

ARIZONA GRAZING PERMIT BUYOUT CAMPAIGN

PO Box 710, Tucson AZ 85702.

8/19/2002

I have put together the minutes for Saturday's meeting about the buyout. I have also drafted a letter to other permittees as suggested. When we have agreed on the minutes and the language of the letter I will send it out to every federal permittee in Arizona.

Lets try to get some meetings set up with legislative staff people in key congressional offices, like Kolbe, Flake, Hayworth and Kyl. If you have any contacts at all with any of these folks, please try to set up a meeting and let us all know about it so we can come along too.

Please read the enclosed and call or email me back ASAP with your changes. I would like to get this letter out to permittees in one week's time, so they get it in time for the September meeting of the working group.

While we are at it- where do you all prefer to have the meetings? Phoenix is central, but we could equally well meet in Globe. That might turn out to be more convenient for many of you- although we have to keep in mind the convenience for all Arizona permittees. Do you have any suggestions of a place to meet in Globe or elsewhere? Call me if you do- we have to settle this in the next week.

Sincerely,

Martin Taylor

ARIZONA GRAZING PERMIT BUYOUT CAMPAIGN

PO Box 710, Tucson AZ 85702.

Dear [Arizona grazing permittee],

We are Arizona ranchers and conservationists who recently got together and came to an agreement to promote federal legislation that would give permittees the option of waiving their grazing permits in exchange for monetary compensation by the federal treasury.

On Saturday August 17, at a meeting in Phoenix we arrived at a first draft of what this legislation would look like that was agreeable both to ranchers and to conservation groups. Shown below are the minutes of this meeting and the draft language of the proposed bill that we have agreed on so far.

We would like to encourage you to join us in the effort to get federal legislation like this passed. There is a lot of effort needed to convince our representatives in Congress that the buyout has wide support, not just by Arizona ranchers but by conservation and environmental groups as well.

As you know, Federal law does not recognize grazing permits have any value, and permits are subject to agency discretion to renew or cancel. However, permits do have a market value recognized by banks, lending agencies and taxation offices. This proposal would allow permittees to waive their permit back to the federal government in exchange for compensation from the treasury. This would result in the allotment(s) attached to the permit being permanently closed to livestock use.

This would satisfy both conservation groups that want to see grazing allotments be returned to exclusive wildlife use and permittees who find they no longer wish to continue using the permit for whatever reason. This would give the permittees an option for their business operations that never existed before. Suggestions that the offer only go to ranchers with significant environmental conflicts on their grazing permits were rejected by the group, who decided that because the program would be voluntary, it could be left to permittees to make the call on this issue and decide for themselves if this was a reason to take up the buyout offer.

Ultimately, the level of compensation proposed would be determined by Congress. However the proposed level of \$175 per animal unit month of permitted use was chosen as a fair level of compensation to help permittees who give up their permits adjust to a highly significant change in their business and lifestyle.

For example a permit with 250 head on federal land for four months of the year would attract compensation of $250 \times 4 \times \$175 = \$175,000$.

This compensation rate is above the known *average* market value of an AUM, but market values vary a lot from ranch to ranch. So the compensation rate was chosen to be high enough to cover those cases where actual market value of a particular permit is well over average. The flat rate would also eliminate any need for elaborate and expensive case-by-case appraisals which would divert money away from compensation to government bureaucracy and appraisers.

The \$175/AUM flat rate would also cover all previous investments by permittees either in labor or money in building and maintaining roads, stock tanks, fencing, wells, corrals and any other developments on the allotment. The fate of such developments would revert to the responsibility of

the federal agency in control of the land. After the close of the deal, the agency would also have full responsibility for enduring no livestock trespass on the former allotment.

Please call any of us anytime at the numbers below to discuss the proposal, and please join us at the next meeting at 10am on Saturday September 14, at _____ to help advance this legislation through Congress.

Sincerely,

Martin Taylor, National Public Lands Grazing Campaign coordinator for AZ & CA, Tucson.
Voicemail/pager 520 540 0213 work 520 623 5252 ext 307
Bill Tuttle, BLM permittee, Owlhead Ranch, Tucson. Ph. 520 603-6530
Eddie Conway, Tonto N.F. permittee, Tonto Basin. Ph. 928 474 2344
Ed Childers, consultant representing Johnson Cattle Co, Mesa. Ph. 480-834-1042
John Whitney IV, Tonto N.F. permittee, Circle Bar Ranch, Tempe. Ph. 602 791 9310
John Whitney III, Tonto N.F. permittee, Circle Bar Ranch, Fountain Hills. Ph. 602 320 4272
Kenneth and Carol Clark, Tonto N.F. permittees, Young. Ph. 928 462 3202
Ty and Dwight Cooper, Tonto N.F. permittees, Roosevelt. Ph. 928 467 2354
Trudy Bassett, Tonto N.F. permittee, 2 Bar ranch, Payson. Ph. 928 468 1314
Keith Siebert, Tonto N.F. permittee, 4H ranch, Pine. Ph. 928 476 4906
Gil Mueller, Tonto N.F. permittee, Globe. Ph. 520 825 7847 (winter only)
Jeff Burgess, conservationist, Phoenix. Ph. 602-417-4486

WORKING GROUP FOR THE GRAZING PERMIT BUYOUT CAMPAIGN
Minutes of meeting 8/17/02 at the Phoenix Zoo

1. INTRODUCTIONS:

Present were:

Martin Taylor, National Public Lands Grazing Campaign coordinator for AZ & CA, Tucson.
Bill Tuttle, BLM permittee, Owlhead Ranch, Tucson.
Eddie Conway, Tonto N.F. permittee, Tonto Basin.
Ed Childers, consultant representing Johnson Cattle Co, Mesa.
John Whitney IV, Tonto N.F. permittee, Circle Bar Ranch, Tempe.
John Whitney III, Tonto N.F. permittee, Circle Bar Ranch, Fountain Hills.
Kenneth and Carol Clark, Tonto N.F. permittees, Young.
Ty and Dwight Cooper, Tonto N.F. permittees, Roosevelt.
Trudy Bassett, Tonto N.F. permittee, 2 Bar ranch, Payson.
Keith Siebert, Tonto N.F. permittee, 4H ranch, Pine.
Gil Mueller, Tonto N.F. permittee, Globe.
Jeff Burgess, Phoenix.

2. ADDITIONS TO AGENDA: none.

3. INTRODUCTORY REMARKS. Taylor related the history of the effort for a legislated buyout of permits, and some of the existing legislation that allows buyouts in some cases. There was some discussion about general issues, but overall agreement between the permittees and conservation representatives that the buyout was a desirable opportunity.

4. AGREEMENT ON LEGISLATION

The groups went point by point through the proposed draft legislative language to arrive at an agreed first draft and to identify issues that still needed investigation. The table below summarizes this discussion.

The possibility of private lands being more susceptible to subdivision following reductions in ranching operations as a result of the buyout was discussed. However there was not strong agreement that this would happen. One permittee expressed the view that subdivision of base property would be less likely because of the economic support that the buyout would provide permittees. It was also noted that the base property was usually a small area of land 10-40ac, and that making special legislative provision to protect base property would be ineffectual because property other than base property held by a permittee was likely to be much larger in extent.

5. LOBBYING

Various options for getting buyout legislation passed were discussed. It was generally agreed that the smaller the bill was the more likely it was to get passed. It was suggested that it be presented as a “pilot project” perhaps attached in the first instance to an Appropriations Bill. It was agreed that any such “rider” for this year would be unlikely at this stage, but that we should aim to get things rolling for next year. However, it was also agreed that we should try to keep the bill open to all permittees in Arizona. Anything larger would definitely not be feasible especially considering all the differences in state laws regarding state trust lands.

It was agreed that we needed to get more permittees involved, get the industry associations on our side and to start visiting congressional offices.

The Whitney’s volunteered to talk to the Cattlegrowers about supporting the legislation. Childers agreed to help locate contacts in Kyl’s office that we could approach to promote the buyout. John Whitney III also volunteered to approach the director of the Arizona Department of Ag about the proposal.

6. NEXT MEETING

The next meeting was set for 10 am SATURDAY SEPT 14 at a location to be determined.

PROPOSED DRAFT LEGISLATIVE LANGUAGE	WORKING GROUP MEETING NOTES
Section 1: DEFINITIONS	<i>This was not discussed but it may be needed in final draft.</i>
Section 2: ARIZONA GRAZING PERMIT BUYOUT PROGRAM	<i>The title of the bill remains to be settled.</i>
<p>(a) A permittee or lessee may at any time waive a valid existing grazing permit or lease authorizing livestock grazing on federal public land in Arizona to the Secretary of Agriculture, Interior, Energy or Defense [the Secretary].</p>	<p><i>It was agreed that the first pilot permit buyout bill should be confined to Arizona, where the greatest interest had been expressed and where the greatest problems with drought and other conflicts have arisen. There was discussion of the option of restricting the opportunity to particular classes of permittees, but in the end it was decided to provide all Arizona permittees with the option of the buyout. It was agreed to rename our group as the Arizona Grazing Permit Buyout Campaign.</i></p> <p><i>The “at any time” provision may be restricted for example if Congress decides to run the program in only one year attached to a specific Appropriation.</i></p>
<p>(b) The Secretary shall cancel grazing permits or leases waived under subparagraph (a) and permanently retire the associated allotment(s) from livestock grazing use, notwithstanding any other provision of law.</p>	<p><i>Cancellation of the allotment to any further livestock use is the “bottomline” for the conservation community. It is also logically necessary. If the incumbent permit is waived in return for compensation it would be essential that no further permits be issued which would then also be cashed in a second time for same grazing privileges- this would open up an illegitimate, perpetual cash claim on the Treasury.</i></p> <p><i>There was some discussion of possible conflict with Multiple Use laws. The provision “notwithstanding any other provision of law” would be needed to prevent such conflicts. It was also noted that not all permits would necessarily be cancelled on any one Forest or Resource Area, and that grazing would be likely to continue where permittees found they were able to continue without significant problems.</i></p>

<p>(c) A permittee or lessee who waives their permit or lease to the Secretary under subparagraph (a) shall be compensated at \$175 per animal unit month (AUM) based on the average over the last ten years of the base numbers of AUMs permitted to the permittee or lessee or their predecessors. Permittees and lessees who are in arrears of their federal grazing fees are ineligible for compensation under this section until such time as arrears of fees are settled.</p>	<p><i>It was agreed that the compensation should be based on numbers of AUMs on the permit, not on levels of actual use, which is not what the market value is based on. Because permits may have changed hands and been reissued several times in the past 10 years, an average of these various levels of permitted AUMs must be calculated as the basis for compensation. It was also agreed that compensation should be strictly in proportion to the permitted AUMs regardless of how large or small the permit was.</i></p> <p><i>In the case of BLM permits there were two issues. First it was agreed that permit AUMs in “non-use” should not be included in the average because market pricing was based only on “active” AUMs. Second it was agreed that further advice was needed from BLM permittees how to deal with compensation for ephemeral grazing permits.</i></p> <p><i>It was agreed that details of closing date, fees for grazing past the closing date while livestock were still being removed and other details of bringing the change into effect should be left to grazing administration by the agencies.</i></p>
<p>(d) [community allotment provision]</p>	<p><i>The group discussed the problem of how to compensate and partially close a community allotment where not all permittees wanted to take a buyout. It was noted that the problem could be solved by first simply dividing the community into individual allotments. However, more investigation of this issue was thought to be needed to arrive at satisfactory language.</i></p>
<p>(e) [intermingled state lands provision]</p>	<p><i>It was noted that many BLM allotments contain intermingled State Trust lands that are not fenced off from the federal lands. It was agreed that in such cases the federal permit buyout would have to be made contingent on the successful prior completion of land swap between federal and state agencies which eliminated the problem of the intermingled lands to the satisfaction of both agencies. While this was agreed to be the only viable solution to the problem, it raises many further problems for drafting legislation. Land swaps take time, and</i></p>

	<i>involve appraisals to ensure equivalent land value as well as a NEPA review process. Conservation groups would want to be assured that there was no net loss of wildlife values to the federal system.</i>
(f) [payout tax relief provision]	<i>It was agreed that some provision for tax relief should be inserted, such as making the compensation lump sum payout subject to sect 1031 of the tax act. More investigation of appropriate language was identified as a priority.</i>
(g) Nothing in this section shall be deemed to affect the Secretary's authority to otherwise modify or terminate grazing permits or leases without compensation. Compensation disbursed pursuant to this section shall not create a property right in grazing permittees or lessees.	<i>This reflects the current statutory situation. This "caveat" is necessary to make it clear that in cases where there is no buyout happening, existing federal land laws remain applicable.</i>
(h) The Secretary shall not issue grazing permits or leases for grazing allotments for which no valid current permit or lease exists at the time of enactment of this section, and shall retire such lands from livestock use as provided in subparagraph (b).	<i>This is to avoid the unfair situation where agencies might issue a brand new permit. This would allow permittees with no longstanding interest or investment in the land to cash in on the buyout proposal.</i>
(i) Notwithstanding any other provision of law, a permittee or lessee may opt not to graze their allotment(s) or to graze the allotment at less than the minimum permitted level and still retain their permit or lease for the remainder of its term.	<i>As thing stands, permittees who do not wish to graze an allotment at agency mandated levels risk cancellation of their permit. This gives permittees more surety of holding onto their permits although they may be winding down their operations in preparation for waiving the permit in exchange for compensation.</i>
(j) Nothing in this section shall be interpreted to authorize the use of eminent domain for the purpose of acquiring a federal grazing permit.	<i>This section is needed to ensure that the program remains an entirely voluntary option available to permittees and is not used by the agency to force permittees out of allotments.</i>