and Rationale for the Voluntary Grazing Permit Waiver Provision in the Proposed Central Idaho Economic Development and Recreation Act¹

Explication of the Voluntary Grazing Permit Waiver

Title IV of the proposed Central Idaho Economic Development and Recreation Act (CIEDRA) would compensate federal grazing permittees who waive grazing permits in four geographically defined (and somewhat overlapping) areas in Central Idaho totaling approximately 600,000 acres of public lands (not all of which is open to livestock grazing):

- Three Wilderness areas in the Boulder Mountains and White Cloud Peaks region (to be designated by the same law); and
- the East Fork Salmon River watershed.²

In the twelve months following enactment of the proposed law, eligible permittees may elect to receive compensation from the federal government in exchange for waiving their grazing permit(s) back to the Forest Service or Bureau of Land Management. Domestic livestock grazing would be permanently retired on the associated federal grazing allotment(s), with the forage reallocated to wildlife and watershed protection. An estimated 24,000 AUMs (animal unit month; the amount of forage necessary to sustain a cow and a calf for one month) authorized by federal grazing permits on 18 allotments encompassing approximately 600,000 acres of federal lands would be eligible for compensation.³

Participating permittees would receive compensation according to a schedule of payments prepared jointly by the Forest Service and the Bureau of Land Management. The bill provides \$7,000,000 for permit compensation.⁴ While it is not known what the agencies will prepare as a payment schedule, the author of CIEDRA, Rep. Mike Simpson [R-ID] has previously stated that he supports paying \$300/permitted AUM.⁵ Should a permittee receive any payment from a third party for retiring their grazing permits, whatever amount they received from the third party would be deducted from their federal payment (whatever that federal payment ends up being).⁶ At 100 percent permittee participation—and without any additional private/third-party money—\$7,000,000 would pay \$292/permitted AUM (also assuming no appraisal costs, agency rake-offs, or other administrative costs).

CIEDRA would also allow permittees to waive their permit and retire their grazing allotments after the act's twelve-month permit buyout window expires, but the federal government would no longer be responsible for paying for the buyout.⁷ In such cases, the permit waiver would probably be prompted by the permittee's receiving compensation from a third-party instead.

¹ The National Public Lands Grazing Campaign (NPLGC) offers this analysis only of Title IV of CIEDRA, the voluntary grazing permit waiver provision, as NPLGC has both the expertise on permit buyout and mission to end abusive livestock grazing on public lands. Title IV is sound public policy. NPLGC has no position on the other three titles of the bill pertaining to "Central Idaho Economic Development and Recreation Promotion," "Boulder-White Cloud Management Area" and "Central Idaho Wilderness Areas." NPLGC defers to the conservation organizations that are engaged in and knowledgeable of the geography, hydrology, ecology and politics of Central Idaho to determine whether or not the entire bill is—or can be made—a net-gain for public lands conservation. For the Sierra Club Northern Rockies Chapter's concerns about the legislation, please visit www.idaho.sierraclub.org.

² *Proposed Central Idaho Economic Development and Recreation Act (CIEDRA)*, section 402(a). (H.R. 2514, 109th Congress) (introduced May 2005).

³ Marvel, J., Exec. Dir., Western Watersheds Project, personal comm., August 25, 2005.

⁴ CIEDRA, section 403(a).

⁵ Popkey, D. Simpson is poised to transcend partisan politics. *Idaho Statesman* (Boise) (Aug. 15, 2004) (available at www.idahostatesman.com/apps/pbcs.dll/article?AID=2004408150315).

⁶ CIEDRA, section 403(b).

⁷ CIEDRA, section 402(b).

Rationale for Compensating Federal Grazing Permittees to Voluntarily Waive their Grazing Permit

1. Transition Assistance for Public Lands Ranchers

Compensating federal grazing permittees to end their grazing on public lands is ecologically imperative,⁸ economically rational,⁹ fiscally prudent,¹⁰ socially just¹¹ and politically pragmatic. It is an equitable way to resolve long-standing conflicts between domestic livestock grazing and environmental protection, recreation and other uses of public lands. Voluntary grazing permit buyout programs, like that provided in CIEDRA, demonstrate public recognition and Congressional understanding of the fact that federal policy concerning public lands grazing has changed and will likely continue to do so, making grazing on public lands even more problematic. Finally, compensation paid to participating ranchers under permit buyout programs contributes to the recapitalization of rural western economies that have otherwise been left behind by globalization, economic concentration, evolving land uses and other factors.

Some conservationists object in principle to compensating federal grazing permittees for voluntarily waiving their interest in a grazing allotment. Their reasoning is that grazing on public lands is a privilege, not a right, and is revocable by the responsible land management agency for reasonable cause, and that any such revocation never requires government compensation. Title IV of CIEDRA would not change that.

However, while federal grazing permits do *not* convey property rights to permit holders (if they did convey a property right, permittees would be due compensation whenever their permit is “taken”¹²), grazing permits do possess economic value that permittees rely upon when buying, selling, and financing their ranch. Financial institutions use grazing permits as collateral for loans. The real estate industry recognizes increased value in private “base properties” with attached federal grazing permits. Even the Internal Revenue Service recognizes value in federal grazing permits, taxing them when a rancher transfers their permit or dies. Because both the market and the government have encouraged permittees to rely on permit value when buying, selling and operating their ranches, it is fair and socially just for taxpayers to compensate permittees who relinquish their permits back to the government.

Other conservationists, while not objecting in principle to paying for grazing permits, do object to the government paying more than “fair market value” for permits waived as part of a federal voluntary grazing permit buyout program. The problem with this approach is that federal grazing permits do not have a *fair market* value.

⁸ See NPLGC, “Livestock versus Wildlife” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Cows_v_Wildlife.PDF); NPLGC, “Grazing Impacts on Threatened and Endangered Species” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Cows_v_Endangered_Species.PDF); NPLGC, “Livestock and Water” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Cows_v_Water.PDF); and NPLGC, “Livestock and Alien Weeds” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Cows_&_Weeds.PDF).

⁹ See NPLGC, “Economic Facts of Public Lands Grazing” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Grazing_Economics.PDF); NPLGC, “Economic Benefits of the Multiple-Use Conflict Resolution Act” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Economic_Benefits.PDF).

¹⁰ See NPLGC, “The Cost of the Forest Service and Bureau of Land Management Livestock Grazing Programs” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Fiscal_Costs.PDF); NPLGC, “Fiscal Benefits to Taxpayers of the Multiple-Use Conflict Resolution Act” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Fiscal_Benefits.PDF).

¹¹ See NPLGC, “Social Benefits of the Multiple-Use Conflict Resolution Act” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Social_Benefits.PDF); NPLGC, “Why Ranchers Should and Do Support the Multiple-Use Conflict Resolution Act” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Why_Ranchers_Support.PDF).

¹² The federal government may not “take” private property without paying “just compensation,” a cherished restraint of government embedded in the Fifth Amendment of the United States Constitution.

Definitions of fair market value differ in precise language, but the following generally embraces the commonly accepted concepts:

Fair Market Value. The price at which an item can be sold by a willing seller to a willing buyer, neither of which are under any pressure to buy or sell. Furthermore, it's assumed that both parties are dealing rationally, have knowledge of relevant facts, and are not related.¹³

The average west-wide market value (a “fair” market does not exist for grazing permits—see below) of federal grazing permits is approximately \$35-\$75/AUM.¹⁴ In the public forests of central Idaho, permit sales have recently ranged from \$50-\$100/permitted AUM, with sheep grazing permits selling for less.¹⁵

While there is an appraisable market value for federal grazing permits, the trading price cannot be considered “fair” market value. First, there are few sellers and few buyers of grazing permits (the market is limited by law to those in the livestock business). Second, public lands ranching is more a lifestyle choice than a rational business activity¹⁶—so the buying and selling of permits is not exclusively for business purposes. Finally, due to the antiquated federal grazing statute, the federal government is prohibited by law from behaving rationally, as it spends far more on the federal grazing program than it receives in grazing fees.¹⁷ If taxpayers generally had “knowledge of relevant facts,” there would be no livestock grazing on federal public lands.

2. Savings to Taxpayers

Federal taxpayers subsidize public lands ranching at approximately \$10.46 per AUM per year.¹⁸ Politically, taxpayers will likely never be able to escape this obligation for as long as domestic livestock are permitted to graze federal public lands. Given this perpetual, unvarying subsidy, taxpayers would benefit from every permit permanently retired under the CIEDRA voluntary grazing permit waiver provision, even at a very generous \$300/AUM.

The benefits described above are only the fiscal savings accrued to the taxpayer. When one also includes the myriad ecological benefits of permit retirement and the social justice to public lands ranchers, paying above-market value to retire federal grazing permits is a winner all around.

What is a Fair Rate of Payment for a Federal Grazing Permit?

Taxpayers and public lands users benefit from the end of livestock grazing on public lands. Ranchers who were once welcomed to graze public lands are now increasingly constrained by other legitimate uses of these lands and resources. It is a desirable social goal—to both ease and accelerate the inevitable transition of the public lands grazing industry—by adequately compensating public lands ranchers for relinquishing their public lands grazing privileges. A range of values have been proposed:

- The federal government could simply cancel grazing permits and pay ranchers nothing, but that is politically unrealistic and socially unjust.
- Either the federal government or a third-party could pay market value for grazing permits, an average of approximately \$35-75/AUM west-wide, and as much as \$100/AUM in central Idaho. However, this option

¹³ Small Business Taxes & Management. “Glossary” (<http://www.smbiz.com/sbgl001.html>; accessed 9/21/2004).

¹⁴ NPLGC, “Federal Livestock Grazing AUMs: B(u)y the Numbers” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Buy_the_Numbers.PDF).

¹⁵ Marvel, J, Exec. Dir., Western Watersheds Project, personal comm., September 23, 2004.

¹⁶ About half of all public lands ranchers are classified as “hobby ranchers.” B. J. Genter and J. A. Tanaka. 2002. Classifying federal public land grazing permittees. *J. Range Management* 55: 2-11.

¹⁷ NPLGC, “The Cost of the Forest Service and Bureau of Land Management Livestock Grazing Programs” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Fiscal_Costs.PDF).

¹⁸ NPLGC, “Fiscal Benefits to Taxpayers of the Multiple-Use Conflict Resolution Act” (factsheet) (www.publiclandsranching.org/htmlres/PDF/FS_Fiscal_Benefits.PDF).

would involve expensive and contentious appraisals for each permit relinquished for buyout, while providing no incentive to permittees to retire their permits. A permit holder would receive as much by selling their permit to another rancher, thereby perpetuating the ongoing cost to the taxpayers of servicing the grazing permit.

- The Multiple-Use Conflict Resolution Act¹⁹ would pay \$175/AUM. This figure encourages rancher participation, avoids individual permit/lease appraisals, and covers the costs of any developments that a rancher may have placed on the allotment.
- Rep. Simpson's proposed \$300/permitted AUM. Such a generous payment can be viewed as an "endowment" that—if invested in a safe, long-term financial instrument—can annually yield enough interest to rent replacement forage on private lands equivalent to that retired on federal lands. The current average price for private forage in the 11 western states is \$13.30/AUM (and \$12.20 in Idaho).²⁰ The current 10-year U.S. Treasury bond rate is 4.25 percent.²¹ \$300/AUM invested in a 10-year Treasury bond (the same term as a federal grazing permit) at 4.25 percent would annually yield \$12.75, enough for area ranchers to rent private lands forage if they choose.

¹⁹ H.R. 3166 (109th Congress).

²⁰ National Agricultural Statistics Service. 2005. "Grazing Fee Rates for Cattle by Selected States and Regions" (table). Page 65 *in* AGRICULTURAL STATISTICS. USDA-National Agricultural Statistics Service. Washington, DC. (Jan. 5, 2005). (<http://usda.mannlib.cornell.edu/reports/nassr/price/pap-bb/2005/agpr0105.pdf>).

²¹ Bloomberg.com. "Rates and Bonds" (www.bloomberg.com/markets/rates/; viewed Aug. 31, 2005).