



## **Public Lands Foundation Position Statement Livestock Grazing on BLM Public Lands**

### **Executive Summary**

The BLM manages livestock grazing on 155 million acres of America's public lands through the processing, issuance and monitoring of permits and leases on BLM-managed lands. There are nearly 18,000 permits and leases administered by the BLM on more than 21,000 grazing allotments. Most of these permits and leases are for grazing cattle and sheep although other livestock have been authorized.

Permits and leases are generally for a 10-year period and may be renewed if the BLM determines the terms and conditions of the expiring permit or lease are being met. The amount of actual grazing varies from year to year because of such factors as forage and water availability, drought, wildfire, and market conditions.

The PLF supports continued grazing of the public lands where the rangeland is suitable and the available resources would sustain it. However, the PLF supports the retirement of grazing use on some public lands to protect sensitive resources or special management areas. The PLF supports updating the current grazing regulations at 43 CFR 4100, applying rangeland health standards to an ecologically meaningful unit such as a watershed, increasing management flexibility in grazing permits/leases through the use of outcome-based allotment management plans, increased funding and staffing to support processing permits/leases, conducting specialized training in the grazing permitting/leasing process for both BLM managers and staff, and continued efforts to use livestock grazing in the reduction of hazardous fine fuels on the public lands.

### **Background**

Grazing of western public lands dates to the settlement era of the 1800's when it was an important economic base for the western expansion of the country. Today, many rural western communities rely on the economic benefits generated from local ranching for their economic livelihood. It supports thousands of jobs west wide and contributes millions of dollars to local economies. In 1934, Congress passed the Taylor Grazing Act which provided for the authorization and regulation of livestock grazing on the public lands. This Act has been amended several times since then.

### **Grazing Regulations Published at 43 CFR 4100**

The BLM published and implemented comprehensive changes to the grazing regulations in 1995 (43 CFR 4100). A portion of the regulations regarding Conservation Use was subsequently

enjoined. These provisions would have allowed longer term resting or retirement of the grazing permit or lease, which is more appropriately a planning decision regarding whether an area should be grazed or retired from grazing use. The regulations were again modified in 2006; however, the 2006 changes were subsequently permanently enjoined from implementation by the U.S. District Court in Idaho in 2007. The Ninth Circuit Court of Appeals affirmed the permanent injunction enjoining the 2006 grazing rule. However, the published 43 CFR 4100 regulations have not been updated to reflect the Court's decision. As a result, the current grazing regulations are those published in 1995. This leads to confusion for the public, permittees, and employees, since the rule published in 2006 has been enjoined. The BLM initiated a regulation update in 2019 to conform with the Court's decision and to provide more flexibility in the administration of grazing use on the public lands and more efficiency in processing permits and leases. There is currently no information on the BLM website regarding the status of this regulatory effort. Regarding the enjoined portion of the regulations, the PLF considers the decision on whether or not to authorize grazing on the public lands is an appropriate land use planning decision if BLM has determined to manage an area for multiple use without livestock grazing.

Another issue that has arisen recently is the consideration of authorizing other classes of livestock, such as bison, through the use of a grazing permit or lease. This has been done appropriately in several areas of BLM-managed lands under the existing regulations. In the case of bison on public land, they are managed as "livestock" by the BLM, unless the state considers them as "wildlife" and therefore under the jurisdiction of the state.

### Land Health

The early grazing of federal public lands was unregulated so it led to overgrazing and adverse resource impacts to the rangeland and water resources. In 1934, Congress passed the Taylor Grazing Act, the first federal effort to regulate grazing on federal lands to improve rangeland conditions. Over time, the science and regulation have evolved to allow better management of grazing to maintain or improve rangeland health. The Fundamentals for Rangeland Health were developed and adopted through the 43 CFR 4180 grazing regulations in 1995. They include fundamentals for watershed health, ecological processes, water quality and species habitat. These regulations also included the requirement that each BLM State Director develop land health standards and guidelines for livestock grazing specifically addressing range conditions within their jurisdiction. The regulation also requires consultation with the BLM Resource Advisory Councils established in Section 309 of the Federal Land Policy and Management Act (FLPMA) in the development of the standards and guidelines

The terms and conditions of grazing permits and leases are based on having to meet standards or to improve rangelands toward meeting the standards for rangeland health. The application of the guidelines is generally done on an allotment-by-allotment basis and is not based on an ecological unit such as a watershed. This puts pressure on the BLM and grazing permittees to manage the allotments to meet the standards for rangeland health when other uses such as mineral development, wildfire, or wild horse grazing may actually be the causal factors for the lands not meeting the standards. The overpopulation of wild horses and burros (WH&B) on the public rangelands is past the critical point and is doing irreparable harm to the land, vegetation, wildlife,

livestock grazing, and to the health of the wild horses and burros themselves. There are some 109,000 WH&Bs on the public lands (compared with appropriate management levels of some 26,000 animals), with populations that typically increase an average of 20 percent per year based on annual foaling rates. Some reports have indicated that 54 million acres, or half of the 108 million acres of BLM grazing leases, do not meet rangeland health standards.

#### Permit/Lease Processing “Backlog”

BLM grazing permits and leases are typically issued for 10-year terms. Each permit or lease needs to be reevaluated and a new one issued when the existing one expires, when there is a proposed change in livestock management, and/or when there is a change in ownership or control of the base property. For decades, the BLM has not been able to evaluate and process the expiring permits/leases due to reduced staffing in the range management and other supporting programs, frequent legal challenges, and time-consuming process steps including land health evaluations and NEPA analysis conducted on an allotment-by-allotment basis. In 2015, FLPMA was amended to require BLM to continue the existing terms and conditions of the expired permit by issuing a new permit with the same terms and conditions where current management has been determined as appropriate. Yet there continues to be a “backlog” of permit renewals and the NEPA analysis required to ensure healthy rangelands and conserve and protect lands and other important resources on the public lands. As of February 2022, the BLM had 10,522 unprocessed permit renewals and in FY2023 approximately 1,800 additional grazing permits are scheduled to expire. If the BLM is unable to conduct the reviews and analyses necessary to administer these permit renewals, it will not only affect the range management program but also other resource programs. The “backlog” of permit renewals also creates the potential for litigation that will consume more manpower and financial resources of the BLM.

#### Specialist and Managers Understanding of the Permit/Lease Authorization Process

The demographics of the BLM workforce have changed substantially in the last decade, with a substantial loss of experience and corporate knowledge in the grazing program. The number of range management specialists has declined, with experienced staff often not being replaced upon retirement. In the past, many BLM managers came up through the range program. This has changed over time, with many managers now having backgrounds and experience in other programs and/or from outside the BLM. As a result, many BLM managers and staff have less knowledge of the grazing program than in the past.

#### Outcome-Based Grazing

Currently most grazing permits/leases are managed on calendar dates for turnout and removal of livestock along with requirements related to permitted numbers of livestock. These requirements limit the number of year-to-year adjustments that can be authorized in a given permit/lease. However, climate change has modified seasonal precipitation patterns, and has caused prolonged drought and higher temperatures across the west. As a result, forage production and water availability fluctuate greatly from year to year. The regulations allow for allotments to be managed using an outcome-based approach with more flexibility in timing, numbers, and management of livestock on the ground through an allotment management plan. However, this tool has limited

use because, as mentioned above, the BLM has not had the staff or resources to allow for the development of allotment management plans.

### Targeted Grazing for Fuel Reduction

The wildfire season has become year-round in many areas in the west due to prolonged drought, less snowpack during the winters, more frequent and higher intensity wind events, and increasing human activity on the public lands. The BLM has increased the level of hazardous fuels treatments, especially around communities. However, the level of fuel treatments is limited by budgets and available fuel management expertise and labor force, resulting in significantly more acres burned each year than fuel treatments accomplished. These wildfires result in restrictions on grazing in the burned area for a number of years, loss of wildlife habitat, and conversion to non-native grasses such as cheatgrass that increases the fire return interval. The BLM fuels and grazing programs have worked on limited application of grazing to reduce fuels. There have been demonstrated benefits in some projects. Methods are still evolving; however, the use of grazing permits/leases may not provide the appropriate management instrument for this activity.

### Public Lands Foundation Position

1. The Public Lands Foundation supports continued grazing of the public lands where the rangeland is suitable and the available resources would sustain it. The BLM's relationship with local communities is strengthened with continued support for appropriately managed grazing use on the public lands. However, the PLF supports the retirement of grazing use on some public lands to protect sensitive resources or special management areas, if the BLM has determined to manage an area for multiple use without livestock grazing through a land use planning process.
2. The PLF supports updating the current grazing regulations at 43 CFR 4100. The PLF has submitted comments on the regulations during the public scoping period. The regulation update process should proceed ahead with publication of a Proposed Rule and a Final Rule as expeditiously as possible.
3. The PLF supports applying rangeland health standards to an ecologically meaningful unit such as a watershed. The land health standards should apply to all public lands and should be addressed in all activities that manipulate or impact vegetation and soils. This allows for a more meaningful application of the standards and guidelines for maintaining or improving rangeland health across all programs and activities.
4. The PLF supports increased funding and staffing in the range management program to support the processing of permits/leases, especially for the analysis and review of those permits impacting riparian areas and for those permits not meeting rangeland health standards. This would allow the BLM to reissue without further processing a permit/lease in instances where there is no change in management and the permit/lease is meeting or progressing toward meeting land health standards. This reduces the BLM workload, allowing employees to focus on permits/leases that need changes in management to meet or move toward meeting land health standards and guidelines. It could also potentially

reduce litigation and administrative challenges to permit renewals. The PLF also supports full funding for the BLM WH&B program, as outlined in a May 2020 Report to Congress, to ensure sustainable populations of WH&Bs on the public lands and to improve rangeland conditions.

5. The PLF supports the BLM conducting specialized training in the grazing permitting/leasing process for both managers and staff. For example, the BLM could develop a “Range Management for Managers” training program and specific courses for staff.

6. The PLF supports a certification program for range management staff, similar to certification programs for wildfire qualifications or for petroleum engineering technicians.

7. The PLF supports increasing management flexibility in grazing permits/leases, as appropriate, through the use of outcome-based allotment management plans. This would allow more flexibility in the timing, livestock numbers, and on-the-ground management of grazing use to account for the annual variations in forage and water availability.

8. The PLF supports the BLM’s continued efforts to use livestock grazing in the reduction of hazardous fine fuels through cooperation between the wildland fire and grazing programs.

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