

109TH CONGRESS
1ST SESSION

H. R. 3166

To provide compensation to livestock operators who voluntarily relinquish a grazing permit or lease on Federal lands where conflicts with other multiple uses render livestock grazing impractical, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 30, 2005

Mr. GRIJALVA (for himself, Ms. WOOLSEY, Mr. MORAN of Virginia, Mr. McDERMOTT, Mr. KILDEE, Ms. LEE, Mrs. DAVIS of California, and Mr. BLUMENAUER) introduced the following bill; which was referred to the Committee on Resources, and in addition to the Committees on Agriculture and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide compensation to livestock operators who voluntarily relinquish a grazing permit or lease on Federal lands where conflicts with other multiple uses render livestock grazing impractical, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Multiple-Use Conflict Resolution Act of 2005”.

1 (b) TABLE OF CONTENTS.—The table of contents for
2 this Act is as follows:

- Sec. 1. Short title and table of contents.
- Sec. 2. Findings.
- Sec. 3. Definitions.
- Sec. 4. Multiple-use conflict resolution program.
- Sec. 5. Compensation for waived grazing permit or lease.
- Sec. 6. Donation of grazing permit or lease.
- Sec. 7. Effect of waiver or donation of grazing permit or lease.
- Sec. 8. Retirement of grazing allotments for which no valid grazing permit or
lease exists.
- Sec. 9. Effect of nonuse or reduced use.
- Sec. 10. County transition payments.
- Sec. 11. Authorization of appropriation.

3 **SEC. 2. FINDINGS.**

4 Congress finds the following:

5 (1) The use of Federal lands by grazing permit-
6 tees and lessees for commercial livestock grazing is
7 increasingly difficult due to growing conflicts with
8 other legitimate multiple uses of the lands, such as
9 environmental protection and burgeoning rec-
10 reational use, and with congressionally mandated
11 goals of wildlife and habitat protection and improved
12 water quality and quantity.

13 (2) The recreational use of Federal lands often
14 leads to conflicts with commercial livestock grazing
15 on the same lands because some recreational users
16 of the lands cause damage to range developments or
17 disturb livestock, which renders many grazing oper-
18 ations on Federal lands uneconomical.

19 (3) A combination of sustained drought, foreign
20 competition, changing domestic markets, industry

1 restructuring, and individual ranch situations has
2 resulted in Federal grazing permits and leases be-
3 coming stranded investments for many permittees
4 and lessees.

5 (4) Attempts to resolve grazing conflicts with
6 other multiple uses often require extensive range de-
7 velopments, intensive herd management, and contin-
8 uous monitoring that greatly increases costs to both
9 permittees and lessees and taxpayers, far out of pro-
10 portion to the benefit received.

11 (5) Certain grazing allotments on Federal lands
12 have, or are likely to become, unsuitable for commer-
13 cial livestock production as a result of the combined
14 effect of the factors referred to in paragraphs (1)
15 through (4) and other factors.

16 (6) The cost of the Federal grazing program
17 greatly exceeds revenues to the Federal treasury
18 from grazing receipts.

19 (7) Many permittees and lessees have indicated
20 their willingness to end their commercial livestock
21 grazing on Federal lands in exchange for a one-time
22 payment to reasonably compensate them for the ef-
23 fort and investment that they have made in a graz-
24 ing allotment.

1 (8) Compensating permittees and lessees who
2 relinquish their grazing permit or lease and end
3 commercial livestock grazing on Federal lands would
4 help recapitalize an ailing sector of rural America,
5 by providing economic options to permittees and les-
6 sees that do not presently exist and allowing them
7 to restructure their ranch operations, start new busi-
8 nesses, or retire with security.

9 (9) Reasonable compensation for the relinquish-
10 ment of a grazing permit or lease will help alleviate
11 the need for permittees and lessees to sell or sub-
12 divide their private lands.

13 (10) The cost of compensating permittees and
14 lessees for voluntarily waiving permits and leases is
15 significantly less than the cost to the taxpayers of
16 continuing to administer, monitor, assess, and miti-
17 gate for the environmental and other impacts of
18 commercial livestock grazing on Federal lands.

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) The term “animal unit month” means the
22 amount of forage needed to sustain one animal unit
23 for one month, as determined by the Secretary
24 issuing the grazing permit or lease.

1 (2) The term “commercial livestock grazing”
2 means the grazing of domestic livestock on Federal
3 lands as authorized by a grazing permit or lease.
4 The term does not include grazing by private or
5 commercial pack or saddle stock.

6 (3) The term “grazing allotment” means the
7 designated portion of Federal land upon which do-
8 mestic livestock are permitted to graze by a grazing
9 permit or lease.

10 (4) The terms “grazing permit or lease” and
11 “grazing permit and lease” mean any document au-
12 thorizing the use of Federal lands for the purpose of
13 grazing domestic livestock.

14 (5) The terms “permittee or lessee” and “per-
15 mittee and lessee” mean a livestock operator who
16 holds a valid term grazing permit or lease.

17 (6) The term “range developments” means
18 structures, fences, and other permanent fixtures
19 placed on Federal lands for the furtherance of the
20 purpose of grazing domestic livestock. The term does
21 not include rolling stock, livestock and diversions of
22 water from Federal lands onto non-Federal lands.

23 (7) The term “Secretary” means the Secretary
24 of Agriculture, the Secretary of the Interior, the
25 Secretary of Energy, or the Secretary of Defense, as

1 appropriate to the administration of the grazing per-
2 mit or lease at issue.

3 **SEC. 4. MULTIPLE-USE CONFLICT RESOLUTION PROGRAM.**

4 (a) WAIVER OF EXISTING GRAZING PERMIT OR
5 LEASE.—A permittee or lessee may waive to the Sec-
6 retary, at any time, a valid existing grazing permit or lease
7 authorizing commercial livestock grazing on Federal
8 lands.

9 (b) CANCELLATION OF WAIVED GRAZING PERMIT OR
10 LEASE.—The Secretary shall cancel grazing permits and
11 leases waived under this section and permanently retire
12 the associated grazing allotments from commercial live-
13 stock grazing, notwithstanding any other provision of law.

14 (c) WAIVER PRIORITY.—If funds available to the Sec-
15 retary to carry out this Act are insufficient to meet all
16 of the offers submitted to the Secretary for the waiver of
17 grazing permits and leases, the Secretary shall give pri-
18 ority to the waiver of grazing permits and leases that au-
19 thorize commercial livestock grazing on the following Fed-
20 eral lands:

21 (1) A unit of the National Wilderness Preserva-
22 tion System.

23 (2) A unit of the National Wild and Scenic
24 River System.

25 (3) A unit of the National Park System.

1 (4) A unit of the National Wildlife Refuge Sys-
2 tem.

3 (5) A grazing allotment that includes a trail in
4 the National Trails System.

5 (6) A unit of the National Landscape Conserva-
6 tion System.

7 (7) Any designated critical habitat for a species
8 listed under the Endangered Species Act of 1973
9 (16 U.S.C. 1531 et seq.).

10 (8) A designated wilderness study area.

11 (9) Roadless and undeveloped areas identified
12 in Forest Service, Roadless Area Conservation EIS,
13 vol. 2 (Nov. 2000).

14 (10) An area of critical environmental concern
15 designated by the Bureau of Land Management.

16 (11) A designated Research Natural Area.

17 (12) A grazing allotment that includes a water-
18 quality-limited stream identified by a State pursuant
19 to section 303(d) of the Federal Water Pollution
20 Control Act (33 U.S.C. 1313(d)).

21 (13) A grazing allotment that includes a stream
22 segment identified for study under section 5(a) of
23 the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)).

24 (14) A grazing allotment that includes a stream
25 segment identified by the Secretary under section

1 5(d)(1) of the Wild and Scenic Rivers Act (16
2 U.S.C. 1276(d)(1)).

3 (15) A grazing allotment featuring other sci-
4 entific, ecological, scenic, watershed, or recreation
5 values, as determined by the Secretary.

6 (d) RELATION TO OTHER AUTHORITY.—Nothing in
7 this Act shall be construed to affect the ability of a per-
8 mittee or lessee to renew or transfer a grazing permit or
9 lease as provided by law.

10 (e) RELATION TO EMINENT DOMAIN.—Nothing in
11 this Act shall be construed to authorize the use of eminent
12 domain for the purpose of acquiring a grazing permit or
13 lease.

14 **SEC. 5. COMPENSATION FOR WAIVED GRAZING PERMIT OR**
15 **LEASE.**

16 (a) COMPENSATION REQUIRED.—A permittee or les-
17 see who waives a grazing permit or lease (other than an
18 ephemeral grazing permit or lease) under section 4(a)
19 shall be compensated at a rate of \$175 per animal unit
20 month based on the average of the highest three years of
21 authorized animal unit months out of the last 10 years
22 authorized to the permittee or lessee or the predecessors
23 of the permittee or lessee. In the case of an ephemeral
24 grazing permit or lease, the permittee or lessee shall be

1 compensated for the average over the last 10 years of the
2 actual animal unit months of grazing use.

3 (b) GRAZING FEES IN ARREARS.—If a permittee or
4 lessee is in arrears of Federal grazing fees, the amount
5 of fees in arrears shall be deducted from the amount of
6 compensation otherwise due the permittee or lessee under
7 this section.

8 (c) WAIVER OF CERTAIN PERMITS OR LEASES PRO-
9 HIBITED.—A permittee or lessee who seeks to waive a
10 grazing permit or lease under section 4(a) for a grazing
11 allotment for which no valid grazing permit or lease exists
12 as of the date of the introduction of this Act shall not
13 be eligible for compensation under this section.

14 (d) RELATION TO OTHER AUTHORITY.—Nothing in
15 this Act shall be construed to affect the Secretary's au-
16 thority to otherwise modify or terminate grazing permits
17 or leases without compensation. Compensation disbursed
18 pursuant to this section shall not create a property right
19 in grazing permits or leases.

20 **SEC. 6. DONATION OF GRAZING PERMIT OR LEASE.**

21 (a) DONATION AUTHORIZED.—A permittee or lessee
22 may at any time waive a claim to compensation in whole
23 or in part under section 5 and donate to the Secretary
24 a valid existing grazing permit or lease authorizing com-
25 mercial livestock grazing on Federal lands.

1 (b) ACCEPTANCE OF OTHER COMPENSATION.—A
2 permittee or lessee may accept compensation from private
3 or other sources in lieu of, or in addition to, receiving com-
4 pensation under section 5.

5 (c) CANCELLATION OF DONATED PERMITS AND
6 LEASES.—The Secretary shall cancel grazing permits or
7 leases donated under this section and permanently retire
8 the associated grazing allotments from commercial live-
9 stock grazing.

10 **SEC. 7. EFFECT OF WAIVER OR DONATION OF GRAZING**
11 **PERMIT OR LEASE.**

12 (a) EFFECT ON RANGE DEVELOPMENTS.—A per-
13 mittee or lessee who waives a grazing permit or lease to
14 the Secretary under section 4 and receives compensation
15 under section 5, or donates a grazing permit or lease
16 under section 6, shall be deemed to have waived any claim
17 to all range developments on the associated grazing allot-
18 ments, notwithstanding any other provision of law.

19 (b) SECURING RETIRED ALLOTMENTS AGAINST UN-
20 AUTHORIZED USE.—The Secretary shall ensure that graz-
21 ing allotments retired from grazing under this Act are ren-
22 dered reasonably secure from trespass grazing by domestic
23 livestock.

24 (c) RELATION TO OTHER VALID EXISTING
25 RIGHTS.—Nothing in this Act affects the allocation, own-

1 ership, interest, or control, in existence on the date of en-
2 actment of this Act, of any water, water right, or any
3 other valid existing right held by the United States, Indian
4 tribe, State, or private individual, partnership or corpora-
5 tion.

6 **SEC. 8. RETIREMENT OF GRAZING ALLOTMENTS FOR**
7 **WHICH NO VALID GRAZING PERMIT OR**
8 **LEASE EXISTS.**

9 The Secretary shall not issue grazing permits or
10 leases for grazing allotments for which no valid permit or
11 lease exists as of the date of the enactment of this Act,
12 and shall permanently retire the grazing allotments from
13 commercial livestock grazing, notwithstanding any other
14 provision of law.

15 **SEC. 9. EFFECT OF NONUSE OR REDUCED USE.**

16 Notwithstanding any other provision of law, a per-
17 mittee or lessee may opt not to graze a grazing allotment
18 or to graze the grazing allotment at less than the min-
19 imum permitted level and still retain the grazing permit
20 or lease for the remainder of its term. Such nonuse shall
21 be considered to be in compliance with the terms of the
22 grazing permit or lease when it becomes due for renewal.

23 **SEC. 10. COUNTY TRANSITION PAYMENTS.**

24 (a) **PAYMENTS REQUIRED.**—For each grazing permit
25 or lease waived under section 4 (other than an ephemeral

1 grazing permit or lease), the Secretary shall pay to the
2 county in which the associated allotment is located \$10
3 per animal unit month based on the average of the highest
4 three years of authorized animal unit months out of the
5 last 10 years authorized to the permittee or lessee or the
6 predecessors of the permittee or lessee. In the case of an
7 ephemeral grazing permit or lease, the Secretary shall pay
8 to the county in which the associated allotment is located
9 \$10 per animal unit month based on the average over the
10 last 10 years of the actual animal unit months of grazing
11 use.

12 (b) PROPORTIONAL ALLOCATION AMONG COUN-
13 TIES.—In cases where an allotment is located in more
14 than one county, the payment under subsection (a) to each
15 county in which the allotment is located shall be propor-
16 tional to the allotment's land area located in that county.

17 **SEC. 11. AUTHORIZATION OF APPROPRIATION.**

18 There is authorized to be appropriated to the Secre-
19 taries \$100,000,000, to remain available until expended,
20 to provide compensation to permittees and lessees under
21 section 5 and to make transition payments to counties
22 under section 10. None of the funds appropriated pursu-
23 ant to this section shall be used by any Federal agency
24 for administrative costs related to the purposes of this Act.

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