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Grazing Fees: Overview and Issues

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Summary

Charging fees for grazing private livestock on federal lands is a long-standing but contentious practice. Generally, livestock producers who use federal lands want to keep fees low, while conservation groups believe fees should be increased. The formula for determining the grazing fee for lands managed by the Bureau of Land Management (BLM) and the Forest Service (FS) uses a base value adjusted annually by the lease rates for grazing on private lands, beef cattle prices, and the cost of livestock production. Currently, the BLM and FS are charging a grazing fee of $2.11 per animal unit month (AUM). For fee purposes, an AUM is defined as a month's use and occupancy of the range by one animal unit. The fee is in effect through February 28, 2017. The collected fees are divided among the Treasury, states, and federal agencies.

Issues for Congress include whether to retain the current grazing fee or alter the charges for grazing on federal lands, for instance, through an Administration proposal for an additional administrative fee of $2.50 per AUM. Also, the current BLM and FS grazing fee is generally lower than fees charged for grazing on state and private lands. Comparing the BLM and FS fee with state and private fees is complicated, due to factors including the purposes for which fees are charged, the quality of the resources on the lands being grazed, and whether the federal grazing fee alone or other non-fee costs are considered.

Unauthorized grazing occurs on BLM and FS lands in a variety of ways, including when cattle graze outside the allowed areas or seasons or in larger numbers than allowed under permit. In some cases livestock owners have intentionally grazed cattle on federal land without getting a permit or paying the required fee. The agencies have responded at times by fining the owners as well as impounding and selling the trespassing cattle. A particularly long-standing controversy involves cattle grazed by Cliven Bundy on certain lands in Nevada. BLM continues to seek to resolve the issue through the judicial process.

There have been efforts to end livestock grazing on certain federal lands through voluntary retirement of permits and leases and subsequent closure of the allotments to grazing. Congress has considered measures to end grazing on particular allotments or in specified states, or allowing a maximum number of permits to be waived yearly. Among other reasons, such measures have been supported to protect range resources but opposed as diminishing ranching operations.

Another set of issues involves expiring grazing permits. Both BLM and FS have a backlog of permits needing evaluation for renewal. To allow for continuity in grazing operations, P.L. 113-291 made permanent the automatic renewal (until the renewal evaluation process is complete) of grazing permits and leases that expire or are transferred. The law provided that the issuance of a grazing permit "may" be categorically excluded from environmental review under the National Environmental Policy Act under certain conditions. Provisions regarding categorical exclusions have been controversial.

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Introduction

Charging fees for grazing private livestock on federal lands is statutorily authorized and has been the policy of the Forest Service (FS, Department of Agriculture) since 1906, and of the Bureau of Land Management (BLM, Department of the Interior) since 1936. Today, fees are charged for grazing on BLM and FS land basically under a fee formula established in the Public Rangelands Improvement Act of 1978 (PRIA) and continued administratively.[1]

BLM manages a total of 248.3 million acres, primarily in the West. Of total BLM land, 154.8 million acres were available for livestock grazing in FY2015.[2] The acreage used for grazing during 2015 was 138.8 million acres.[3] The FS manages a total of 192.9 million acres. Although this land is predominantly in the West, the FS manages more than half of all federal lands in the East.[4] Of total FS land, more than 95 million acres were available for grazing in FY2015, with 77.3 million used for livestock grazing.[5] For both agencies, the acreage available for livestock grazing reflects lands within grazing allotments. However, the acreage in those allotments that is capable of forage production is substantially less, according to the FS, because some lands lack forage (e.g., are forested or contain rockfalls). In addition, for both agencies, acreage used for grazing is less than the acreage available due to voluntary nonuse for economic reasons, resource protection needs, and forage depletion caused by drought or fire, among other reasons. Because BLM and FS are multiple-use agencies, lands available for livestock grazing generally are also available for other purposes.

On BLM rangelands, in FY2015, there were 15,910 operators authorized to graze livestock, and they held 17,799 grazing permits and leases.[6] Under these permits and leases, a maximum of 12,365,877 animal unit months (AUMs) of grazing could have been authorized for use. Instead, 8,626,462 AUMs were used.[7] BLM defines an AUM, for fee purposes, as a month's use and

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[1] P.L. 95-514, 92 Stat. 1803; 43 U.S.C. §§1901, 1905. Executive Order 12548, 51 *Fed. Reg.* 5985 (February 19, 1986). These authorities govern grazing on the Bureau of Land Management (BLM) and the Forest Service (FS) lands in 16 contiguous western states, which are the focus of this report. These states are Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Utah, Washington, and Wyoming. Forest Service grasslands and "nonwestern" states have different fees. In addition, grazing occurs on other federal lands, not required to be governed by the Public Rangelands Improvement Act of 1978 (PRIA) fees, including areas managed by the National Park Service, Fish and Wildlife Service, Department of Defense, and Department of Energy.

[2] This figure was provided by BLM on September 8, 2016. It reflects the BLM acreage within grazing allotments during FY2015.

[3] This figure was provided by the BLM on September 9, 2016. It is an estimate of the acreage within BLM allotments for which BLM billed grazing permit and lease holders. It reflects the period covering March 1, 2015, to February 29, 2016.

4 *East* is used here to refer to all states except the following 12 states: Alaska, Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. For more information on federal land ownership by state, see CRS Report R42346, *Federal Land Ownership: Overview and Data*, by Carol Hardy Vincent, Laura A. Hanson, and Jerome P. Bjelopera.

[5] These figures were provided by the FS on September 13, 2016. The acreage used for livestock grazing (77.3 million) reflects the FS acreage in active allotments. Additional acres under other ownerships also were in active allotments. Active means that livestock use was permitted during the year.

[6] BLM uses both permits and leases to authorize grazing. Permits are used for lands within grazing districts (under Section 3 of the Taylor Grazing Act, 43 U.S.C. §315b). Leases are used for lands outside grazing districts (under Section 15 of the Taylor Grazing Act, 43 U.S.C. §315m).

[7] Statistics in this paragraph were taken from U.S. Department of the Interior (DOI), BLM, *Public Land Statistics, 2015*, Table 3-8c and Table 3-9c, at http://www.blm.gov/public_land_statistics/index.htm. The numbers of operators and animal unit months (AUMs) used are reported as of September 30, 2015, and the number of permits and leases and

occupancy of the range by one animal unit, which includes one yearling, one cow and her calf, one horse, or five sheep or goats.

On FS rangelands, in FY2015, there were 6,006 permit holders permitted (allowed) to graze commercial livestock, with a total of 5,848 active permits. A maximum of 8,478,832 head-months (HD-MOs) of grazing were under permit; 6,937,876 HD-MOs were authorized to graze.[8] The FS uses HD-MO as its unit of measurement for use and occupancy of FS lands, similar to AUM. Hereinafter *AUM* is used to cover both HD-MO and AUM.

The BLM and FS are charging a grazing fee of $2.11 per AUM through February 28, 2017. BLM and the FS typically spend more managing their grazing programs than they collect in grazing fees. For example, $79.0 million was appropriated to BLM for rangeland management in FY2015. Of that amount, $36.2 million was used for administration of livestock grazing, according to the agency. The remainder was used for other range activities, including weed management, habitat improvement, and water development.[9] For the same fiscal year, BLM collected $14.5 million in grazing fees. The FY2015 appropriation for the FS for grazing management was $55.4 million. The funds are used primarily for grazing permit administration and planning.[10] The FS collected $6.5 million in grazing fees during FY2015.[11]

Grazing fees have been contentious since their introduction. Generally, livestock producers who use federal lands want to keep fees low. They assert that federal fees are not comparable to fees for leasing private rangelands because public lands often are less productive; must be shared with other public users; and often lack water, fencing, or other amenities, thereby increasing operating costs. They fear that fee increases may force many small and medium-sized ranchers out of business. Conservation groups generally assert that low fees contribute to overgrazing and deteriorated range conditions. Critics assert that low fees subsidize ranchers and contribute to budget shortfalls because federal fees are lower than private grazing land lease rates and do not cover the costs of range management. They further contend that, because some of the collected fees are used for range improvements, higher fees could enhance the productive potential and environmental quality of federal rangelands.

maximum AUMs are reported as of January 8, 2016.

[8] Statistics were taken from U.S. Department of Agriculture, Forest Service, Range Management, *Grazing Statistical Summary, FY2015*, p. 4, at http://www.fs.fed.us/rangeland-management/reports/index.shtml.

[9] The amount used for livestock grazing administration versus other rangeland management activities was taken from the BLM website at http://www.blm.gov/wo/st/en/prog/grazing.html.

[10] Other FS appropriations also support livestock grazing but are not separately identifiable. For instance, appropriations for vegetation and watershed management, within the National Forest System account, have been used for range improvements, restoration, and invasive species management. A total of $184.7 million was appropriated for vegetation and watershed management in FY2015, but the portion for activities that benefitted livestock grazing is not identifiable. This information was provided by the FS on September 13, 2016.

[11] Estimates of the cost of grazing and receipts from grazing vary widely. For instance, the Government Accountability Office (GAO) determined that in FY2004, BLM and FS spent about $132.5 million on grazing management, including expenditures for direct and indirect costs. The agencies collected $17.5 million. See GAO-05-869, pp. 21-22 and pp. 30-31 at http://www.gao.gov/products/GAO-05-869. As another example, a 2002 study by the Center for Biological Diversity contained much higher estimates of the cost of livestock grazing on federal lands. It estimated the federal cost of an array of BLM, FS, and other agency programs that benefit grazing or compensate for impacts of grazing at roughly $500 million annually. Together with the nonfederal cost, the study asserted that the total cost of livestock grazing could be as high as $1 billion annually. See *Assessing the Full Cost of the Federal Grazing Program*, the Center for Biological Diversity, October 2002.

Current Grazing Fee Formula and Distribution of Receipts

The Fee Formula

The fee charged by the FS and BLM is based on the grazing on federal rangelands of a specified number of animals for one month. PRIA establishes a policy of charging a grazing fee that is "equitable" and prevents economic disruption and harm to the western livestock industry. The law requires the Secretaries of Agriculture and the Interior to set a fee annually that is the estimated economic value of grazing to the livestock owner. The fee is to represent the fair market value of grazing, beginning with a 1966 base value of $1.23 per AUM. This value is adjusted for three factors based on costs in western states of (1) the rental charge for pasturing cattle on private rangelands, (2) the sales price of beef cattle, and (3) the cost of livestock production. Congress also established that the annual fee adjustment could not exceed 25% of the previous year's fee.[12]

PRIA required a seven-year trial (1979-1985) of the formula while the FS and BLM undertook a study to help Congress determine a permanent fee or fee formula. President Reagan issued Executive Order 12548 (February 14, 1986) to continue indefinitely the PRIA fee formula, and established the minimum fee of $1.35 per AUM.[13]

The 2016 grazing fee of $2.11 represents a 25% increase over the 2015 fee, the maximum annual increase allowed under law. The unadjusted fee for 2016, based on the application of the fee formula, was $3.46 per AUM, according to the National Agricultural Statistics Service.[14] The 2016 fee exceeded $2 for the second time since 1981, when the FS and BLM began charging the same fee. Fees from 1981 through 2016 are shown in **Table 1**. The fee has ranged from $1.35, for half of the years during the 36-year period, to $2.31, for 1981. The fee averaged $1.55 per AUM over the period.

Table 1. Grazing Fees from 1981 to 2016

(dollars per AUM)

1981	$2.31	1990	$1.81	1999	$1.35	2008	$1.35
1982	$1.86	1991	$1.97	2000	$1.35	2009	$1.35
1983	$1.40	1992	$1.92	2001	$1.35	2010	$1.35
1984	$1.37	1993	$1.86	2002	$1.43	2011	$1.35
1985	$1.35	1994	$1.98	2003	$1.35	2012	$1.35
1986	$1.35	1995	$1.61	2004	$1.43	2013	$1.35
1987	$1.35	1996	$1.35	2005	$1.79	2014	$1.35
1988	$1.54	1997	$1.35	2006	$1.56	2015	$1.69
1989	$1.86	1998	$1.35	2007	$1.35	2016	$2.11

[12] 43 U.S.C. §1905.

[13] The executive order is available at https://www.reaganlibrary.archives.gov/archives/speeches/1986/21486b.htm.

[14] This information was provided by the National Agricultural Statistics Service on February 8, 2016. The agency calculates the grazing fee under the formula, but the fee is determined by the Secretary of the Interior (through the BLM) and the Secretary of Agriculture (through the FS).

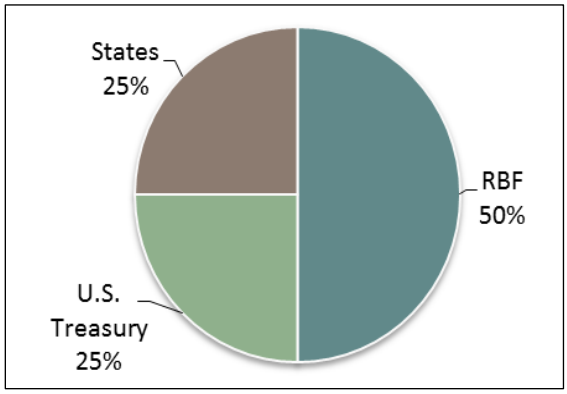
Distribution of Receipts

Fifty percent of grazing fees collected by each agency, or $10.0 million—whichever is greater—go to a range betterment fund in the Treasury. The BLM and FS grazing receipts are deposited separately.[15] Monies in the fund are subject to appropriations. The BLM typically has requested and received an annual appropriation of $10.0 million for the fund. However, for FY2016, the appropriation was $9.3 million, due to a sequester of funds.[16] In recent years, the FS has been requesting and receiving an appropriation that is less than the $10.0 million minimum authorized in law. For instance, for each of FY2015 and FY2016, the agency requested and received an appropriation of $2.3 million, roughly half the fees collected.

The fund is used for range rehabilitation, protection, and improvement, including grass seeding and reseeding, fence construction, weed control, water development, and fish and wildlife habitat. Under law, one-half of the fund is to be used as directed by the Secretary of the Interior or of Agriculture, and the other half is authorized to be spent in the district, region, or forest that generated the fees, as the Secretary determines after consultation with user representatives.[17] Agency regulations contain additional detail. For example, BLM regulations provide that half of the fund is to be allocated by the Secretary on a priority basis, and the rest is to be spent in the state and district where derived. Forest Service regulations provide that half of the monies are to be used in the national forest where derived, and the rest in the FS region where the forest is located. In general, the FS returns all range betterment funds to the forest that generated them.

The agencies allocate the remaining 50% of the collections differently. For the FS, 25% of the funds are deposited in the Treasury and 25% are given to the states (16 U.S.C. §500; see **Figure 1**).[18] For the BLM, states receive 12.5% of monies collected from lands defined in Section 3 of the Taylor Grazing Act and 37.5% is deposited in the Treasury.[19] Section 3 lands are those within grazing districts for which the BLM issues grazing permits. (See **Figure 2**.) By contrast, states receive 50% of fees collected from BLM lands defined in Section 15 of the Taylor Grazing Act. Section 15 lands are those outside grazing districts for which the BLM leases grazing allotments. (See **Figure 3**.) For both agencies, any state share is to be used to benefit the counties that generated the receipts.

Figure 1. Distribution of Forest Service Grazing Fees



Source: CRS.

Note: RBF = Range Betterment Fund.

[15] 43 U.S.C. §1751(b)(1).

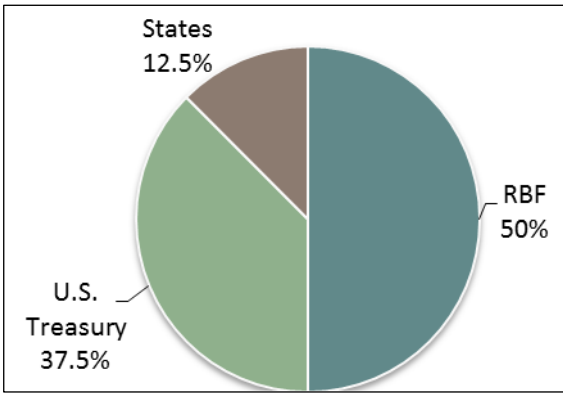
[16] The FY2016 appropriation of $10.0 million was sequestered by 6.8%, for a total of $9.3 million. See DOI, BLM, *Budget Justifications and Performance Information, Fiscal Year 2017*, p. VIII-5, at https://www.doi.gov/budget. The FY2015 appropriation of $10.0 million also was sequestered, resulting in an appropriation of $9.3 million.

[17] 43 U.S.C. §1751(b)(1). For the FS, see 36 C.F.R. §222.10. For the BLM, see 43 C.F.R. §4120.3-8.

[18] Under 16 U.S.C. §501, 10% of these monies are allocated to the National Forest Roads and Trails Fund. However, these funds sometimes have stayed in the Treasury, as directed by annual Interior appropriations laws.

[19] Taylor Grazing Act of June 28, 1934; ch. 865, 48 Stat. 1269. 43 U.S.C. §§315, 315i.

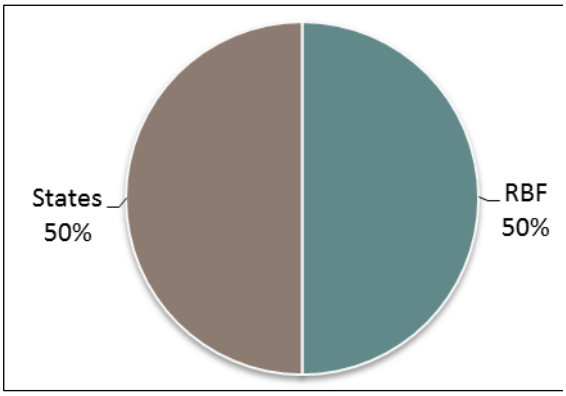
Figure 2. Distribution of BLM Grazing Fees: Section 3



Source: CRS.

Note: RBF = Range Betterment Fund.

Figure 3. Distribution of BLM Grazing Fees: Section 15



Source: CRS.

Note: RBF = Range Betterment Fund.

History of Fee Evaluation and Reform Attempts

PRIA directed the Interior and Agriculture Secretaries to report to Congress, by December 31, 1985, on the results of their evaluation of the fee formula and other grazing fee options and their recommendations for implementing a permanent grazing fee. The Secretaries' report included (1) a discussion of livestock production in the western United States; (2) an estimate of each agency's cost for implementing its grazing programs; (3) estimates of the market value for public rangeland grazing; (4) potential modifications to the PRIA formula; (5) alternative fee systems; and (6) economic effects of the fee system options on permittees.[20] A 1992 revision of the report updated the appraised fair market value of grazing on federal rangelands, determined the costs of range management programs, and recalculated the PRIA base value through the application of economic indices. The study results, criticized by some as using faulty evaluation methods, were not adopted and the report has not been updated since.

President Clinton proposed, and Congress considered, grazing fee reform in the 1990s, but no reforms were adopted. In 1993, the Clinton Administration proposed an administrative increase in the fee, and revisions of other grazing policies. The proposed fee formula started with a base value of $3.96 per AUM, and was to be adjusted to reflect annual changes in private land lease rates in the West (called the Forage Value Index). The current PRIA formula is adjusted using multiple indices, a practice that some criticize as double-counting ability-to-pay factors. Congressional objections forestalled an administrative increase, and new rules for BLM rangeland management that took effect on August 21, 1995, did not increase fees.

No general grazing fee bills have passed either chamber for several Congresses. In the 104th Congress, the Senate passed a bill to establish a new grazing fee formula and alter rangeland regulations. The formula was to be derived from the three-year average of the total gross value of production for beef and no longer indexed to operating costs and private land lease rates, as under PRIA. By one estimate, the measure would have resulted in an increase of about $0.50 per AUM.

[20] U.S. Department of Agriculture, Forest Service, and U.S. Department of the Interior, Bureau of Land Management, *Grazing Fee Review and Evaluation*, A Report from the Secretary of Agriculture and the Secretary of the Interior (Washington, DC: February 1986).

In the 105th Congress, the House passed a bill with a fee formula based on a 12-year average of beef cattle production costs and revenues. The formula would have resulted in a 1997 fee of about $1.84 per AUM.

Current Issues

Fee Level

There is ongoing debate about the appropriate grazing fee, with several key areas of contention. First, there are differences over which criteria should prevail in setting fees: fair market value; cost recovery (whereby the monies collected would cover the government's cost of running the program); sustaining ranching, or resource-based rural economies generally; or diversification of local economies. Second, there is disagreement over the validity of fair market value estimates for federal grazing because federal and private lands for leasing are not always directly comparable. Third, whether to have a uniform fee, or varied fees based on biological and economic conditions, is an area of debate. Fourth, there are diverse views on the environmental costs and benefits of grazing on federal lands and on the environmental impact of changes in grazing levels. Fifth, it is uncertain whether fee increases would reduce the number of cattle grazing on sensitive lands, such as riparian areas.[21] Sixth, some environmentalists assert that the fee is not the main issue, but that all livestock grazing should be barred to protect federal lands.

In the FY2017 budget, the Obama Administration proposed a grazing administration fee of $2.50 per AUM, which would be in addition to the current fee of $2.11 per AUM. The monies would be used for administering grazing, to shift a portion of the costs to permit holders. Use of the fees would be subject to appropriations. BLM estimated that the fee would generate $16.5 million in FY2017, and the FS estimated revenues of $15.0 million in FY2017.[22] The proposal has been opposed by livestock organizations, among others, as an unnecessary and burdensome cost for the livestock industry. The Administration had included similar proposals in earlier budget requests; these proposals were not enacted.

In 2005, several groups petitioned the BLM and FS to raise the grazing fees, asserting that the fees did not reflect the fair market value of federal forage. When the agencies did not respond to the petition, the groups sued.[23] In addition to asserting that the BLM and FS unreasonably delayed response to their petition, the petitioners argued that the agencies were required to conduct a study under the National Environmental Policy Act (NEPA) to determine the environmental impacts of the current grazing fee rate. In January 2011, BLM and FS responded to the petition, denying the request for a fee increase, and the lawsuit was settled.[24]

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[21] As described in a BLM glossary, riparian areas are "Lands adjacent to creeks, streams, and rivers where vegetation is strongly influenced by the presence of water.... Riparian areas constitute less than 1 percent of the land area in the western part of the United States, but they are among the most productive and valuable of all lands." See DOI, BLM, *Public Land Statistics, 2015*, p. 256, at http://www.blm.gov/public_land_statistics/index.htm.

[22] DOI, BLM, *Budget Justifications and Performance Information, Fiscal Year 2017*, p. II-6 and VII-35 – VII–36, at https://www.doi.gov/budget. U.S. Department of Agriculture (USDA), Forest Service (FS), *Fiscal Year 2017 Budget Justification*, pp. 39-40, at http://www.fs.fed.us/about-agency/budget-performance.

[23] Center for Biological Diversity v. U.S. Department of the Interior, No. 10-CV-952 (D.D.C. *Complaint filed* June 7, 2010).

[24] Center for Biological Diversity v. U.S. Department of the Interior, No. 10-CV-952 (D.D.C. *Order filed* February 23, 2011).

State and Private Grazing Fees

The BLM and FS grazing fee has generally been lower than fees charged for grazing on other federal lands as well as on state and private lands. A 2005 Government Accountability Office (GAO) study found that other federal agencies[25] charged $0.29 to $112.50 per AUM in 2004, when the BLM and FS fee was $1.43 per AUM. While the BLM and FS use a formula to set the grazing fee, most agencies charge a fee based on competitive methods or a market price for forage. Some seek to recover the costs of their grazing programs. GAO also reported that in 2004, state fees ranged from $1.35 to $80 per AUM and private fees ranged from $8 to $23 per AUM.[26]

In 2010, when the BLM and FS fee was $1.35 per AUM, state grazing fees continued to show wide variation. They ranged from $2.28 per AUM for Arizona to $65-$150 per AUM for Texas. Moreover, some states did not base fees on AUMs, but rather had fees that were variable, were set by auction, were based on acreage of grazing, or were tied to the rate for grazing on private lands.[27] The average monthly lease rate for grazing on private lands in 16 western states in 2015 was $22.60 per head. Fees ranged from $12.00 in Oklahoma to $36.00 in Nebraska.[28] For comparison, in 2015, the BLM and FS grazing fee was $1.69 per AUM.

Comparing the BLM and FS grazing fee with state and private fees is complicated due to a number of factors. One factor is the varying purposes for which the fees are charged. Many states and private landowners seek market value for grazing. As noted above, PRIA established the BLM and FS fee in accordance with multiple purposes. They included preventing economic disruption and harm to the western livestock industry as well as being "equitable" and representing the fair market value of grazing. While the base fee originally reflected what was considered to be fair market value, the adjustments included in the formula have not resulted in fees comparable to state and private fees. According to GAO, "it is generally recognized that while the federal government does not receive a market price for its permits and leases, ranchers

[25] Other federal agencies covered by the GAO study included the Department of Energy, agencies (in addition to BLM) within the Department of the Interior, and agencies within the Department of Defense.

[26] GAO, Livestock Grazing: Federal Expenditures and Receipts Vary, Depending on the Agency and the Purpose of the Fee Charged, GAO-05-869 (Washington, DC: September 2005), pp. 37-40, at http://www.gao.gov/products/GAO-05-869.

[27] These figures and information are derived from an April 2011 study by the Montana Department of Natural Resources and Conservation. The report is at https://web.archive.org/web/20150301051054/https:/dnrc.mt.gov/Trust/AGM/GrazingRateStudy/Documents/GrazingReviewByBioeconomics.pdfhttp://dnrc.mt.gov/Trust/AGM/GrazingRateStudy/Documents/GrazingReviewByBioeconomics.pdf. In particular, Table 1 (p. 9) compares fees on state lands in 17 Western states.

It appears that more recent comparisons of grazing fees on state lands of all western states have not been undertaken or published. However, some studies in the past few years have addressed grazing fees in one or more selected states. See, for instance, Property and Environment Research Center, *Divided Lands: State vs. Federal Management in the West*, by Holly Fretwell and Shawn Regan (Bozeman, MT: February 2015), comparing grazing fees in 2013 for Arizona, Idaho, Montana, and New Mexico, pp. 14-16. Also, some state websites identify fees for livestock grazing on lands in the state. For example, see Colorado at https://www.colorado.gov/pacific/statelandboard/agriculture-3, New Mexico at http://www.nmstatelands.org/uploads/PressRelease/7c63bfca932547d89f9afbbc8739d0aa/Grazing_fees_2016_1.pdf, South Dakota at http://www.sdpubliclands.com/surface/auction.shtm, and Idaho at https://www.idl.idaho.gov/leasing/grazing/rate/index.html. The Idaho site also contains links to documents on grazing fees for other states, including Montana, Utah, and Washington.

[28] Statistics on grazing fees on private lands were taken from U.S. Department of Agriculture, National Agricultural Statistics Service, Charts and Maps, Grazing Fees: Per Head Fee, 17 States, January 2016, at https://www.nass.usda.gov/Charts_and_Maps/Grazing_Fees/gf_hm.php. Including Texas, the 17 state average fee was $20.10 in 2015. For many years, the National Agricultural Statistics Service has published fees for grazing on private lands.

have paid a market price for their federal permits or leases—by paying (1) grazing fees; (2) nonfee grazing costs, including the costs of operating on federal lands, such as protecting threatened and endangered species (i.e., limiting grazing area or time); and (3) the capitalized permit value."[29] Regarding the latter, the capitalized value of grazing permits typically is reflected in higher purchase prices that federal permit holders pay for their ranches.

A second factor is the quality of resources on the lands being grazed and the number and types of services provided by the landowners. For example, in its 2005 study, GAO noted advantages of grazing on private lands over federal lands. They included generally better forage and sources of water; services provided by private landowners, such as watering, fencing, feeding, veterinary care, and maintenance; the ability of lessees to sublease thus generating revenue; and limited public access. With regard to state lands, the study indicated that states also typically limit public access to their lands, while the quality of forage and the availability of water are more comparable to federal lands.[30]

A third factor is whether the federal grazing fee alone or other non-fee costs of operating on federal lands are considered in comparing federal and non-federal costs. Some research suggests that ranchers might spend more to graze on federal lands than private lands when both fee and non-fee costs are considered. Non-fee costs relate to maintenance, herding, moving livestock, and lost animals, among other factors. [31]

Grazing Without Paying Fees

Unauthorized grazing occurs on BLM and FS lands in a variety of ways, including when cattle graze outside the allowed areas or seasons or in larger numbers than allowed under permit. According to GAO, the frequency and extent of unauthorized grazing is not known, because many cases are handled informally by agency staff. However, during the five-year period spanning 2010 to 2014, BLM and the FS documented nearly 1,500 instances of unauthorized grazing, some of which involved the livestock owners having to pay penalties and, less frequently, livestock impoundment.[32]

In many cases the unauthorized grazing is unintentional, but in other cases livestock owners have intentionally grazed cattle on federal land without getting a permit or paying the required fee. The livestock owners have claimed that they do not need to have permits or pay grazing fees for various reasons, such as that the land is owned by the public; that the land belongs to a tribe under a treaty; or that other rights, such as state water rights, extend to the accompanying forage.

A particularly long-standing controversy involves cattle grazed by Cliven Bundy in Nevada.[33] After about two decades of pursuing administrative and judicial resolutions, in April 2014, the

[29] GAO, Livestock Grazing: Federal Expenditures and Receipts Vary, Depending on the Agency and the Purpose of the Fee Charged, GAO-05-869 (Washington, DC: September 2005), pp. 49-50, at http://www.gao.gov/products/GAO-05-869.

[30] GAO, Livestock Grazing: Federal Expenditures and Receipts Vary, Depending on the Agency and the Purpose of the Fee Charged, GAO-05-869 (Washington, DC: September 2005), p. 49, at http://www.gao.gov/products/GAO-05-869.

[31] Neil Rimbey and L. Allen Torrell, *Grazing Costs: What's the Current Situation?*, University of Idaho, March 22, 2011.

[32] GAO, *Unauthorized Grazing: Actions Needed to Improve Tracking and Deterrence Efforts*, GAO-16-559 (Washington, DC: July 2016), pp. 12-13, at http://www.gao.gov/products/GAO-16-559.

[33] Except where otherwise noted, information in this paragraph was derived from the BLM website at http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/more/trespass_cattle.html and additional information provided by BLM to CRS on April 24, 2014.

BLM and the National Park Service began impounding Mr. Bundy's cattle on the grounds that he did not have authority to graze on certain federal lands and had not been paying grazing fees for more than 20 years. BLM estimated at that time that Mr. Bundy owed more than $1 million to the federal government (including grazing fees and trespassing fees) as a result of unauthorized grazing. However, the agencies ceased the impoundment of the cattle due to fears of confrontation between private citizens opposed to the roundup and federal law enforcement officials present during the impoundment. Mr. Bundy had not been paying grazing fees to the federal government primarily on the assertion that the lands do not belong to the United States but rather to the state of Nevada, and that his ancestors used the land before the federal government claimed ownership.[34] However, courts have determined that the United States owns the lands, enjoined Mr. Bundy from grazing livestock in these areas, and authorized the United States to impound cattle remaining in the trespass areas.[35] BLM continues to seek to resolve the issue through the judicial process.

BLM estimates that over the past two decades, the agency has impounded cattle about 50 times. The operation to remove Mr. Bundy's cattle from federal lands in Nevada was the biggest removal effort, in terms of the number of cattle and the area involved, according to BLM.[36] It was also one of the most controversial, in part because of the number and role of law enforcement officials and the temporary closures of land to conduct the impoundment.[37]

Voluntary Permit Retirement

There have been efforts to end livestock grazing on certain federal lands through voluntary retirement of permits and leases and subsequent closure of the allotments to grazing. This practice is supported by those who view grazing as damaging to the environment, more costly than beneficial, and difficult to reconcile with other land uses. This practice is opposed by those who support ranching on the affected lands, fear a widespread effort to eliminate ranching as a way of life, or question the legality of the process. In some cases, supporters seek to have ranchers relinquish their permits to the government in exchange for compensation by third parties, particularly environmental groups. The third parties seek to acquire the permits through transfer, and advocate agency amendments to land use plans to permanently devote the grazing lands to other purposes, such as watershed conservation.[38]

Legislation to authorize an end to grazing on particular allotments through voluntary donations of the permits by the permit holders has been introduced in recent Congresses. These measures generally provide for the Secretary of the Interior and/or the Secretary of Agriculture to accept the donation of a permit, terminate the permit, and end grazing on the associated land (or reduce

[34] See for example, CBS/AP, CBS News, "Nevada Rancher Cliven Bundy: 'The Citizens of America' Got My Cattle Back," April 13, 2014, at http://www.cbsnews.com/news/nevada-rancher-cliven-bundy-the-citizens-of-america-got-my-cattle-back/, and Jamie Fuller, "Everything You Need to Know About the Long Fight Between Cliven Bundy and the Federal Government," *Washington Post*, April 15, 2014, at http://www.washingtonpost.com/blogs/the-fix/wp/2014/04/15/everything-you-need-to-know-about-the-long-fight-between-cliven-bundy-and-the-federal-government/.

[35] For example, see July 9, 2013, and October 9, 2013, court orders on the BLM website at http://www.blm.gov/nv/st/en/fo/lvfo/blm_programs/more/trespass_cattle/public_notices_and.html.

[36] Telephone communication between BLM and the Congressional Research Service, April 23, 2014.

[37] Jon Ralston, "Former BLM Director: Bundy is Not a Victim but BLM Mishandled Roundup," *Ralston Reports*, April 14, 2014, at http://www.ralstonreports.com/blog/former-blm-director-bundy-not-victim-blm-mishandled-roundup.

[38] The third parties would not pay grazing fees under their permits if they opt not to graze during the amendment process, because fees are paid for actual grazing,

grazing where the donation involves a portion of the authorized grazing). Provisions authorizing such voluntary permit donations in specific areas have sometimes been enacted.[39]

Other bills have sought to establish pilot programs for livestock operators to voluntarily relinquish permits and leases in particular states. Still other measures have proposed allowing the Secretary of the Interior and the Secretary of Agriculture to accept a certain number of waived permits, such as a maximum of 100 each year. Under both types of measures, when the Secretaries accept waived permits, they are to permanently retire such permits and leases and end grazing on the affected allotments (or reduce grazing where the relinquishment involves a portion of the authorized grazing).

In earlier Congresses, legislation was introduced to *buy out* grazing permittees (or lessees) on federal lands generally or on particular allotments.[40] Such legislation provided that permittees who voluntarily relinquished their permits would be compensated at a certain dollar value per AUM, generally significantly higher than the market rate. The allotments would have been permanently closed to grazing. Such legislation, which had been backed by the National Public Lands Grazing Campaign, was advocated to enhance resource protection, resolve conflicts between grazing and other land uses, provide economic options to permittees, and save money. According to proponents, while a buyout program would be costly if all permits were relinquished, it would save more than the cost over time. Opponents of buyout legislation include those who support grazing, others who fear the creation of a compensable property right in grazing permits, some who contend that it would be too costly, or still others who support different types of grazing reform.

Extension of Expiring Permits

The extension, renewal, transfer, and reissuance of grazing permits have been issues for Congress. Both BLM and FS have a backlog of permits needing evaluation for renewal. For instance, the BLM backlog has been increasing for more than a decade, with a backlog of nearly 6,000 permit renewals as of September 30, 2015.[41] To allow for continuity in grazing operations, Congress had enacted a series of temporary provisions of law allowing the terms and conditions of grazing permits to continue in effect until the agencies complete processing of a renewal. The most recent provision, P.L. 113-291 (Section 3023), made permanent the automatic renewal (until the renewal evaluation process is complete) of grazing permits and leases that expire or are transferred.

Agency decisions regarding permit issuance are subject to environmental review under the National Environmental Policy Act (NEPA). That environmental review would include the identification of any additional state, tribal, or federal environmental compliance requirements, such as the Endangered Species Act (ESA), that would apply to a permitted grazing operation. P.L. 113-291 provided that the issuance of a grazing permit "may" be categorically excluded from this NEPA requirement under certain conditions.[42] Provisions regarding categorical exclusions have been controversial. Supporters assert that they will expedite the renewal process, foster certainty of grazing operations, and reduce agency workload and expenses. Opponents have

[39] See, for example, P.L. 114-46, Section 102(e), for certain wilderness areas in Idaho and P.L. 112-74, Section 122, for the California Desert Conservation Area.

[40] For example, see H.R. 3166 in the 109th Congress.

[41] DOI, BLM, *Budget Justifications and Performance Information, Fiscal Year 2017*, pp. VI0049-38 - VII-39, at https://www.doi.gov/budget. Charts in the document show grazing permits processed by BLM since FY1999.

[42] For information about the various levels of environmental review required under NEPA, see CRS Report RL33152, *The National Environmental Policy Act (NEPA): Background and Implementation*, by Linda Luther.

expressed concern that categorical exclusions could result in insufficient environmental review and public comment to determine range conditions.

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