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SENATE

{ REPORT
{ 113-166

GRAZING IMPROVEMENT ACT

MAY 22, 2014.—Ordered to be printed

Ms. LANDRIEU, from the Committee on Energy and Natural Resources, submitted the following

R E P O R T

[To accompany S. 258]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 258) to amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing leases and permits, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill, as amended, do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Grazing Improvement Act”.

SEC. 2. TERMS OF GRAZING PERMITS AND LEASES.

Section 402 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1752) is amended—

(1) in subsection (a)—

(A) by striking “Except as” and inserting the following:

“(1) IN GENERAL.—Except as”; and

(B) in paragraph (1) (as designated by subparagraph (A)), by striking “ten years subject” and inserting the following: “ 10 years, up to a maximum term of 20 years, if the Secretary concerned—

“(i) has assessed and evaluated the grazing allotment associated with the permit or lease; and

“(ii) based on the assessment and evaluation under clause (i), has determined that the grazing allotment is—

“(I) with respect to public land administered by the Secretary of the Interior, meeting land health standards; or

“(II) with respect to National Forest System land administered by the Secretary of Agriculture, meeting objectives in the applicable land and resource management plan.

“(2) CANCELLATION, SUSPENSION, AND MODIFICATION.—The permit or lease shall be subject”;

(2) in subsection (c)—

(A) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(B) by striking “So long as” and inserting the following:

“(1) RENEWAL OF EXPIRING OR TRANSFERRED PERMIT OR LEASE.—During any period in which”; and

(C) by adding at the end the following:

“(2) CONTINUATION OF TERMS UNDER NEW PERMIT OR LEASE.—The terms and conditions in a grazing permit or lease that has expired, or was terminated due to a grazing preference transfer, shall be continued under a new permit or lease until the date on which the Secretary concerned completes any environmental analysis and documentation for the permit or lease required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

“(3) COMPLETION OF PROCESSING.—As of the date on which the Secretary concerned completes the processing of a grazing permit or lease in accordance with paragraph (2), the permit or lease may be canceled, suspended, or modified, in whole or in part.

“(4) ENVIRONMENTAL REVIEWS.—The Secretary concerned shall seek to conduct environmental reviews on an allotment or multiple allotment basis, to the extent practicable, if the allotments share similar ecological conditions, for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.”;

(3) by redesignating subsection (h) as subsection (j); and

(4) by inserting after subsection (g) the following:

“(h) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

“(1) IN GENERAL.—The issuance of a grazing permit or lease by the Secretary concerned may be categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

“(A) the issued permit or lease continues the current grazing management of the allotment; and

“(B) the Secretary concerned—

“(i) has assessed and evaluated the grazing allotment associated with the lease or permit; and

“(ii) based on the assessment and evaluation under clause (i), has determined that the allotment—

“(I) with respect to public land administered by the Secretary of the Interior—

“(aa) is meeting land health standards; or

“(bb) is not meeting land health standards due to factors other than existing livestock grazing; or

“(II) with respect to National Forest System land administered by the Secretary of Agriculture—

“(aa) is meeting objectives in the applicable land and resource management plan; or

“(bb) is not meeting the objectives in the applicable land resource management plan due to factors other than existing livestock grazing.

“(2) TRAILING AND CROSSING.—The trailing and crossing of livestock across public land and National Forest System land and the implementation of trailing and crossing practices by the Secretary concerned may be categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

“(i) PRIORITY AND TIMING FOR COMPLETION OF ENVIRONMENTAL ANALYSES.—The Secretary concerned, in the sole discretion of the Secretary concerned, shall determine the priority and timing for completing each required environmental analysis with respect to a grazing allotment, permit, or lease based on—

“(1) the environmental significance of the grazing allotment, permit, or lease; and

“(2) the available funding for the environmental analysis.”.

SEC. 3. VOLUNTARY RELINQUISHMENT OF GRAZING PERMITS OR LEASES.

Title IV of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1751 et seq.) is amended by adding at the end the following:

“SEC. 405. VOLUNTARILY RELINQUISHMENT PILOT PROGRAM.—

“(a) IN GENERAL.—There is established in the Department of the Interior and the Department of Agriculture a pilot program that—

- “(1) authorizes the voluntary relinquishment of grazing permits or leases in the eligible States specified in subsection (f); and
- “(2) provides that grazing permits or leases voluntarily relinquished under this section shall be permanently retired from further grazing authorization.
- “(b) ACCEPTANCE BY SECRETARY AND SECRETARY OF AGRICULTURE.—
- “(1) IN GENERAL.—Subject to paragraph (2), within the eligible States specified in subsection (f)—
- “(A) the Secretary shall accept the voluntary relinquishment of any valid permits or leases authorizing grazing on public land; and
- “(B) the Secretary of Agriculture shall accept the voluntary relinquishment of any valid permits or leases authorizing grazing on land in the National Forest System.
- “(2) LIMITATION.—Notwithstanding paragraph (1), the Secretary and the Secretary of Agriculture shall not accept the voluntary relinquishment of more than 25 grazing permits or leases per year in each of the eligible States specified in subsection (f).
- “(c) TERMINATION.—With respect to each permit or lease voluntarily relinquished under subsection (a), the Secretary concerned shall—
- “(1) terminate the grazing permit or lease; and
- “(2) except as provided in subsection (d), ensure a permanent end to grazing on the land covered by the permit or lease.
- “(d) COMMON ALLOTMENTS.—
- “(1) IN GENERAL.—If the land covered by a grazing permit or lease that has been voluntarily relinquished under subsection (a) is also covered by another valid existing grazing permit or lease that is not voluntarily relinquished under subsection (a), the Secretary concerned shall reduce the authorized grazing level on the land covered by the permit or lease to reflect the relinquishment of the grazing permit or lease.
- “(2) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the level of grazing on the land covered by a grazing permit or lease that has been voluntarily relinquished under subsection (a), the Secretary shall not allow grazing use to exceed the authorized level established under paragraph (1).
- “(3) PARTIAL RELINQUISHMENT.—
- “(A) IN GENERAL.—If a person holding a valid grazing permit or lease voluntarily relinquishes less than the full level of grazing use authorized under the permit or lease, the Secretary concerned shall—
- “(i) reduce the authorized grazing level to reflect the voluntarily relinquishment; and
- “(ii) modify the grazing permit or lease to reflect the revised level of use.
- “(B) AUTHORIZED LEVEL.—To ensure that there is a permanent reduction in the authorized level of grazing on the land covered by a permit or lease which has been voluntarily relinquished under subparagraph (A), the Secretary shall not allow grazing use to exceed the authorized level established under that subparagraph.
- “(e) ANNUAL REPORT.—
- “(1) IN GENERAL.—The Secretary, in collaboration with the Secretary of Agriculture, shall prepare an annual report on the pilot program that assesses the activities undertaken under the pilot program during the preceding year, including the number and location of grazing permits and leases that were voluntarily relinquished during the preceding year.
- “(2) SUBMISSION TO CONGRESS.—The Secretary shall submit the annual report prepared under paragraph (1) to—
- “(A) the Committee on Energy and Natural Resources of the Senate; and
- “(B) the Committee on Natural Resources of the House of Representatives.
- “(f) ELIGIBLE STATES.—The authority of the Secretary and the Secretary of Agriculture to accept voluntary relinquishments in accordance with this section shall be limited to grazing allotments in the States of New Mexico and Oregon.”.

PURPOSE

The purpose of S. 258 is to amend the Federal Land Policy and Management Act of 1976 to modify authorities for grazing on Federal land administered by the Bureau of Land Management and the Forest Service.

BACKGROUND AND NEED

The Bureau of Land Management and Forest Service manage livestock grazing on over 155 million acres of public lands and 94 million acres of National Forest System lands. The BLM administers nearly 18,000 grazing permits and leases covering over 21,000 allotments. The Forest Service administers an additional 6,800 grazing permits covering approximately 8,800 allotments.

The BLM administers grazing under the authority of the Taylor Grazing Act of 1934 and the Federal Land Policy and Management Act of 1976 (FLPMA). The Forest Service also administers permits under authority of FLPMA, the Granger-Thye Act, the Forest and Rangeland Renewable Resources Planning Act of 1974, and for national grasslands, title III of the Bankhead-Jones Farm Tenant Act. Grazing permits or leases are issued for a term of up to 10 years and are generally renewed subject to any changes in terms and conditions the agency determines to be necessary.

Following enactment of FLPMA in 1976, the BLM amended its grazing regulations in 1978 (43 Fed. Reg. 29067). For the next 17 years, federal grazing policies remained largely unchanged. In 1995, the Department of the Interior issued comprehensive grazing management regulations to increase public involvement in rangeland management decisions and to place greater emphasis on conservation measures (60 Fed. Reg. 9894). The regulations were challenged in Federal court, with the litigation ultimately reaching the Supreme Court, *Public Lands Council v. Babbitt*, 529 U.S. 728 (2000), where the Court ruled in favor of the United States.

In 2006, the Department of the Interior again proposed to revise its grazing management regulations, in many areas undoing the regulatory changes made by the previous Administration (71 Fed. Reg. 39042). Those regulations were also challenged in Federal court. The court blocked the BLM from implementing the regulations, finding they were in violation of the National Environmental Policy Act of 1969 (NEPA), the Endangered Species Act, and FLPMA. *Western Watersheds Project v. Kraayenbrink*, 538 F. Supp. 2d 1302 (D. Idaho 2008). The court's decision was subsequently upheld by the Ninth Circuit Court of Appeals, (*Western Watersheds Project v. Kraayenbrink*, 632 F.3d 472 (9th Cir. 2010).

Grazing-related policy issues are often controversial and many administrative decisions are appealed and then challenged in Federal court. One area in particular that has been the subject of much litigation has been the adequacy of agency NEPA analysis associated with the issuance or renewal of a grazing permit or lease.

In the 1990s, the Forest Service fell far behind in completing necessary NEPA documents prior to renewing a grazing permit or lease. When questions arose about the impact on permittees not being able to renew a lease because of the agency's failure to comply with the law, Congress enacted the Rescissions Act of 1995 (Public Law 104-19, section 504). That Act directed the Forest Service to establish a schedule for completing required NEPA analysis, and pending completion of the required analysis, providing for renewal of the grazing permit or lease under the same terms and conditions as the prior lease. The Forest Service was authorized to modify the terms and conditions only after the NEPA analysis had

been completed. This authority was only applicable through the end of FY 1996, but similar authority has been included in subsequent Appropriations Acts since 1997.

As ordered reported, S. 258 seeks to improve agency management of grazing activities and to provide greater certainty to grazing permittees by authorizing longer-term grazing permits, by codifying language included in recent Appropriations Acts providing for the automatic renewal of grazing permits until the appropriate NEPA analysis and documentation is complete; by directing the agencies to conduct environmental reviews to the extent practicable on a multiple allotment basis, by authorizing the issuance of grazing permits or leases to be categorically excluded from NEPA analysis if certain rangeland health criteria or objectives in applicable land resource management plans are achieved, and by making other changes to BLM and Forest Service grazing policies as described in the section-by-section analysis, below.

LEGISLATIVE HISTORY

S. 258 was introduced by Senators Barrasso on February 7, 2013, and is cosponsored by 8 Senators. The Subcommittee on Public Lands, Forests, and Mining held a hearing on the bill on April 25, 2013 (S. Hrg. 113–28). At its business meeting on November 21, 2013, the Committee ordered S. 258 favorably reported, with an amendment in the nature of a substitute.

A House companion bill, H.R. 657, sponsored by Representative Labrador, was ordered reported by the House Natural Resources Committee on June 12, 2013 (H. Rept. 113–145). The text of H.R. 657 was included in H.R. 2954, the Public Access and Lands Improvement Act, which passed the House of Representatives by a vote of 220–194 on February 6, 2014.

In the 112th Congress, Senator Barrasso, introduced similar legislation, S. 1129. The Subcommittee on Public Lands and Forests held a hearing on S. 1129 on March 22, 2012 (S. Hrg. 112–642).

COMMITTEE RECOMMENDATION

The Senate Committee on Energy and Natural Resources, in open business session on November 21, 2013, by a voice vote of a quorum present, recommends that the Senate pass S. 258, if amended as described herein. Senators Landrieu and Cantwell asked to be recorded as voting no.

COMMITTEE AMENDMENT

During its consideration of S. 258, the Committee adopted an amendment in the nature of a substitute.

As introduced, S. 258 doubled the term of a grazing permit or lease from 10 to 20 years. The substitute amendment preserves the requirement that a grazing permit or lease be issued for a term of at least 10 years, but gives the Secretary concerned discretion to issue a permit or lease for up to 20 years if the Secretary concerned determines that grazing allotment is meeting applicable land health standards.

The substitute amendment retains language in S. 258 as introduced providing for the terms of expired grazing permits or leases to be continued under a new permit or lease until the Secretary

concerned completes necessary review and analysis required by the National Environmental Policy Act and other environmental laws, but modifies the language to be more consistent with terminology and procedures under applicable law and regulations.

The substitute amendment establishes a new pilot program to allow for the voluntary relinquishment of up to 25 grazing permits or leases per year in each of the States of Oregon and New Mexico, and upon relinquishment, for grazing activities to be permanently retired from the Federal land covered by the permit or lease.

In addition, the substitute makes clarifying and conforming changes. The amendment is described in detail in the section-by-section analysis, below.

SECTION-BY-SECTION ANALYSIS

Section 1 contains the short title, the “Grazing Improvement Act.”

Section 2(1) amends section 402(a) of the Federal Land Policy and Management Act of 1976 (FLPMA); (43 U.S.C. 1752(a)) to increase the term of grazing permits and leases from 10 years up to a maximum of 20 years if the Secretary of the Interior (with respect to public lands) or the Secretary of Agriculture (with respect to National Forest System lands) has assessed and evaluated the associated grazing allotment, and based on the assessment and evaluation has determined that the allotment is meeting land health standards (for lands administered by the Bureau of Land Management) or objectives in the applicable land and resource management plan (for National Forest System lands).

Paragraph (2) provides that the terms and conditions in a grazing permit or lease that has expired, or was terminated due to a grazing preference transfer, shall be continued under a new grazing permit or lease until the Secretary concerned has completed the necessary environmental analysis and documentation required under the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 et seq.) and other applicable laws. Upon completion of the NEPA analysis, the grazing permit or lease may be canceled, suspended, or modified, in whole or in part.

Paragraph (3) makes a conforming edit to reflect the addition of the new subsection made by paragraph (4).

Paragraph (4) directs the Secretary concerned to seek to conduct environmental reviews on an allotment or multiple allotment basis, to the extent practicable, if allotments share similar ecological conditions for purposes of complying with NEPA and other applicable laws and adds new subsections (h) and (i). New subsection (h) states that the issuance of a grazing permit or lease by the Secretary concerned may be categorically excluded from the requirement to prepare and environmental analysis or environmental impact statement under NEPA, if the permit or lease continues the current grazing management of the allotment and the Secretary concerned has assessed and evaluated the allotment and determined that it is meeting land health standards (for lands administered by the Bureau of Land Management) or objectives in the applicable land and resource management plan (for National Forest System lands). The paragraph includes similar authority to categorically exclude trailing and crossing of livestock from NEPA analysis.

New subsection (i) provides that the Secretary concerned, in his or her sole discretion, shall determine the priority and timing for completing each required environmental analysis, based on the environmental significance of the grazing permit or lease and the available funding for the environmental analysis.

Section 3 amends title IV of FLPMA (43 U.S.C. 1751 et seq.) to add a new section 405, which establishes a pilot program in the Department of the Interior and the Department of Agriculture to authorize the voluntary relinquishment of a limited number of grazing permits and leases in Oregon and New Mexico, and provides that any permits or leases which are voluntarily relinquished shall be permanently retired from further grazing authorization. Under the pilot program, the Secretary of the Interior and the Secretary of Agriculture shall not accept the voluntary relinquishment of more than 25 grazing permits or leases in each of the two States. The Secretary of the Interior, in collaboration with the Secretary of Agriculture, is directed to prepare an annual report on the pilot program identifying the number and location of permits and leases that were relinquished during the preceding year.

COST AND BUDGETARY CONSIDERATIONS

The following estimate of costs of this measure has been provided by the Congressional Budget Office:

S. 258—Grazing Improvement Act

CBO estimates that enacting S. 258 would affect offsetting receipts, which are treated as reductions in direct spending; therefore, pay-as-you-go procedures apply. However, CBO estimates that any such effects would be negligible over the 2014–2024 period. We also estimate that implementing the legislation would have no significant impact on discretionary spending. Enacting S. 258 would not affect revenues.

S. 258 would increase the maximum term of new grazing permits on federal lands from 10 years to 20 years and allow expired and transferred grazing permits to remain in effect until new permits are issued by the Bureau of Land Management or the Forest Service. Based on information provided by the affected agencies, CBO estimates that enacting that provision would have a minimal impact on offsetting receipts each year because those agencies have the authority under current law to extend expired permits. The bill would allow the affected agencies to collect offsetting receipts from transferred permits sooner than they would under current law; however, because the number of permits that would be affected each year accounts for less than 5 percent of all federal grazing permits, the net budgetary impact would be negligible. In 2013, gross federal collections from all grazing permits totaled roughly \$20 million.

Because the bill would allow transferred permits to remain in effect under the terms of the original permit until that permit expires, CBO expects that the agencies would receive fewer requests for new permits in the next few years; however, because those permits would need to be renewed in later years, CBO estimates that implementing the provision would have no significant net effect on agencies' workloads over the 2014–2019 period.

The legislation would allow the exclusion of certain grazing lands from compliance with the National Environmental Policy Act (NEPA). CBO estimates that implementing that provision would have no effect on discretionary spending because we expect that any reduction in spending on NEPA activities on those lands would be offset by spending to reduce the agencies' backlog of incomplete NEPA activities on other federal lands.

Finally, S. 258 would require the Secretary of the Interior to accept permits that are voluntarily relinquished by current permit holders. Under the bill, relinquished permits would be terminated and future grazing on land covered by those permits would be prohibited. Based on information from the affected agencies, CBO expects that a small number of permits would be relinquished if the bill is enacted, and we estimate that enacting the bill would have a minimal impact on offsetting receipts from grazing fees over the 2014–2024 period.

S. 258 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

On June 20, 2013, CBO transmitted a cost estimate for H.R. 657, the Grazing Improvement Act, as ordered reported by the House Committee on Natural Resources on June 12, 2013. The two bills are similar, and the CBO cost estimates are the same.

The CBO staff contact for this estimate is Jeff LaFave. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 258.

The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 258, as ordered reported.

CONGRESSIONALLY DIRECTED SPENDING

S. 258, as reported, does not contain any congressionally directed spending items, limited tax benefits, or limited tariff benefits as defined in rule XLIV of the Standing Rules of the Senate.

EXECUTIVE COMMUNICATIONS

The testimony provided by Forest Service and Bureau of Land Management at the July 30, 2013, Subcommittee on Public Lands, Forests, and Mining hearing on S. 258 follows:

STATEMENT OF JAMES M. PEÑA, ASSOCIATE DEPUTY CHIEF,
NATIONAL FOREST SYSTEM, FOREST SERVICE, DEPART-
MENT OF AGRICULTURE

Mr. Chairman, Ranking Member Barrasso, and members of the Committee, thank you for inviting me here today to testify regarding S. 258 the Grazing Improvement Act. The Department supports this bill. We believe that this bill would increase efficiencies, but not at the expense of good land stewardship.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee and while the Department supports certain provisions, we cannot support S. 258 as written. The Department specifically has concerns with requirements and definitions in the use of categorical exclusions. The Department also recognizes that the Forest Service and the Bureau of Land Management operate under different authorities, such as the Rescissions Act of 1995, which determines how the Forest Service is to apply NEPA for grazing allotments. As a result, various provisions in S. 258 affect the agencies differently. We therefore defer to the Department of Interior on those provisions that don't directly affect the Forest Service, or the impacts of those provisions on Department of the Interior programs.

The Forest Service enjoys a cooperative relationship with the vast majority of the over 6,800 individuals who hold permits for grazing, permitting approximately 8.2 million animal unit months on nearly 94 million acres of National Forests and Grasslands. Grazing permittees have helped provide for the effective stewardship of our public lands for many decades. While the vast majority of the grazing permittees are excellent stewards in caring for range resources, there are some areas where permittees need to take action to improve range conditions. The Forest Service is working with many permittees to make such improvements.

In addition, the Forest Service's grazing program not only helps support the economies of rural communities across the west, but it also helps maintain open space on private lands. Most permittees utilize and need both public and private lands to graze livestock economically. The loss of grazing on public lands can result in the loss of grazing on private lands that may lead to the conversion of private open space to other uses such as subdivision development.

S. 258 would revise the permitting process for grazing in the Federal Land Policy and Management Act of 1976. Specifically, the bill would extend the duration of the permit from 10 years to 20 years. The bill also would make permanent the language used in annual appropriation riders which has required expiring permits to be renewed with existing terms and conditions if the National Environmental Policy Act (NEPA) has not been completed on allotments associated with the permit. It further would ex-

pand the appropriation riders language to include transferred or waived permits or leases.

The bill would establish and require the use of categorical exclusions (CE) and prohibit the agencies from preparing an environmental assessment or environmental impact statement under NEPA. CEs, which require no public notice, would apply if a decision continues the current grazing management on an allotment; monitoring has indicated that the current grazing management has met or is satisfactorily moving towards meeting land use management plan objectives; or the decision is consistent with the policy of the Department regarding extraordinary circumstances. While we support providing the line officer with the option to use a categorical exclusion category where the parameters of what constitutes a minor adjustment are narrowly defined, we do not support requiring use of categorical exclusions. The bill also would provide the Secretary with the sole discretion to determine the priority and timing for completing the environmental analysis of a grazing allotment, notwithstanding the schedule in section 504 of the Rescissions Act.

S. 258 also exempts crossing and trailing authorizations as well as the transfer of grazing preference from NEPA. We defer to the Department of the Interior on these provisions.

S. 258 would require that grazing permits be issued for a term of 20 years rather than the current 10-year term. Permits may be issued for a shorter term on land that is pending disposal or will be devoted to a public purpose, or where it is in the best interest of sound land management on those allotments that have not had initial NEPA.

The Department understands and shares the Committee's desire for increasing administrative efficiencies for both the Forest Service and the permittee. The Department can support the concept of having the flexibility to issue a longer term permit where current management is continued and the allotments are being monitored to assure they are meeting Forest Plan standards. The Department believes that the Secretary rightfully should have the sole discretion to determine the priority and timing for completing environmental analyses of grazing allotments, as is always the case under NEPA. We do not, however, support being limited to only using CEs in certain instances for grazing permits. We have completed NEPA analyses on three-fourths of our grazing allotments. We have been able to move forward with our renewed, re-issued and transferred grazing permit program. Our analyses, with or without a CE, have been helpful in determining range conditions, a matter of great concern to all permittees and the Forest Service. We look forward to continuing to work with the committee and sponsors of this bill.

This concludes my testimony and I would be happy to answer any questions that you may have.

STATEMENT OF JAMIE CONNELL, ACTING DEPUTY DIRECTOR,
BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE
INTERIOR

Thank you for the opportunity to present the views of the Department of the Interior (Department) on S. 258, the Grazing Improvement Act. The Bureau of Land Management (BLM) is dedicated to a broad range of stewardship goals, including the long-term health and viability of the public rangelands. Our Nation's rangelands provide and support a variety of goods, services, and values important to Americans. In addition to being an important source of forage for livestock, healthy rangelands conserve soil, store and filter water, sequester carbon, provide a home for an abundance of wildlife, provide scenic beauty and are the setting for many forms of outdoor recreation.

The BLM recognizes that the conservation and sustainable use of rangelands is important to those who make their living on these landscapes—including public rangeland permittees. Public land livestock operations are important to the economic well-being and cultural identity of the West and to rural Western communities. Livestock grazing is an integral part of BLM's multiple-use mission, and at the right levels and timing, can serve as an important vegetation management tool, improving wildlife habitat and reducing risk of catastrophic wildfire.

The BLM is committed to collaborating with those who work on the public lands and takes seriously its challenge to conserve and manage healthy rangelands for current and future generations.

The Department shares the Sub-committee's interest in identifying opportunities for increasing efficiencies in public land grazing administration, as well as finding ways to make permit renewal less complex, costly, and time-consuming. The BLM would like to work with the Committee to further these shared goals. However, the Department cannot support S. 258 as it limits the BLM's ability to provide for appropriate environmental review and public involvement—critical components of the BLM's multiple-use management of the public lands. The Department looks forward to continuing a dialogue with the Congress on these important matters.

BACKGROUND

The BLM manages over 17,000 livestock grazing permits and leases for 12.4 million AUMs (animal unit months) across 155 million acres of public lands in the West. Since 1999, the BLM has evaluated the health of the rangelands based on standards and guidelines that were developed with extensive input from the ranching community, as well as from scientists, conservationists, and other Federal and state agencies. The BLM collects monitoring and assessment data to compare current conditions with the standards and land use plan objectives. This information is used to complete environmental assessments, to develop alter-

native management actions, and to modify grazing management as needed.

The BLM administers the range program through issuance of grazing permits or leases. The Federal Land Policy and Management Act (FLPMA) provides for a 10-year (or less) term for grazing permits. In a typical year, the BLM processes up to 2,000 permit renewals or transfers. In 1999 and 2000, the BLM saw a spike in permit renewals, when over 7,200 permits were due for renewal. The BLM was unable to process all those permits before expiration, which resulted in a backlog of grazing permit renewals that remains today. By the end of the 2013 Fiscal Year, the BLM anticipates that a backlog of 4,964 unprocessed permits will remain. Congress has assisted the BLM since Fiscal Year 2004 by adding language to Appropriations measures that allow grazing leases and permits to continue in effect until the agency has completed processing a renewal, transfer, or waiver. The BLM is committed to eliminating the backlog of grazing permit renewals and to issuing permits in the year they expire. An increase in appeals and litigation of grazing management decisions continues to pose significant workload and resource challenges for the BLM.

The BLM will continue to focus on grazing permits for the most environmentally sensitive allotments, using authorities Congress provided in the FY 2012 Consolidated Appropriations Act concerning grazing permit renewals and transfers. This strategy will allow the BLM to address a wide array of critical resource management issues through its land health assessments and grazing decisions. Additionally, this strategy will help ensure that the backlog of unprocessed permits consists of the least environmentally sensitive allotments that are more custodial in nature and/or that are already meeting land health standards.

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S. 258 provides for automatic renewal of all expired, transferred, or waived permits, and categorically excludes all permit renewals, reissuance, or transfers from preparation of an environmental analysis under the National Environmental Policy Act (NEPA) if the decision continues current grazing management of the allotment. Terms and conditions of the permit would continue until a permit is later renewed in full compliance with NEPA and other Federal laws. The bill does not first require a determination that the permittee is meeting land health standards. S. 258 doubles the duration of grazing permits from 10 to 20 years, and stipulates that livestock crossing and trailing permits and transfers of grazing preference are exempt from analysis under NEPA.

The Department supports the concept of having the flexibility to issue longer term permits in certain circumstances, as well as the transfer provision that is currently in place under the FY 2012 Consolidated Appropria-

tions Act. That provision is expected to reduce the permit renewal workload in 2013 by about 700 permits. The number of transfers needing processing each year is unpredictable, posing significant challenges to the BLM as it works to manage staff and other resources.

S. 258 includes provisions that the Department cannot support since they provide for automatic permit or lease renewal without requiring further analysis or assurances the permittee is meeting land health standards. The bill limits the BLM's ability to provide for appropriate environmental review and public involvement. S. 258 would result in the majority of permits being renewed under a categorical exclusion. The engagement of the public through the environmental review process under NEPA is a crucial component of the BLM's multiple-use management of the public lands. In summary, while S. 258 contains provisions that would expedite permitting, the Department cannot support it because of the overarching impact the bill could have on the 155 million acres of public lands used for livestock grazing, potentially affecting other valid uses and the health of the land itself.

CONCLUSION

Thank you for the opportunity to present testimony on S. 258. The BLM looks forward to working with the Congress to develop improvements to the grazing permit renewal process while maintaining the integrity of NEPA, the Nation's bedrock environmental and citizen involvement law, and FLPMA, our multiple-use statute requiring consideration of many uses and values of the public lands. I will be pleased to answer any questions.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by the bill S. 258 as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976

(PUBLIC LAW 94-579)

(43 U.S.C. 1701 ET SEQ.)

AN ACT To establish public land policy; to establish guidelines for its administration; to provide for the management, protection, development, and enhancement of the public lands; and for other purposes.

* * * * *

TITLE IV—RANGE MANAGEMENT

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SEC. 402. GRAZING LEASES AND PERMITS

(a) **[Except as]** (1) *IN GENERAL.*—*Except as* as provided in subsection (b) of this section, permits and leases for domestic livestock grazing on public lands issued by the Secretary under the Act of June 28, 1934 (48 Stat. 1269, as amended; 43 U.S.C. 315 et seq.) or the Act of August 28, 1937 (50 Stat. 874, as amended; 43 U.S.C. 1181a–1181j), or by the Secretary of Agriculture, with respect to lands within National Forests in the sixteen contiguous Western States, shall be for a term of **[ten years subject]** *10 years, up to a maximum term of 20 years, if the Secretary concerned—*

(i) *has assessed and evaluated the grazing allotment associated with the permit or lease; and*

(ii) *based on the assessment and evaluation under clause (i), has determined that the grazing allotment is—*

(I) *with respect to public land administered by the Secretary of the Interior, meeting land health standards; or*

(II) *with respect to National Forest System land administered by the Secretary of Agriculture, meeting objectives in the applicable land and resource management plan.*

(2) *CANCELLATION, SUSPENSION, AND MODIFICATION.*—*The permit or lease shall be subject to such terms and conditions the Secretary concerned deems appropriate and consistent with the governing law, including, but not limited to, the authority of the Secretary concerned to cancel, suspend, or modify a grazing permit or lease, in whole or in part, pursuant to the terms and conditions thereof, or to cancel or suspend a grazing permit or lease for any violation of a grazing regulation or of any term or condition of such grazing permit or lease.*

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(C) **[So long as]** (1) *RENEWAL OF EXPIRING OR TRANSFERRED PERMIT OR LEASE.*—*During any period in which [(1)] (A) the lands for which the permit or lease is issued remain available for domestic livestock grazing in accordance with land use plans prepared pursuant to section 1712 of this title or section 1604 of title 16, [(2)] (B) the permittee or lessee is in compliance with the rules and regulations issued and the terms and conditions in the permit or lease specified by the Secretary concerned, and [(3)] (C) the permittee or lessee accepts the terms and conditions to be included by the Secretary concerned in the new permit or lease, the holder of the expiring permit or lease shall be given first priority for receipt of the new permit or lease.*

(2) *CONTINUATION OF TERMS UNDER NEW PERMIT OR LEASE.*—*The terms and conditions in a grazing permit or lease that has expired, or was terminated due to a grazing preference transfer, shall be continued under a new permit or lease until the date on which the Secretary concerned completes any environmental analysis and documentation for the permit or lease required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.*

(3) *COMPLETION OF PROCESSING.*—*As of the date on which the Secretary concerned completes the processing of a grazing permit or lease in accordance with paragraph (2), the permit or lease may be canceled, suspended, or modified, in whole or in part.*

(4) *ENVIRONMENTAL REVIEWS.*—*The Secretary concerned shall seek to conduct environmental reviews on an allotment or multiple*

allotment basis, to the extent practicable, if the allotments share similar ecological conditions, for purposes of compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and other applicable laws.

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(h) NATIONAL ENVIRONMENTAL POLICY ACT OF 1969.—

(1) IN GENERAL.—The issuance of a grazing permit or lease by the Secretary concerned may be categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) if—

(A) the issued permit or lease continues the current grazing management of the allotment; and

(B) the Secretary concerned—

(i) has assessed and evaluated the grazing allotment associated with the lease or permit; and

(ii) based on the assessment and evaluation under clause (i), has determined that the allotment—

(I) with respect to public land administered by the Secretary of the Interior—

(aa) is meeting land health standards; or

(bb) is not meeting land health standards due to factors other than existing livestock grazing; or

(II) with respect to National Forest System land administered by the Secretary of Agriculture—

(aa) is meeting objectives in the applicable land and resource management plan; or

(bb) is not meeting the objectives in the applicable land resource management plan due to factors other than existing livestock grazing.

(2) TRAILING AND CROSSING.—The trailing and crossing of livestock across public land and National Forest System land and the implementation of trailing and crossing practices by the Secretary concerned may be categorically excluded from the requirement to prepare an environmental assessment or an environmental impact statement under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(i) PRIORITY AND TIMING FOR COMPLETION OF ENVIRONMENTAL ANALYSES.—The Secretary concerned, in the sole discretion of the Secretary concerned, shall determine the priority and timing for completing each required environmental analysis with respect to a grazing allotment, permit, or lease based on—

(1) the environmental significance of the grazing allotment, permit, or lease; and

(2) the available funding for the environmental analysis.

[(h)] *(j) Nothing in this Act shall be construed as modifying in any way law existing on October 21, 1976, with respect to the creation of right, title, interest or estate in or to public lands or lands in National Forests by issuance of grazing permits and leases.*

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SEC. 405. VOLUNTARILY RELINQUISHMENT PILOT PROGRAM.—

(a) IN GENERAL.—There is established in the Department of the Interior and the Department of Agriculture a pilot program that—

(1) authorizes the voluntary relinquishment of grazing permits or leases in the eligible States specified in subsection (f); and

(2) provides that grazing permits or leases voluntarily relinquished under this section shall be permanently retired from further grazing authorization.

(b) Acceptance by Secretary and Secretary of Agriculture.—

(1) *IN GENERAL.*—Subject to paragraph (2), within the eligible States specified in subsection (f)—

(A) the Secretary shall accept the voluntary relinquishment of any valid permits or leases authorizing grazing on public land; and

(B) the Secretary of Agriculture shall accept the voluntary relinquishment of any valid permits or leases authorizing grazing on land in the National Forest System.

(2) *LIMITATION.*—Notwithstanding paragraph (1), the Secretary and the Secretary of Agriculture shall not accept the voluntary relinquishment of more than 25 grazing permits or leases per year in each of the eligible States specified in subsection (f).

(c) *TERMINATION.*—With respect to each permit or lease voluntarily relinquished under subsection (a), the Secretary concerned shall—

(1) terminate the grazing permit or lease; and

(2) except as provided in subsection (d), ensure a permanent end to grazing on the land covered by the permit or lease.

(d) *COMMON ALLOTMENTS.*—

(1) *IN GENERAL.*—If the land covered by a grazing permit or lease that has been voluntarily relinquished under subsection (a) is also covered by another valid existing grazing permit or lease that is not voluntarily relinquished under subsection (a), the Secretary concerned shall reduce the authorized grazing level on the land covered by the permit or lease to reflect the relinquishment of the grazing permit or lease.

(2) *AUTHORIZED LEVEL.*—To ensure that there is a permanent reduction in the level of grazing on the land covered by a grazing permit or lease that has been voluntarily relinquished under subsection (a), the Secretary shall not allow grazing use to exceed the authorized level established under paragraph (1).

(3) *PARTIAL RELINQUISHMENT.*—

(A) *IN GENERAL.*—If a person holding a valid grazing permit or lease voluntarily relinquishes less than the full level of grazing use authorized under the permit or lease, the Secretary concerned shall—

(i) reduce the authorized grazing level to reflect the voluntary relinquishment; and

(ii) modify the grazing permit or lease to reflect the revised level of use.

(B) *AUTHORIZED LEVEL.*—To ensure that there is a permanent reduction in the authorized level of grazing on the land covered by a permit or lease which has been voluntarily relinquished under subparagraph (A), the Secretary shall not allow grazing use to exceed the authorized level established under that subparagraph.

(e) *ANNUAL REPORT.*—

(1) *IN GENERAL.*—The Secretary, in collaboration with the Secretary of Agriculture, shall prepare an annual report on the pilot program that assesses the activities undertaken under the pilot program during the preceding year, including the number and location of grazing permits and leases that were voluntarily relinquished during the preceding year.

(2) *SUBMISSION TO CONGRESS.*—The Secretary shall submit the annual report prepared under paragraph (1) to—

(A) the Committee on Energy and Natural Resources of the Senate; and

(B) the Committee on Natural Resources of the House of Representatives.

(f) *ELIGIBLE STATES.*—The authority of the Secretary and the Secretary of Agriculture to accept voluntary relinquishments in accordance with this section shall be limited to grazing allotments in the States of New Mexico and Oregon.

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