

## Grazing and SITLA Land Exchanges (Updated December 4, 2014)

### 1. *Legislative Language:*

Congressional legislation authorizing land exchanges between SITLA and the federal government has contained general language protecting existing grazing permits and rights, and authorizing each exchanged permit to transition into the acquiring agency's system at the end of the permit term. The following language from the Utah Recreation Land Exchange Act (Public Law. 111-53) is typical:

(b) GRAZING PERMITS.—

(1) IN GENERAL.—If land conveyed under this Act is subject to a lease, permit, or contract for the grazing of domestic livestock in effect on the date of acquisition, the Secretary and the State shall allow the grazing to continue for the remainder of the term of the lease, permit, or contract, subject to the related terms and conditions of user agreements, including permitted stocking rates, grazing fee levels, access rights, and ownership and use of range improvements.

(2) RENEWAL.—To the extent allowed by Federal or State law, on expiration of any grazing lease, permit, or contract described in paragraph (1), the holder of the lease, permit, or contract shall be entitled to a preference right to renew the lease, permit, or contract.

(3) CANCELLATION.—

(A) IN GENERAL.—Nothing in this Act prevents the Secretary or the State from canceling or modifying a grazing permit, lease, or contract if the land subject to the permit, lease, or contract is sold, conveyed, transferred, or leased for nongrazing purposes by the Secretary or the State.

(B) LIMITATION.—Except to the extent reasonably necessary to accommodate surface operations in support of mineral development, the Secretary or the State shall not cancel or modify a grazing permit, lease, or contract because the land subject to the permit, lease, or contract has been leased for mineral development.

(4) BASE PROPERTIES.—If land conveyed by the State under this Act is used by a grazing permittee or lessee to meet the base property requirements for a Federal grazing permit or lease, the land shall continue to qualify as a base property for the remaining term of the lease or permit and the term of any renewal or extension of the lease or permit.

In summary, this legislative language preserves grazing rights on both sides of any SITLA-federal land exchange, including stocking rates, grazing fees, access rights, use of state lands as base property, and use of range improvements, for the remainder of the permit term, plus allowing a right of renewal at that time. The language does allow the termination of grazing

rights upon future sale or commercial lease of the exchanged land. As a practical matter, this would be true only of SITLA, due to the federal government's policy of land retention. However, if SITLA decides to sell acquired lands, its' rules give grazing permittees a preferential right to avoid the sealed bid stage of SITLA's two-stage land auction process, giving permittees the automatic right to participate in the oral auction phase of the sale so long as they are willing to bid at or above the disclosed minimum sale price. Utah Administrative Code R850-80-610(6).

## 2. *SITLA Policy on Acquired Grazing Lands*

SITLA grazing fees are higher than federal grazing fees. At the current time, SITLA grazing fees are \$4.78 per AUM on most state trust lands, and \$8.32 per AUM on 12 specific larger blocks of trust lands. Under the legislative language described above, a grazing permittee of federal lands transferred to SITLA would transition to the SITLA fee structure once the federal permit existing at the time of the exchange expired and was replaced with a SITLA grazing permit. However, in order to give permittees more certainty, the SITLA Board has adopted a policy giving permittees on federal lands acquired by SITLA three additional rights:

- (a) If the SITLA-acquired lands are to be designated high-value grazing lands (with the higher \$8.72 per AUM grazing fee), application of the higher fee will be phased in over a five year period after the expiration of the existing federal grazing permit;
- (b) For all other SITLA-acquired lands, the SITLA grazing fee will be phased in over a three year period after the expiration of the existing federal grazing permit; and
- (c) The SITLA rule that exposes SITLA grazing permits to competitive bidding at the end of each 15 year term will not be applied for two 15 year terms after the expiration of the existing federal permit.

This policy (Board Policy Statement 2013-02) was developed by SITLA with input and support from the Utah Farm Bureau and Utah Cattlemen's Association.

## 3. *Congressional Policy on Grazing in Wilderness*

Some SITLA lands being acquired by the United States in the proposed land exchange will be included in designated wilderness. Congress has enacted specific guidelines to protect pre-existing grazing in designated wilderness. These guidelines, originally promulgated for Forest Service wilderness by the U.S. House Natural Resources Committee Report in 1980 (House Report 96-617), and for BLM wilderness in 1990 (House Report 101-405), have been incorporated by reference in most subsequent wilderness legislation, and as such have the force of law. The guidelines include: (1) there shall be no curtailment or phase-out of grazing in wilderness areas simply because of the wilderness designation; (2) maintenance of supporting facilities in permissible, including use of motorized equipment where no practical alternatives exist; (3) replacement of deteriorated facilities does not require using "natural materials" if those would cost more; (4) new range improvements for more effective management of range resources are allowed; and (5) some use of motorized equipment for access in emergency situations is allowed. A copy of the guidelines is attached.