

20 January 2005

**OREGON GRAZING FEE ADVISORY COMMITTEE**

**GRAZING LEASE FORMS CURRENTLY USED BY:**

**ARIZONA  
COLORADO  
IDAHO  
MONTANA  
NEW MEXICO  
OREGON  
UTAH  
WASHINGTON  
WYOMING**

**ARIZONA**

# STATE LAND DEPARTMENT STATE OF ARIZONA

## GRAZING LEASE

Lease No. 05-

THIS GRAZING LEASE is entered into by and between the State of Arizona "Lessor" by and through the Arizona State Land Department and

\_\_\_\_\_ as "Lessee". In consideration of the payment of rent and of performance by the parties of each of the provisions set forth herein, the parties agree as follows:

### ARTICLE 1 SUBJECT LAND

1.1 Lessor hereby leases to Lessee for the term, at the rent, and in accordance with the provisions set forth herein, the Subject Land described in Appendix A attached hereto ("Subject Land") for the uses and purposes specified in Article 4.

1.2 Lessee makes use of Subject Land "as is" and Lessor makes no express or implied warranties as to the physical condition of the Subject Land.

### ARTICLE 2 TERM

2.1 The term of this Lease commences on \_\_\_\_\_, and ends on \_\_\_\_\_, unless terminated earlier as provided in this Lease.

### ARTICLE 3 RENT

3.1 Lessee shall pay rent to Lessor for the use and occupancy of the Subject Land during the term of this Lease without offset or deduction and without notice or demand, as established, on an annual basis.

3.2 The annual base rent shall be set by Lessor in the manner established by law and paid in advance each year.

3.3 Each billing year in advance, Lessee shall inform Lessor, on forms to be provided by Lessor, whether Lessee intends to make full use, partial use or total non-use of the maximum allowable animal-unit-months for the Subject Land, so that the correct amount of rent may be billed by the Lessor. Lessee shall inform Lessor in writing of any subsequent change in the number of animal-unit-months which Lessee intends to use. If Lessee fails to provide Lessor with this information within the time stated in the form provided by Lessor, Lessee shall pay full-use rent.

3.4 There shall be added to any rent payment, annual or otherwise, which has become due and has not been paid, a penalty in the amount of 5% of the payment due. Interest, at the then current rate set by the Treasurer under A.R.S. § 37-241(D)(3), shall be added to any rent and penalty from and after the date that the rent payment becomes due. Any delinquent rent, penalty and interest shall be a lien on Lessee's improvements and other property on the Subject Land.

3.5 Prior to the time a rent payment, annual or otherwise, is due, upon Lessee's written request, Lessor at its discretion may extend the time for payment for an additional period not to exceed 90 days. There shall be added to the rent a penalty of 5% of the rent payment due and interest on the rent and penalty at the then current rate set by the Treasurer under A.R.S. § 37-241(D)(3), or any successor statute. The amount of the rent, penalty and interest shall be a lien on the Lessee's improvements and other property on the Subject Land.

3.6 If the annual rent is at any time one calendar year in arrears, this Lease shall automatically terminate, without right of appeal by Lessee or any leasehold mortgagee, and Lessor shall proceed to cancel it on the records of the Department.

#### ARTICLE 4 USE OF SUBJECT LAND

4.1 The Subject Land is leased to the Lessee for the purposes of ranging livestock and for uses related thereto and no other use, except as approved in writing by Lessor after written application by Lessee.

4.2 Feedlot operations on the Subject Land are prohibited, but this shall not be construed to prevent the temporary or supplemental feeding of livestock.

**ARTICLE 5**  
**LIVESTOCK CARRYING CAPACITY**

5.1 The livestock carrying capacity for the Subject Land shall be determined by the Lessor and may be adjusted from time to time, subject to the appeal rights of Lessee as provided by law. The appraised carrying capacity of the Subject Land shall not be exceeded during any billing year unless Lessee obtains the prior written permission of Lessor and agrees to pay the additional fees determined by Lessor.

**ARTICLE 6**  
**DUTY TO INFORM LESSOR OF TOTAL RANCH HOLDINGS**

6.1 At the time of making application for the Lease, Lessee shall disclose to Lessor, on a form provided by Lessor, the total acreage used for grazing within the ranch unit or units of which the Subject Land is a part. This shall include, in addition to the Subject Land, any federal land which Lessee grazes pursuant to a written lease or permit any private land owned by or used by Lessee, with a designation as to which private lands are used pursuant to written agreement. In addition, Lessee shall show, on a map form supplied by or acceptable to Lessor: (1) the approximate location of all fence lines and man-made water sources and (2) the land ownership status (state, federal, or private) of the ranch unit or units of which the land covered by this Lease is a part.

6.2 In any determination as to whether the carrying capacity of the Subject Land has been exceeded, no claimed grazing use of private or federal lands within the ranch unit or units which have not been disclosed as part of the ranch unit or units shall be considered.

6.3 For purposes of determining whether the Lessee has remained within the authorized carrying capacity under this Lease, it shall be presumed that all land within a fenced pasture (whether state, federal or private) has been grazed to the same extent by livestock placed in that pasture unless Lessee or Lessor can, based upon range suitability and management practices, demonstrate to the contrary.

**ARTICLE 7**  
**RECORDS**

7.1 Lessee shall keep records showing the numbers of Lessee's livestock of different classes on the ranch unit or units, the dates put on and removed and estimated death loss.

7.2 Such records shall be retained for a minimum period of three years.

7.3 The Lessor may, upon reasonable notice to the Lessee, require the production of the records described in Paragraph 7.1 above. In the event a dispute arises concerning the

numbers of cattle grazed, the Lessee shall keep all documents and records until the dispute is finally resolved.

**ARTICLE 8**  
**TAXES; ADDITIONAL AMOUNTS**

8.1 Lessee shall pay all assessments and charges for utilities and communication services, and assessments imposed pursuant to any construction on the Subject Land, all permit and authorization fees, all taxes, duties, charges and assessments of every kind of nature imposed by any public, governmental or political subdivision authority pursuant to any currently or subsequently enacted law, ordinance, regulation or order, which during the term of this Lease, become due or are imposed upon, charged against, measured by or become a lien on (a) the Subject Land, (b) any improvements or personal property of the Lessee located on the Subject Land, (c) the interest of the Lessee to this Lease or in the proceeds received by Lessee from any assignment or sublease of the Subject Land.

8.2 Lessee shall pay or cause to be paid all amounts required to be paid under Paragraph 8.1 before any interest, penalty, fine or cost accrues for nonpayment.

**ARTICLE 9**  
**WAIVER**

9.1 Acceptance of rent payments by Lessor shall not constitute a waiver by Lessor of any violation by Lessee of the provisions of this Lease.

9.2 No waiver of a breach of any provision of this Lease shall be construed as a waiver of any succeeding breach of the same or any other provision.

**ARTICLE 10**  
**IMPROVEMENTS**

10.1 All buildings, fences, wells, pumps, pipelines, corrals, pens, range improvement practices (i.e., root plowing, land imprinting, clearing, etc.) and other structures of every kind and nature which exist, at anytime, on, above, or below the Subject Land or on a portion thereof and which are not portable in nature are considered "improvements" under this Lease.

10.2 Lessee may construct improvements on the Subject Land if:

- (a) Lessee has filed an Application to Place Improvements with Lessor, attaching any necessary written approvals from regulatory authorities; and

(b) Lessor has granted written approval for the construction of such improvements.

10.3 Any improvements placed on the Subject Land which have not been approved as required by Paragraph 10.2 shall be forfeited to and become property of the Lessor, and Lessee shall be liable to Lessor for all damage to the Subject Land caused by such unauthorized improvements and for any expenses incurred by the Lessor in restoring the Subject Land.

10.4 Lessee shall have the right to remove all of its personal property which can be removed without damaging the Subject Land within 60 days prior to, or 90 days following the Expiration Date or the earlier termination of the Lease.

10.5 Improvements placed on the Subject Land shall conform to all applicable federal, state, county and municipal laws and ordinances.

10.6 All improvements placed upon the Subject Land by Lessee in conformance with Paragraph 10.2 shall be the property of Lessee or any successor in interest ("Owner") and shall, unless they become the property of Lessor, be subject to assessment for taxes in the name of the Owner, as other property.

10.7 The Lessee or Owner shall be entitled to reimbursement for improvements authorized in accordance with Paragraph 10.2 by any subsequent lessee or purchaser of the Subject Land upon expiration of this Lease as provided by A.R.S. § 37-322.02 or any successor statute, subject to any rights acquired by the Lessor under Paragraph 3.4.

**ARTICLE 11**

**LESSEE'S COOPERATION; INGRESS AND EGRESS**

11.1 Lessee shall cooperate with Lessor in Lessor's inspection, appraisal and management of the Subject Land and permit reasonable access by Lessor's employees to isolated State Land across Lessee's private land during the term of this Lease.

11.2 Lessee shall not interfere with the authorized activities of Lessor's employees, agents, licenses or other lessees or permittees on the Subject Land.

**ARTICLE 12**

**LESSEE SHALL NOT PERMIT LOSS OR WASTE**

12.1 Lessee shall not cause nor grant permission to another to cause any waste or loss in or upon the Subject Land. Lessee, its employees and agents shall not cut, consume or remove any timber, or standing trees that may be upon the Subject Land, without the prior

written consent of Lessor, except that Lessee may cut wood for fuel for domestic uses and authorized improvements on the Subject Land. Nothing herein shall permit the cutting of saw timber for any purpose.

**ARTICLE 13**  
**NATIVE PLANTS AND ARCHAEOLOGICAL RESOURCES**

13.1 Lessee shall comply with the provisions of the Arizona Native Plant Law (A.R.S. § 3-901 et seq., or any successor statutes) and with Arizona laws relating to archaeological discoveries (A.R.S. § 41-841 et seq., or any successor statutes). Lessee shall not disturb any cacti or other protected native plants nor disturb any ruins, burial grounds or other archaeological sites except as may be permitted by these laws.

**ARTICLE 14**  
**LESSEE SHALL PROTECT THE LAND, PRODUCTS AND IMPROVEMENTS**

14.1 Lessee is hereby authorized to use means which are reasonable and which do not result in a breach of the peace or in creating a concealed hazard, to protect the Subject Land and improvements against waste, damage and trespass.

14.2 In the event of known trespass on the Subject Land resulting in damage thereto, Lessee shall make reasonable efforts to notify Lessor and appropriate law enforcement authorities.

**ARTICLE 15**  
**ASSIGNMENT, SUBLEASE AND PASTURAGE AGREEMENT**

15.1 Lessee, if not in default in the payment of rent and having kept and performed all the conditions of this Lease may, with the written consent of Lessor, assign this Lease. An assignment of this Lease shall not be made without the consent of all the parties. In the event of assignment of this Lease, Lessee shall file with Lessor a copy of applications for transfer of all certificates for stockpounds on the Subject Land to assignee, as agent for the State of Arizona, showing that the applications have been filed with the appropriate governmental agency.

15.2 Lessee shall not sublease or sell or lease pasturage to lands included in the Lease without first obtaining the written consent of Lessor. The term "sublease" includes the transfer of control of all or part of the ranch unit or units containing the Subject Land. Not with-standing any sublease, Lessee shall remain responsible to the Lessor for the performance of the provisions of this Lease. In no event may this Lease be sublet unless all rent due has been paid and all provisions of this Lease are complied with.



15.3 This Lease authorizes only the grazing of livestock bearing the registered brand(s) of Lessee or Lessee's immediate family. If Lessee wishes to permit the grazing of livestock bearing any other brands pursuant to pasturage agreements of any kind, Lessee must so inform Lessor prior to the release of such livestock on the Subject Land.

15.4 Copies of all assignments, subleases, or pasturage agreements pertaining to the Subject Land shall be filed with the Lessor.

**ARTICLE 16**  
**RESERVATIONS, RELINQUISHMENTS TO UNITED STATES**

16.1 Lessor excepts and reserves out of the grant hereby made, all oils, gases, geothermal resources, coal, ores, minerals, fossils, fertilizers, common mineral products and materials, and all natural products of every kind that may be in or upon the Subject Land any legal claim existing or which may be established under the mineral land laws of the United States or the State of Arizona.

16.2 Lessor reserves the right to execute leases, permits, or sales agreements covering the Subject Land for the purpose of entering upon and prospecting for, and the extraction of such reserved materials.

16.3 Lessor reserves the right to grant rights of way, easements and sites over, across, under or upon the Subject Land for public highways, railroads, utility lines, pipelines, irrigation works, flood control, drainage works, logging and other purposes.

16.4 Lessor reserves the right to relinquish to the United States land needed for irrigation works in connection with a government reclamation project and to grant or dispose of rights of way and sites for canals, reservoirs, dams, power or irrigation plants or works, railroads, tramways, transmission lines or any other purpose or use on or over the Subject Land.

16.5 In the event of such relinquishment, grants or disposal, the Lessee waives all right to any compensation whatsoever as against the Lessor except as may be allowed under the provisions of Article 17, and as limited therein.

16.6 Upon the sale, exchange, redemption, relinquishment or taking, whether by eminent domain or institutional use, of all or any portion of the Subject Land shall terminate on the date of such taking as to the property so taken.

**ARTICLE 17**  
**CONDEMNATION AND EMINENT DOMAIN**

17.1 If at any time during the duration of this Lease the whole or any part of the Subject Land shall be taken for any quasi-public or public purpose by any person, private or public corporation, or any governmental agency having authority to exercise the power of condemnation or eminent domain pursuant to any law, this Lease shall expire on the date when the leased property is taken or acquired as to the leased property so taken or acquired. Except as set forth below, the rights of Lessee and Lessor to compensation for such taking shall be as provided by law. The Lessee shall have no compensable right or interest in the real property being condemned or interest in the unexpired term of this Lease or any renewal except as provided by law and in any event no interest greater than 10 percent of the total award for the land. The Lessor shall be entitled to and shall receive any and all awards for severance damages to remaining proceedings concerning the Subject Land. Lessee shall have the right to (1) prorated reimbursement for prepaid rent, (2) any and all awards for payments made for any authorized improvements which are taken, and (3) severance damages for any damage to Lessee's remaining ranch operation resulting from the taking.

**ARTICLE 18**  
**WATER RIGHTS**

18.1 The Lessee shall be entitled to the use on the Subject Land of groundwater as defined in A.R.S. § 45-101, or any successor statute, for purposes consistent with this Lease. If the Lessee shall develop any groundwater on the Subject Land, he shall not acquire any rights with respect to the groundwater, except the right to use such water in accordance with applicable law, on the Subject Land during the term of this Lease.

18.2 If the Lessee uses, on the Subject Land, groundwater from a source not on the Subject Land, that use alone shall not (1) cause such water or any rights with respect to that water to be appurtenant to the Subject Land, or (2) affect in any way the Lessee's rights with respect to the water.

18.3 The rights of the Lessor and the Lessee concerning the application for an establishment of any rights with respect to surface water as defined in A.R.S. § 45-101, or any successor statute, shall be governed by the laws of the State of Arizona.

18.4 Nothing in the provisions of this Lease shall affect the validity of any rights established by or for the Lessor or Lessee with respect to surface water, as defined in A.R.S. § 45-101, prior to the Commencement Date of this Lease.

18.5 The application for and establishment by the Lessor or Lessee (as agent of the State of Arizona) of any water rights shall be for the State of Arizona; such rights shall attach to and become appurtenant to the Subject Land.

18.6 Notwithstanding Paragraph 18.5 above, the Lessee, as agent of the State of Arizona, shall be entitled to any certificate of water right, issued pursuant to the Stockpond Registration Act, A.R.S. § 45-271 through 45-276 (as it may be amended) relating to a stockpond constructed as an authorized improvement on the Subject Land. Any such certificate and the rights it evidences and represents shall be appurtenant to the Subject Land and shall pass to any successor lessee; or, if the land is not leased but is retained by the State of Arizona, then to the State of Arizona; or if the land is sold, then to the purchaser.

18.7 The Lessee shall promptly notify the Lessor in writing of any initial filings made by the Lessee with any governmental agency or court concerning the establishment or adjudication of any claim to a water right relating to the Subject Land. Upon request of the Lessor, the Lessee shall furnish copies of any document filed with the agency or court.

#### ARTICLE 19 DEFAULT AND CANCELLATION

19.1 Violation by Lessee of any provision of this Lease shall be a default hereunder entitling Lessor to any and all remedies it may have under Arizona law.

19.2 Upon any such default, the Lease may be canceled pursuant to A.R.S. § 37-289 or any successor statute.

19.3 This contract is subject to cancellation pursuant to A.R.S. § 38-511.

#### ARTICLE 20 HOLDOVER LESSEE

20.1 Upon expiration or termination of this Lease, Lessee agrees to surrender to Lessor peaceful and uninterrupted possession of the Subject Land. Holdover tenancy by the Lessee is prohibited and shall be deemed a trespass for which Lessor may seek all appropriate civil and criminal remedies; except that a Lessee in good standing who has filed a timely application for renewal may continue to occupy and use the Subject Land, pursuant to the terms of this Lease, pending action on the renewal application by Lessor.

#### ARTICLE 21 INDEMNIFICATION

21.1 Except as provided by A.R.S. § 33-1551 (or its successor statutes), Lessee hereby expressly agrees to indemnify and hold Lessor harmless, or cause Lessor to be indemnified and held harmless from and against all liabilities, obligations, damages, penalties, claims, causes

of action, costs, charges and expenses, including attorneys' fees and costs, which may be imposed upon or incurred by or asserted against Lessor by reason of the following: (a) any accident, injury or damage to any persons or property occurring on or about the Subject Land or any portion thereof resulting from Lessee's use of the Subject Land, (b) any use, non-use or condition of the Subject Land or any portion thereof resulting from Lessee's intentional actions or negligence, and (c) any failure on the part of Lessee to perform or comply with any of the provisions of this Lease; except such as may be the result solely of Lessor's intentional conduct or active negligence.

21.2 In case an action or proceeding is brought against Lessor by reason of any such occurrence, Lessee, upon Lessor's request and at Lessee's expense, will resist and defend such action or proceedings, or cause the same to be resisted and defended either by counsel designated by Lessor or, where such occurrence is covered by liability insurance, by counsel designated by the insurer.

21.3 Lessee shall protect, defend, indemnify and hold harmless the Lessor from and against all liabilities, obligations, losses, environmental responses, and clean up costs, charges and expenses, including attorneys' fees and court costs arising out of or related to the presence or existence of any substance regulated under any applicable Federal, State or local environmental laws, regulations or ordinances or amendments thereto because of: (a) any substance that came to be located on the Subject Land resulting from any use or occupancy of the Subject Land by the Lessee before or after the issuance of the Lease; or (b) any release, threatened release, escape, seepage, leakage, spillage, discharge or emission of any such substance in, on, under or from said Subject Land that is caused, in whole or in part, by any conduct, actions or negligence of the Lessee, regardless of when such substance came to be located on the Subject Land.

## ARTICLE 22 RENEWAL

22.1 Upon application to the Department not less than 30 nor more than 180 days prior to the Expiration Date, Lessee, if a bona fide resident of the State or legally authorized to transact business in the State, shall have a preferred right to renewal for a term not to exceed ten years, as provided by law, bearing even date with the Expiration Date. The preferred right of renewal shall not extend to a Lessee if there has not been substantial compliance with the terms of this Lease or if the Subject Land has not been placed to the use prescribed in this Lease, unless for good cause, the failure to perform was given written authorization by the Department. If the Department determines the continued leasing of the land to the Lessee is not in the best interest of the State, the Lease shall not be renewed.

**ARTICLE 23**  
**MISCELLANEOUS**

23.1 This Lease grants Lessee only those rights expressly granted herein and Lessor retains and reserves all other rights in the Subject Land.

23.2 This Lease is subject to all current and subsequently enacted rules, regulations and laws applicable to State Lands and to the rights and obligations of Lessors and Lessees. No provisions of this Lease shall create any vested right in Lessee except as otherwise specifically provided in this Lease.

23.3 The Lessor shall be forever wholly absolved from any liability for damages which might result to the Lessee in the event this Lease is found to be void, canceled, forfeited or terminated prior to the Expiration Date or in the event this Lease is not renewed.

23.4 If it is determined that Lessor has failed to receive title to any of the Subject Land, the Lease is null and void insofar as it relates to the land to which Lessor has failed to receive title. Lessor shall not be liable to Lessee or any assignee or sublessee for any damages that result from Lessor's failure to receive title.

23.5 In any action arising out of this Lease, the prevailing party is entitled to recover reasonable attorneys' fees incurred therein in addition to the amount of any judgement, costs and other expenses as determined by the court. In the case of Lessor, reasonable attorneys' fees shall be calculated at the reasonable market value for such services when rendered by private counsel notwithstanding that it is represented by the Arizona Attorney General's Office or by other salaried counsel.

23.6 No provisions of this Lease shall create any right or interest in Lessee to a fee interest in the Subject Land.

23.7 Any notice to be given or other documents to be delivered to Lessee or Lessor hereunder shall be in writing and delivered to Lessee or Lessor by depositing same in the United States Mail, with prepaid postage addressed as follows:

To Lessor: Arizona State Land Department  
1616 West Adams Street - First Floor  
Phoenix, AZ 85007

To Lessee: Address of Record

Lessee must notify Lessor within thirty (30) days by written notice of any change in address. Lessor's notice shall be deemed adequate if sent to the Lessee's best known address of record and no change of address form is on file.

23.8 This Lease shall be governed by, construed and enforced in accordance with Arizona laws.

23.9 Any attempt to assign, sublease, convey, transfer or otherwise dispose of any estate or interest in this Lease, other than pursuant to its term, shall not be effective.

23.10 This Lease, together with all attached Appendices, embodies the whole agreement of the parties. There are no other agreements or terms, oral or written. This document supersedes all previous communications, representations and agreements, oral or written, between the parties.

23.11 THIS DOCUMENT is submitted for examination and shall have no binding effect on the parties unless and until executed by the Lessor (after execution by the Lessee), and a fully executed copy is delivered to the Lessee.

23.12 IN THE EVENT OF A DISPUTE between the parties to this Lease, it is agreed to use arbitration to resolve the dispute but only to the extent required by A.R.S. § 12-1518; and, in no event shall arbitration be employed to resolve a dispute which is otherwise subject to administrative review by the Department.

IN WITNESS HEREOF, the parties hereto have signed this Lease effective the day and year set forth previously herein.

STATE OF ARIZONA, LESSOR  
Arizona State Land Commissioner

By: \_\_\_\_\_  
Date

(SEAL)

\_\_\_\_\_  
Lessee Date

\_\_\_\_\_  
Lessee Date

\_\_\_\_\_  
Lessee Date

\_\_\_\_\_  
Address

\_\_\_\_\_  
City State Zip

# COLORADO





**5. RESERVATIONS TO THE BOARD**

This lease is subject to any and all presently existing easements, rights-of-way and other interests, whether or not visible on the ground; and, in addition to its reversion upon termination of this Lease, the Board hereby reserves:

- A. The right to sell, exchange, or otherwise dispose of all or any portion of the Premises during the term of this Lease.
- B. The right to lease all or any portion of the premises to other persons for the purposes of exploring for and removing timber, minerals, ores, metals, coal, asphaltum, oil, gas, sand, gravel, clay, quarry products, peat, geothermal resources, and all other naturally occurring resources, together with reasonable and adequate rights of entry and surface rights necessary or convenient to exercise such reserved rights, including but not limited to the right, upon thirty (30) days' prior written notice to the Lessee, to cancel this Lease as to all or any portion of the Premises, refunding to Lessee the unearned portion of the prepaid rental amounts.
- C. The right to cancel this Lease as to all or any part or portion of the Premises, upon twelve (12) months prior written notice to the Lessee. If the Board elects to cancel this Lease as to all or any part or portion of the Premises, the Board shall refund to Lessee the unearned portion of the prepaid rental amounts.
- D. The right to hold, appropriate, sell or otherwise dispose of any fences, improvements, growing or stored crops, and machinery of Lessee upon the Premises to recover the payment of any delinquent rental amounts or any other claims of the Board against Lessee on account of damages, expenses, injury or otherwise.
- E. The right at any time to grant any right-of-way or easement upon, over or across all or any portion of the Premises. If and when such right-of-way or easement is granted, the Lessee shall be compensated by the grantee for any damages to Lessee's personal property, crops, fixtures and leasehold improvements including, but not limited to, crop preparations, fences, stock watering and irrigation systems, and other improvements; but not for loss of use of the land or the Premises.
- F. The right to put the Premises to additional uses by granting additional leases, permits, access, or rights to the Premises or any portion thereof, at any time and for any purpose, including but not limited to hunting, fishing and other recreational purposes. Such grant shall convey exclusive use for such purpose.
- G. The right to administrative access to the Premises at all reasonable times by employees and agents of the Board in order to inspect the Premises, to investigate and secure compliance with this Lease, to appraise and/or value improvements, and to otherwise fulfill its trust obligations to manage land within its control either for the Premises alone or as part of the other lands that the Board manages. Lessee hereby grants to the Board a non-revocable license for such access over and across Lessee's other lands during the term of this Lease.
- H. The right to designate or control the time of use of the premises, in order to protect the premises and their productivity, or to accommodate other approved uses of the premises.
- I. All rights, privileges and uses of every kind or nature not specifically granted to Lessee by this Lease.

**6. SALE AND/OR ASSIGNMENT OF LEASE AND/OR SUBLEASING OF PREMISES**

- A. No sale, assignment, partial assignment, collateralization, encumbrance, sublease, pasturage or any use agreement, collectively called a "Transfer" by Lessee to any person or entity shall be permitted or valid unless approved in advance in writing by the Board. Approval of a Transfer shall not release Lessee from Lessee's liabilities or obligations under this Lease. Lessee shall remain responsible for all rental payments due until receipt of the written approval of Transfer from the Board. Upon approval of a Transfer, the Board may change or impose new rental amounts, terms, conditions and payments.
- B. Any transfer or change in the control or ownership of the lease necessitated by bankruptcy, death, divorce, merger, sale of private property or otherwise shall be deemed to be a Transfer requiring Board notification and approval.
- C. Any attempted Transfer by Lessee without prior written Board approval shall be invalid, shall be grounds for immediate cancellation of this Lease at the election of the Board and shall subject the Lessee to sanctions, penalties and fees in accordance with applicable policies, directives and schedules, as adopted by the Board from time to time, and incorporated herein by reference.

**7. PROTECTION, CONSERVATION AND COOPERATION**

- A. Lessee shall not permit, commit, or allow, and shall protect the Premises against, any loss, damage, any dangerous condition, injury, or waste, except as caused by persons granted other uses of the Premises by the Board. Lessee may use the Premises only for the purposes granted and in accordance with good resource conservation practices. Lessee shall conduct all grazing and agricultural operations on the Premises in a manner that protects soil fertility and forage production, and does not contribute to soil erosion, over-grazing, noxious weeds or pests. Failure to do so shall be grounds for immediate cancellation of this Lease at the election of the Board, and shall subject the Lessee to sanctions, penalties and fees in accordance with applicable policies, directives and schedules, as adopted by the Board from time to time, and incorporated herein by reference.
- B. Lessee shall not cut, remove, or use or allow to be cut, removed or used, any timber or trees, or remove, use or allow to be removed or used any minerals, ores, metals, coal, asphaltum, oil, gas, sand, gravel, clay, quarry products, peat, geothermal resources or other naturally occurring resources unless approved in advance in writing by the Board or except as caused by persons granted other uses of the Premises by the Board.
- C. Lessee shall cooperate with and in no way impede or obstruct the other uses permitted by the Board pursuant to the paragraph entitled "Reservations to the Board". Failure to fully cooperate following written notice from the Board shall be grounds for immediate cancellation of this Lease at the election of the Board and shall subject the Lessee to penalties and fees in accordance with applicable policies, directives and schedules, as adopted by the Board from time to time, and incorporated herein by reference.

**8. ASSESSMENTS, TAXES AND UTILITIES**

Lessee shall pay when due all assessments, taxes, fees, water and utility charges, if any, levied or accruing against the Premises, improvements, appurtenances, uses or activities of Lessee, including those that could otherwise result in a lien being placed against the Premises.

**9. INSOLVENCY OF LESSEE**

If the Lessee becomes insolvent, bankrupt, or has a receiver appointed, the Board may terminate this Lease. Insolvency as used herein will mean the inability of the Lessee to meet obligations as they come due.

**10. CONDEMNATION**

If all of the Premises are taken by any public authority under the power of eminent domain, this Lease shall terminate as of the date possession was taken by said public authority pursuant to such condemnation. If part of the Premises is taken and, in the opinion of either the Board or Lessee, it is not economically feasible to continue this Lease, either party may terminate this Lease. Such termination by either party shall be made by written notice to the other party given not later than thirty (30) days after possession is so taken. If part of the Premises is taken and neither the Board nor Lessee elects to terminate this Lease, the rental amount due under this Lease may be abated, in the Board's sole discretion, in the same proportion as the value of the portion of the Premises so taken bears to the value of the whole of the Premises prior to condemnation. All damages awarded from the condemnation or damaging of all or any part of the Premises, or Board-owned improvements thereon, shall belong to and become the property of the Board, and the Lessee hereby disclaims any interest therein and assigns to the Board any and all claims to such award. The Board shall not claim any interest in authorized improvements or growing crops of the Lessee, and the Lessee shall only be entitled to compensation for growing crops and authorized improvements as negotiated between the Lessee and the condemning public authority or as determined by the court.

**11. IMPROVEMENTS OR ALTERATIONS**

- A. No improvement, except standard agricultural fences, shall be placed on the Premises and/or substantial alteration conducted on the Premises by the Lessee or at the Lessee's direction without prior written authorization by the Board. Written authorization can be sought by submitting to the Board an Improvement Application on a form provided by the Board. Improvements placed upon the Premises by the Lessee with the Board's prior written authorization shall be referred to herein as "authorized improvements". Any improvement or alteration that has not received prior written authorization shall be "unauthorized improvements".
- B. Upon the termination of this Lease, and provided Lessee is not then in breach of or in default under this Lease, all authorized improvements shall, at the Lessee's option, either be:
  - 1. removed by Lessee without damage to the Premises; or
  - 2. sold by Lessee to a subsequent lessee pursuant to CRS §36-1-119.
- C. All authorized improvements not so removed or sold within sixty (60) days after termination of this Lease shall be deemed abandoned and may, at the Board's option, be removed by the Board at the Lessee's expense, retained by the Board for use by subsequent lessees, or sold by the Board with all proceeds going to the Board. Lessee shall not be entitled to compensation for, or to sell or remove, any authorized improvements when the lease is terminated by the Board for violation by the Lessee of the lease provisions.
- D. In the event that the new owner or new Lessee and the former Lessee do not agree upon the value of the authorized improvements, the Board shall establish the value of the authorized improvements.
- E. As to all unauthorized improvements, and to all improvements when Lessee is in breach of or in default under this Lease, those improvements shall, at the Board's option:
  - 1. become the property of the Board without cost to the Board or compensation to the Lessee; or
  - 2. be removed by the Lessee at Lessee's expense without damage to the Premises; or
  - 3. be removed by the Board at Lessee's expense.
- F. Lessee shall not suffer or permit to be enforced against the Premises, or any part of the Premises, or any improvements on the Premises, any mechanics', materialmen's, contractors', or subcontractors' liens arising from, or any claim of damage growing out of the work of any construction, repair, restoration, replacement of improvement, or any other claim or demand howsoever the same may arise. Lessee shall pay or cause to be paid all of said liens, claims or demands before any action is brought to enforce such liens, claims or demands against the Premises or improvements. Lessee shall provide actual and posted notice of nonliability pursuant to C.R.S. § 38-22-105 notifying all persons who might claim any liens or encumbrances upon the Premises relating to any work, labor, services or materials provided for or improvements to the Premises initiated by or conducted for the benefit of Lessee that the Board's interests are not subject to such liens or encumbrances. Lessee shall indemnify, defend and hold the Board harmless against any claims for any liens or encumbrances upon the Premises relating to any work, labor, services or materials provided for or improvements to the Premises initiated by or conducted for the benefit of Lessee.
- G. Lessee agrees to maintain with the Board a current and complete list of all authorized improvements on the Premises on a form provided by the Board. Lessee shall keep and maintain the Premises and all Lessee- and/or Board-owned improvements, whether new or pre-existing, in good repair and safe condition. In the event of violation of the foregoing provision, any authorized or unauthorized improvements may be removed by the Board at the Lessee's expense and shall be grounds for immediate cancellation of this Lease at the election of the Board and shall subject the Lessee to sanctions, penalties and fees in accordance with applicable policies, directives and schedules, as adopted by the Board from time to time, and incorporated herein by reference.

**12. WATER**

- A. No water, ditch, reservoir, well, spring, seepage or other right, permit, or use of any kind, ("water right") may be initiated, established, appropriated or adjudicated (for use on or off the Premises) by the Lessee for which the point of diversion, withdrawal, use or storage is on the Premises, without the prior written approval of the Board. All applications and documents pertaining to any such water right shall be made in the name of the Board, and the Board reserves the right to make or convert any related applications or documents in or to its own name. Any such water right, approved or unapproved, is the sole and absolute property of the Board without cost to the Board.
- B. Improvements made or constructed by the Lessee in connection with such water right, apart from any such water right, shall be subject to the preceding section entitled "Improvements". The water right itself, however, shall belong to the Board without cost.
- C. Any proposal by the Lessee to apply and/or use on the Premises an existing water right which is not diverted, withdrawn or stored on the Premises, and which is not the property of the Board, shall first be approved in writing by the Board. Such approval and application shall be in

accordance with applicable policies, directives and schedules, as adopted by the Board from time to time, and incorporated herein by reference. Once an application of such water right is approved the Board shall have the option, at the termination of this Lease, to:

1. require that the water right (and/or related improvements), or any portion thereof, be sold to the Board or its subsequent lessee at its fair market value; or
2. permit the water right (and related improvements) to be removed from the Premises, but only under a reclamation/restoration plan approved by the Board and completed by the Lessee. If the reclamation/restoration is not completed by the Lessee within the time set forth in the approved plan, the water right shall remain attached to and available for use on the Premises and become the property of the Board without cost.

D. If any water right (and/or related improvements) owned by the Board is leased to the Lessee by this Lease, it shall be described in the paragraph entitled "Description of the Premises" and in that event will be considered part of the Premises.

### 13. COMPLIANCE WITH LAWS

- A. With respect to the Premises, Lessee shall comply with all applicable federal, state and local laws, ordinances, and regulations, including but not limited to criminal, land use, fencing, noxious weed, environmental, wetlands protection, hazardous waste, health and safety laws, ordinances and regulations.
- B. In addition to the foregoing, and not in limitation thereof, Lessee shall not cause or knowingly permit any Hazardous Material to be brought upon, kept or used in or about the Premises by Lessee or Lessee's agents, employees, contractors or invitees, without the prior written consent of the Board. If the Lessee breaches the obligations stated in the preceding sentence, or if the presence of Hazardous Material on the Premises caused or knowingly permitted by the Lessee results in contamination of the Premises, or if contamination of the Premises by Hazardous Material otherwise occurs for which the Lessee is legally liable, then the Lessee shall indemnify, defend and hold the Board harmless from any and all claims, judgments, damages, penalties, fines, costs, liabilities or losses (including, without limitation, diminution in value of the Premises, damages for the loss or restriction on use of the Premises, damages arising from any adverse impact on future leasing of the Premises, and sums paid in settlement of claims, attorney fees, consultant fees and expert fees) which arise during or after the lease term as a result of such contamination. This indemnification of the Board by the Lessee includes, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal, or restoration work required by any federal, state, or local governmental agency or political subdivision because of Hazardous Material present in the soil or ground water on or under the Premises. Without limiting the foregoing, if the presence of any Hazardous Material on the Premises caused or knowingly permitted by the Lessee results in any contamination of the Premises, the Lessee shall promptly take all actions at Lessee's sole expense as are necessary to return the Premises to the condition existing prior to the introduction of any such Hazardous Material to the Premises; provided that the Board's approval of such actions shall first be obtained. Lessee shall not be liable hereunder for the actions or omissions of those persons over whom Lessee has no control. As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste, which is or becomes regulated by any local governmental authority, the State of Colorado or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance that is (i) defined or designated as a "hazardous substance", "hazardous waste" or a "regulated substance" under appropriate state or federal law; (ii) petroleum; or (iii) asbestos.

### 14. INDEMNIFICATION AND COSTS

Lessee assumes all liability arising from the use, occupation or control of the Premises by Lessee under this Lease. This assumption includes, but is not limited to, liability for all personal injuries (including death) and property damage and destruction. Lessee agrees to defend, indemnify and hold harmless the Board from and against liability, damage, expense, claim and judgment arising from the use, occupation or control of the Premises except as caused by persons granted other uses of the Premises by the Board. Lessee further agrees to indemnify the Board for any costs, including costs of suit and fees for consultants, experts, and attorneys, incurred by the Board in terminating or canceling, enforcing obligations or defending itself against any matter arising under this Lease caused or knowingly permitted by Lessee. This indemnity is in addition to any other indemnity provided for in this Lease.

### 15. NO LEASEHOLD INTEREST

Upon sale, condemnation, exchange or other disposition of the Premises, or any part thereof, and upon any other cancellation or termination of this Lease, either at or prior to the end of the lease term, Lessee shall have no claim or right to any leasehold interest or any right to compensation for any leasehold interest based upon any unexpired term or expectation of extension or renewal of this Lease except as provided by applicable statute. Lessee's interest, if any, shall be limited to the authorized improvements under the paragraph entitled "Improvements".

### 16. DEFAULT AND BREACH

If Lessee breaches or is in default under any provision of this Lease, or acts in any way which diminishes the value of the Premises, the Board may cancel this Lease after the Lessee has been given thirty (30) days' prior notice of the breach or default and such breach or default has not been corrected to the Board's satisfaction within that time. Upon such cancellation for breach or default, all improvements and crops on the Premises shall be forfeited to and become the property of the Board. The Board may retain all rental monies previously paid. The Board may seek damages for any and all violations or defaults with or without canceling this Lease. If the Board deems the breach or default to constitute a threat to safety, life, or property, it may intervene immediately, without notice, to remedy or prevent the breach or default. The Lessee agrees to repay the Board for all costs in remedying any breach or default under this Lease by Lessee including costs of suit and fees for consultants, experts, and attorneys. Alternatively, the Board may require the Lessee to act immediately to remedy any breach or default, which the Board deems a threat to safety, life, or property.

### 17. COSTS AND EXPENSES

If Lessee refuses or neglects to pay rental amounts when due under this Lease, or in any manner fails to comply with any of the requirements of this Lease, the Board is authorized to incur any expenses necessary in making collection or otherwise enforcing the provisions of this Lease, and the Lessee shall reimburse the Board for all expenses incurred, including costs of suit and attorney fees.

### 18. HOLDING OVER

If Lessee remains in possession or makes use of the Premises in any way after the termination of this Lease (by expiration or otherwise) Lessee shall be liable for damages in a minimum amount based on a pro-rated amount of the last year's rental during such holdover possession. The amount of damages shall not be less than the rate agreed upon in this Lease, and the Board may fix damages that shall be paid by the Lessee during continued occupancy. At the Board's option, the Lessee shall be construed to be in possession of the Premises and to be occupying the same so long as the

Premises are used in any way to any extent by Lessee, or so long as any of his authorized or unauthorized improvements or personal effects remain on the Premises. Continued occupancy shall be considered a tenancy at sufferance, and shall not establish a new or extended lease term or other right, no matter how long maintained and regardless of the Board's knowledge thereof.

**19. TERMINATION**

- A. Upon termination or cancellation of this Lease, Lessee shall pay all rental amounts due as well as any accrued penalty and interest, shall immediately vacate the Premises, shall remove all improvements and restore the Premises as directed by Board and required under this Lease.
- B. If this Lease is terminated pursuant to subparagraph C of the paragraph entitled "Reservations To The Board", Lessee shall have the right to re-enter the Premises to cultivate and remove any crops planted or sown by Lessee prior to service of demand for possession, and then grown or growing on the Premises, except that this provision shall not apply to hay, orchard and other crops which normally produce harvestable yields for more than one year after the planting thereof. Before removing such crops, Lessee must first pay the Board compensation for the use of the Premises equal to the prorated rental amount from the date of service of the demand for possession to the date removal of the crops is completed. The actual fertilizing, plowing, and other pre-planting costs of cultivation to the Premises, during the customary preparation time for the planting of a crop, not actually planted at the time of service of demand for possession, will be deemed an authorized improvement and treated as such by the Board in the same manner as provided for in the paragraph entitled "Improvements".

**20. PENALTY, INTEREST AND FEES**

Both a penalty and interest shall be imposed for, but not limited to, late payments, improper or partial payments, violation of any covenant of this Lease, or false statements made to the Board. Penalty and interest and fee schedules, as adopted by the Board from time to time, shall be deemed effective immediately after public notice and incorporated herein by reference.

**21. BOARD POLICIES**

This Lease is subject to and Lessee shall comply with all applicable policies, directives and schedules, as adopted by the Board from time to time. Such policies, directives and schedules are available for inspection and review at the offices of the Board and online at <http://www.trustlands.state.co.us/Information/Policies.asp> and are incorporated herein by reference. Lessee acknowledges that the Board meets publicly on a monthly basis and at such public meetings may amend or change existing policies and/or adopt new policies. Any amendments or changes to existing policies, directives and schedules and any adopted new policies, directives and schedules, shall be deemed effective immediately after public notice and incorporated herein by reference. Lessee shall be responsible to stay fully informed of all applicable policies, directives and schedules. Lack of actual notice or knowledge of applicable policies, directives and schedules shall not provide a defense for any failure to comply.

**22. JOINT & SEVERAL LIABILITY**

All persons signing this Lease as Lessee shall be jointly and severally liable for any and all rental amounts, damages, injuries, penalties, fees and other liabilities arising under this Lease and/or arising from the use, occupation or control of the Premises.

**23. NONWAIVER**

Waiver by the Board of strict performance of any provision of this Lease shall not be a waiver of, nor prejudice the Board's right to require strict performance of the same provision in the future or of any other provision. The acceptance of performance, rent, or any other sum owing by the Board following a breach by the Lessee of any provision of this Lease shall not constitute a waiver of any right of the Board with respect to such breach. The Board shall be deemed to have waived any right hereunder only if the Board shall expressly do so in writing.

**24. AMENDMENTS**

No waiver, modification, amendment, discharge or change of this Lease shall be valid unless the same is in writing and signed by the Board. The staff of the Board does not have authority, actual or apparent, to waive, modify, amend, discharge or change any provision of this Lease, except in writing.

**25. VENUE**

In the event of a dispute arising out of this Lease, venue shall be in the City and County of Denver, Colorado.

**26. REPORTS**

Lessee shall submit any and all reports on the past uses and the present use and conditions of and any improvements on the premises and current and accurate financial information for the Premises as requested by the Board. Lessee shall submit, as directed by the Board, a Resource Management Plan for the Premises for approval by the Board. The Resource Management Plan must be acceptable to the Board and when approved shall be incorporated as a covenant under this Lease.

**27. SURVIVAL**

All obligations of Lessee to be performed prior to the expiration or termination of this Lease shall not cease upon the termination or expiration of this Lease and shall continue as obligations until fully performed. All clauses of this Lease which require performance beyond the termination or expiration date shall survive the termination or expiration date of this Lease. However, upon expiration or earlier termination of this Lease, the rights of the Lessee and of all persons, firms, corporations, and entities, claiming under Lessee in and to the Premises and all improvements hereon, shall cease.

**28. SEVERABILITY**

If any term or provision of this Lease proves to be invalid, unenforceable, void, or illegal, the remainder of this Lease shall not be affected thereby, and shall be valid and be enforced as written.

29. BOARD'S DISCRETION

Whenever the Board's approval, consent or authorization is sought by the Lessee pursuant to this Lease, the Board may withhold such approval, consent or authorization in its sole and absolute discretion.

30. NOTICES

Any notice, request or demand required or permitted to be delivered hereunder shall be in writing and shall be deemed to be given and delivered when deposited with the United States Postal Service, postage prepaid, registered or certified mail, return receipt requested, addressed to the party intended at the address stated herein, or to such other address as may hereafter be furnished in writing. In addition, it is the Lessee's responsibility to provide written notification to the Board of any change of address in a timely manner. Failure to do so may result in penalties and interest in accordance with Section 20 of this lease.

31. BOARD'S AUTHORITY

This Lease is entered into pursuant to the authority granted to the Board by Colorado law.

32. ACCESS CONTROL

Until replaced, modified or revoked by the Board, the Lessee may access and use the premises for recreational activities not specifically addressed in Section 1 of this Lease and/or grant or deny access to the Premises for non-agricultural activities to third persons. Lessee shall not charge a fee or collect other consideration for granting access to or use of the Premises unless Lessee holds a separate recreational lease issued by the Board. Lessee shall be solely responsible for persons to whom Lessee has granted access and for activities resulting from such access. Lessee agrees to indemnify, defend, save and hold harmless the Board from claims arising from access granted to such persons. This authority to grant or deny access is subordinate to the Lease and, in particular, the "Reservations to the Board" and "Access Control" sections of the lease. The Board may grant access to third parties by replacing, modifying or revoking this authority at its sole discretion at any time. Any grant of access by the Board to parties other than the Lessee, for non-agricultural activities, shall be an exclusive grant for such use and shall serve to revoke the Lessee's ability to make the same use during the specific time that the grant is in effect. During said periods of time the Lessee's ability to access the Premises for the granted use shall be only in accordance with the grant for that use.

33. ADDITIONAL CONDITIONS

Additional conditions, if any, are set forth on an attached rider(s), and made a part hereof.

IN WITNESS WHEREOF, the Board and the Lessee, by their signatures below, agree to the terms of this Lease:

Lessee: \_\_\_\_\_ Signature \_\_\_\_\_ Printed Name \_\_\_\_\_  
individually and as \_\_\_\_\_ Position \_\_\_\_\_ of \_\_\_\_\_ Entity \_\_\_\_\_

STATE OF COLORADO BY THE  
STATE BOARD OF LAND COMMISSIONERS

By: \_\_\_\_\_ Director

Recommended By: Surface Lands Manager

Application Number XXXXXX  
Renewal of Lease XXXXXX  
LEASES\XXXXXX.DOC

Revised 061703 by SML

**IDAHO**



STATE OF IDAHO
GRAZING / CROPLAND LEASE
No.

This lease agreement is made and entered into by and between the State of Idaho, acting by and through the State Board of Land Commissioners (lessor) and \_\_\_\_\_ (lessee)

(Address) \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Zip)

This lease shall commence \_\_\_\_\_, and terminate \_\_\_\_\_.

The annual rent payment is due on May 1 of each year.

The lessor, in consideration of the rental paid and the covenants, conditions and restrictions hereinafter set forth, in attachment B, does hereby lease and demise unto the lessee the lands described, and the special provisions identified, in attachment A at the uses specified herein; grazing \_\_\_\_\_ acres containing \_\_\_\_\_ AUMs, cropland \_\_\_\_\_ acres of dryland at \_\_\_\_\_ per acre, \_\_\_\_\_ acres irrigated land at \_\_\_\_\_ per acre, \_\_\_\_\_ acres of wasteland at \_\_\_\_\_ per acre, miscellaneous \_\_\_\_\_ per annum, or \_\_\_\_\_ premium bid.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be duly executed the day and year first above written.

COUNTERSIGNED:

STATE BOARD OF LAND COMMISSIONERS OF THE STATE OF IDAHO

\_\_\_\_\_  
Secretary of the State of Idaho

By \_\_\_\_\_  
President of the State Board of Land Commissioners and Governor of the State of Idaho

\_\_\_\_\_  
Director Department of Lands

STATE OF IDAHO

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared Dirk Kempthorne, known to me to be the president of the State Board of Land Commissioners of the state of Idaho and the Governor of the state of Idaho; and Pete T. Cenarrusa, known to me to be the Secretary of the State of Idaho and Winston A Wiggins, known to me to be the Director, that executed the within instrument, and acknowledged to me that the State Board of Land Commissioners of the State of Idaho and the State of Idaho executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at \_\_\_\_\_, Idaho, Commission expires \_\_\_\_\_ Notary Public for Idaho

\*\*\*\*\*LESSEE\*\*\*\*\*

x \_\_\_\_\_ (lessee)

STATE OF \_\_\_\_\_

x \_\_\_\_\_ (lessee)

COUNTY OF \_\_\_\_\_)

On this \_\_\_\_\_ day of \_\_\_\_\_, in the year \_\_\_\_\_, before me, a Notary Public in and for said State, personally appeared \_\_\_\_\_

known to me to be the lessee that executed the within instrument and acknowledged to me that \_\_\_\_\_ he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on the day and year last above written.

Residing at \_\_\_\_\_, Commission expires \_\_\_\_\_ Notary Public for \_\_\_\_\_



STATE OF IDAHO  
STATE LAND LEASE

Lease Number: \_\_\_\_\_

ATTACHMENT A

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SPECIAL PROVISIONS:

SEE ATTACHMENT A-1

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DESCRIPTION OF PROPERTY:

COUNTY	ACRES	SUBDIVISION	DESCRIPTION	SEC.	TWP.	RGE.	ENDOW.
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STATE OF IDAHO  
STATE LAND LEASE

ATTACHMENT A-1

SPECIAL PROVISIONS  
GRAZING MANAGEMENT PLAN SUMMARY

Lease Number: \_\_\_\_\_  
Lease Applicant: \_\_\_\_\_  
Allotment Name: \_\_\_\_\_

Number of livestock by class:

Cow/calf pairs \_\_\_\_\_ yearlings \_\_\_\_\_ bulls \_\_\_\_\_  
Sheep \_\_\_\_\_ horses \_\_\_\_\_ other (specify) \_\_\_\_\_

Season of Use (proposed dates and approximate number of days): \_\_\_\_\_

**1. GRAZING MANAGEMENT PLAN SUMMARY**

The following is a summary of the grazing management proposal submitted by the lease applicant. If acceptable by the Department, the proposal will be incorporated into the grazing lease as an enforceable provision of the lease.

**STATE OF IDAHO  
STATE LAND LEASE  
ATTACHMENT B**

**1. Use of Land**

- 1.1 Grazing Use. The leased land shall be used by Lessee for the purpose of grazing domestic livestock, as specified in this Lease and Lessee's approved Grazing Management Plan, attached hereto as Attachment A-1 Special Provisions Grazing Management Plan Summary. No other uses shall be made of the leased land by Lessee without prior written approval of Lessor. At all times Lessee shall practice good husbandry on the leased land.
- 1.2 Cropland Use. In addition to or in lieu of the use authorized in Paragraph 1.1 of this Lease, the Lessee is authorized to use the number of acres identified on the signature page of this lease as cropland. The location and management of said acres shall be designated in the written Grazing Management Plan. Said use shall be in accordance with this Lease, the Lessee's approved Grazing Management Plan, and any special provisions attached hereto. No use of the leased land for cropping purposes shall occur prior to the final approval of the written Grazing Management Plan by Lessor. Lessee shall pay to Lessor an additional rental for the identified acres of cropland whether cultivated or not in an amount determined by Lessor pursuant to Lessor's current cropland rental policy, along with the annual base rental payment as set forth in Section 2 herein.

**2. Rental Rate and Modification of Rent**

- 2.1 Annual Rent Payment. Lessee agrees to pay to Lessor, in lawful money of the United States, each year's rent for every AUM covered by this Lease, in an amount to be calculated pursuant to Lessor's most current formulas for each applicable use at the time the rental is calculated or recalculated. The rent shall be payable on or before May 1 of each successive year. Lessee shall pay the annual rental to Lessor without abatement, offset, or deduction of any kind, unless otherwise authorized by the Lessor through a completed Lease Adjustment form provided by the Lessor. Lessor reserves the right to increase or decrease the annual rent. Lessee will be notified one hundred eighty (180) calendar days in advance of the first payment of any increase in rental.
- 2.2 Late Payment Charge. If annual rental is not paid in full by the date it is due, Lessor may terminate the Lease upon thirty (30) calendar days written notice to Lessee. In addition, in the event any rent due hereunder is not paid in full when due, Lessee shall pay, in addition to such rent, a late charge in the first calendar month of such delinquency equal to the greater of Twenty-five Dollars (\$25.00) or one percent (1%) of the unpaid rent. For each subsequent calendar month of such delinquency, Lessee shall pay an additional late charge equal to one percent (1%) of the then unpaid rent. The parties acknowledge and agree that the late charge described herein is a reasonable attempt to estimate and to compensate Lessor for higher administration costs associated with administering such late payments and is not intended as a penalty. By assessing this late charge, Lessor does not waive any right to declare a breach and to pursue any right or remedy available to Lessor by reason of such breach, after expiration of any applicable notice or cure period.
- 2.3 Lien. The amount of the rent, late charge, and interest shall constitute a lien in favor of the State of Idaho against all of Lessee's improvements and other property on the leased land, including, but not limited to, crops and livestock.

**3. Livestock Carrying Capacity.**

- 3.1 The grazing period, AUM's, and the number of stock shall be determined by Lessor and may be adjusted from time to time after giving Lessee thirty (30) calendar days notice of any such modifications. Lessee shall furnish such information as may be required to assist Lessor in determining the grazing period and number of stock to be grazed.

**4. Grazing Management Plan**

- 4.1 Grazing Management Plan Required – Content. Prior to issuance of this Lease, Lessee and Lessor must agree to a written Grazing Management Plan. The content of the plan shall address all activities that may take place under this Lease and include, but not be limited to, consideration of the kind and number of livestock, the season of use, the movement of livestock, the construction of improvements, the vegetation, noxious weed control and other factors identified by Lessor as necessary for inclusion in the plan based on the specific characteristics of the leased land and/or of Lessee's use of the premises. If the leased land is used in

conjunction with federal lands, the Grazing Management Plan prepared for the federal land may be deemed by Lessor, at its discretion, to satisfy the requirements of this section.

- 4.2 Modification of Plan. Lessor may review and modify any Grazing Management Plan upon changes in conditions, laws, or regulations, provided that Lessor shall give Lessee thirty (30) calendar days notice of any such modifications prior to the effective date thereof. Prior to instituting any management changes, Lessee must submit, in writing, the proposed changes to the Grazing Management Plan to Lessor for approval. No management changes shall occur prior to Lessor's written approval of the amended Grazing Management Plan. Modifications mutually agreeable to both Lessor and Lessee may be made at any time.
- 4.3 Annual Plan - Incorporation By Reference. Lessor may require that the Grazing Management Plan be supplemented by Lessee annually through an approved, written Annual Plan, which shall be developed and approved in the same manner as the Grazing Management Plan set forth in paragraphs 4.1 and 4.2 above. The Grazing Management Plan together with any and all subsequently approved amendments thereto and any Annual Plans are hereinafter referred to collectively as the Grazing Management Plan, and shall be incorporated by reference into this Lease.
- 4.4 Compliance Required. Lessee shall abide by all provisions of the Grazing Management Plan. If Lessee fails to abide by the Grazing Management Plan, Lessee will be deemed in breach of this Lease and the lease will be subject to cancellation in accordance with Section 18 of this lease.
- 4.5 Records to be Retained. Lessee must keep records showing the numbers and class of livestock on the leased land and the dates put on and removed from the leased land, as well as records relating to the construction of improvements. Lessor may require Lessee to produce these records.
- 4.6 See Attachment A of this Lease for a summary of the Grazing Management Plan in effect as of the date of execution of this Lease.
5. **Subleasing or Assignment**
  - 5.1 Written Approval Required. Lessee shall not sublease or authorize another person to graze livestock on all or any part of Lessee's interest under this Lease, or assign this Lease, without the prior written consent of Lessor to be evidenced by Lessor's execution of consent forms provided by Lessor for that purpose. Any request for approval of a sublease or assignment must be in writing, complying with the statutes or rules governing subleasing, and accompanied by a copy of the proposed sublease agreement and the appropriate processing fee. Lessor may withhold consent for any reason. Any attempt by Lessee to sublease Lessee's interest in the leased land or any part of the leased land or to assign this Lease, shall be void unless Lessor has given such prior written consent. No request for Lessor's approval of any assignment or sublease will be considered unless all rent due has been paid in full, and Lessee is in good standing under the terms of the Lease. No sublease will act as a release of Lessee's obligations hereunder unless Lessor executes a separate written release of Lessee. Lessor has no obligation to so release Lessee, and Lessor can withhold such release at Lessor's sole discretion. Any sublease or assignment will be subject to the provisions of this Lease, including, but not limited to, the existing written Grazing Management Plan. The sublease will only be approved on an annual basis.
  - 5.2 Additional Rental Due. In the event the leased land is subleased in accordance with Section 5 for an amount greater than the base rental, Lessee shall in addition to Lessee's annual base rental pay to Lessor an amount equal to one-half (1/2) the difference between Lessee's base rental rate herein established, and the rental rate paid by Sublessee.
  - 5.3 Improvements. Upon approved sublease or assignment, ownership of any existing Lessee-owned improvements under this Lease must be separately negotiated between Lessee and such Sublessee or Assignee.
  - 5.4 Copies to be Filed. Copies of all assignments, subleases, pasturage or any other agreement of any kind or nature involving the use of the leased land by another person shall be timely filed with Lessor.

6. **Leasehold Mortgage.**

6.1 Lessee shall not mortgage, pledge or otherwise dispose of Lessee's interest in the Lease, or any portion thereof, without prior written consent of Lessor. Lessee shall use mortgage or deed of trust forms provided by Lessor, and shall submit completed forms and appropriate fee to Lessor for review and approval. The term of a mortgage agreement shall not exceed the lease term. Lessor may accept or reject a leasehold mortgage at its discretion.

7. **Environmental, Safety and Sanitary Requirements**

7.1 No Hazardous Materials. Lessee shall neither commit nor permit the use, placement, transport or disposal of any hazardous waste, including, but not limited to, petroleum products, such as oil, gasoline, or any other substance that is or is suspected to be a hazardous substance or material on the leased land except the customary use associated with machinery, equipment and vehicles. Lessee shall be responsible, and shall pay all costs for the removal or other appropriate remedial action regarding any hazardous waste, substances, or materials which Lessee may have caused to be introduced on the land. Any such remediation or removal or storage must be conducted in accordance with applicable federal, state, or local law, regulation, rule or ordinance and Lessee shall immediately, upon the introduction of any hazardous waste, substances or materials onto the leased premises, contact the Idaho Department of Environmental Quality (DEQ) and enter into a consent order for remediation with DEQ, provided however, Lessee shall not forestall commencing any necessary remediation while negotiating the terms of any consent order with DEQ, unless Lessee is so authorized in writing by Lessor. In event of introduction of any hazardous waste, substances or materials, Lessor may also require Lessee to enter into consent orders or other agreements with any other relevant agency. Lessee shall indemnify, defend and hold Lessor harmless from all costs, expenses, damages or fines relating to pollution and hazardous materials including, without limiting the generality of the foregoing, attorney fees and costs of defense or of enforcement of Lessor's rights hereunder. The amount of any costs incurred by Lessor due to Lessee's violation of this provision shall constitute a lien in favor of the State of Idaho against all of the Lessee's improvements and other property on the leased land including, but not limited to, crops and livestock.

7.2 Fire and Safety Regulations. Lessee shall comply with all applicable federal, state and local laws, rules, regulations and ordinances, including, but not limited to, the Idaho Department of Lands for fire protection and prevention. Lessee agrees to keep the land free from fire hazards as determined by Lessor. Lessee is prohibited from burning garbage or household trash and any burning on the land, including the burning of wood, weeds or other debris, but excepting campfires necessary for the use under this Lease, requires the prior written permission of Lessor. Any burning must comply with applicable federal, state or local law, regulation, rule or ordinance.

7.3 Sanitary Requirements. Concerning activities authorized under this lease, Lessee shall at all times keep the land in a clean and sanitary condition, free of trash, garbage and litter so the land is maintained in the same or better condition as when this Lease was issued. Lessee shall not dispose of sewage except in conformity with applicable federal, state, and local law, rules and regulations pertinent to Lessee's use and shall dispose of sewage on the leased land only if specifically authorized by Lessor. The Lessee shall not store trash on the leased land nor transport trash, garbage, litter or debris onto the leased land. Lessee shall dispose of all trash, garbage and carcasses in conformity with all legal requirements. Lessee is responsible for all costs associated with sewage, garbage and litter disposal.

8. **No Warranty of Suitability - Quiet Enjoyment - Public Use**

8.1 No Warranty. Lessee acknowledges that neither Lessor nor any agent of Lessor has made any representation or warranty with respect to the land or concerning the suitability of the land for the uses intended by Lessee. Lessee acknowledges that it has accepted the land in an AS IS CONDITION, accepting any and all known or unknown faults therein.

8.2 Quiet Enjoyment. Lessor agrees that Lessee, upon payment of the rent and performing the terms of this Lease, may quietly have, hold and enjoy the land, for the purposes and uses allowed hereunder, during the term hereof. Lessee acknowledges that the Lease is non-exclusive, and Lessor retains the right to use of the land, or to grant rights to others for use of the land, to the extent any such use does not materially interfere with Lessee's purpose and uses allowed hereunder, unless otherwise provided for in this Lease.

8.3 Public Use. Lessee must allow the general public the right to use the leased land for any lawful use available to the public for lands owned by the State of Idaho. However, nothing in this Lease authorizes or purports to authorize trespass on private lands to reach state-owned lands. Public use of State lands shall not be restricted

without prior written approval of Lessor. This Lease is not an exclusive control lease as described under Idaho Code § 36-1603(b).

9. **Water Right and Water Use**

- 9.1 Water Rights. No water rights are included in this Lease. The establishment of any new water rights during the term of this Lease shall be by and for Lessor and no claim thereto shall be made by Lessee. Such water rights shall attach to and become appurtenant to the leased land
- 9.2 Water Use Generally. Lessee shall be entitled to use the water on the leased land, but only for the use allowed in this Lease and only insofar as permitted under Idaho water law. Lessee must receive the prior written consent of Lessor or its authorized agent, and the prior written consent of any department or agency of the State of Idaho having jurisdiction to regulate water rights in and for the State of Idaho for any of the following:
- A. To drill and use a water well,
  - B. To develop and use any source of water,
  - C. To cause any water to be conveyed off the land,
  - D. To bring water onto the leased land.
- 9.3 Water Systems. If water is supplied to the land by a water system operated by the State of Idaho, the use of such system and the supply of water provided thereby may be curtailed or terminated upon thirty (30) calendar days written notice to Lessee from Lessor or its authorized agent. Neither Lessor nor its agents and employees nor any entity of the State of Idaho shall be liable in any manner for damage or inconvenience to the Lessee by reason of failure of, damage to, or termination or curtailment of the operation of any water system or source supplying water to the land.

10. **Noxious Weeds**

- 10.1 Lessee shall cooperate with Lessor or any other agency authorized to undertake programs for control or eradication of noxious weeds. Lessee shall take measures to control noxious weeds on the leased land in accordance with Title 22, Chapter 24, Idaho Code, except those resulting from activities beyond the Lessee's control. The cost of control of noxious weeds on the leased land shall be shared by Lessee and Lessor with Lessor's share subject to funds appropriated for that purpose.

11. **Construction of Improvements**

- 11.1 Permit Required. Lessee shall not construct or place improvements or structures of any character (herein referred to as "improvements") on the leased land without the prior express, and written permission of Lessor. Said permission shall be in the form of a permit issued by Lessor, and shall be required for any improvement or structure on the leased land including, but not limited to, range improvements, buildings or other structures, water developments, fences, or the clearing of land. Lessee shall submit construction plans to the Lessor. Once the construction plans are approved and permitted by Lessor, then Lessee shall construct the improvements in full compliance with the approved plans, the permit and all applicable building codes, rules and laws. Permitted improvements shall be the property of Lessee, unless otherwise provided in the permit or approved Grazing Management Plan. Any improvement associated with the uses authorized in this lease and placed on endowment land prior to January 1, 1970 is considered grandfathered and properly authorized even though there may be no documentation of authorization.
- 11.2 Condition of Improvements. At all times during the term of this Lease, Lessee shall keep all improvements in good repair and functional condition to the satisfaction of Lessor. Any and all fences shall be neat, stock-proof, lawful fences and gates.
- 11.3 Maintenance of Improvements. Lessee may be required to remove or reconstruct improvements in poor or non-servicable condition. Existing maintenance agreements on lands acquired from the federal government shall remain in effect until amended by the parties involved. If maintenance is not being accomplished, Lessor shall provide a letter to Lessee informing Lessee of the lease violation. If work is not begun within thirty (30) calendar days, Lessor may contract repairs and add the amount to the annual rental.

13.2 Reclassification. The Lease may be cancelled in whole or in part upon one hundred eighty (180) calendar days written notice by Lessor if the leased lands are reclassified for any other use as designated by Lessor. In the event of early cancellation due to reclassification, Lessee will be entitled to a prorata refund of the premium bid for a conflicted lease.

14. **Relationship of the Parties**

14.1 Lessee is not an officer, employee or agent of Lessor. In no event shall any official, officer, employee or agent of Lessor or of the State of Idaho be in any way personally liable or responsible for any covenant or obligation contained in this Lease, express or implied, nor for any statement, representation or warranty made in connection herewith.

15. **Reservations by Lessor**

15.1 Lessor expressly reserves and excepts the following rights:

A. To enter upon the leased land, or any portion thereof, during the term of this Lease for any purpose, including, but not limited to, the purpose of inspecting the leased land.

B. All rights not expressly granted to Lessee under this Lease, including, but not limited to, all rights to timber, oil and gas, geothermal rights, mineral rights, easements and rights-of-way, water, and fee title to the leased land, and title to all appurtenances and improvements placed thereon by Lessor.

C. To grant easements and rights-of-way over and across the leased land. Lessor shall coordinate with Lessee before processing any easement applications on the leased land. The grantee of such easement shall, before exercising the same, pay Lessee the reasonable value of any permitted improvements and any growing and immature crops, if crops or improvements are impacted by the easement. Said value shall be determined by Lessor's appraisal.

D. To issue other leases on the leased premises. Such other leases may be for any purpose deemed appropriate by Lessor, including, but not limited to, the exploration and development of oil, gas, geothermal and mineral resources as provided by Title 47, Idaho Code. In the event any such other Lease is granted by Lessor, the other lessee shall, before exercising the same, pay Lessee the reasonable value of any permitted improvements and any growing and immature crops, if crops or improvements are impacted by the other lease. Said value shall be determined by Lessor's appraisal. If the other lease conflicts with the grazing use or makes consumptive use of forages, the grazing rental will be adjusted to reflect such loss of use.

E. To require that changes be made in the use under this Lease, and/or to the improvements on the leased premises, including, but not limited to, the sanitation or other facilities for the protection of public health, safety, preservation of property or water quality.

F. To reserve as Lessor's sole property any and all water appurtenant to Lessor's land or from any source arising thereon and to hold water rights for any beneficial use that may be developed as a result of this Lease, and as further provided in Section 9 herein.

G. Rights of ingress, egress, and access, over and across the leased land for Lessor and its lessees, permittees, contractors, and assigns on existing roads, or on suitable alternative roads provided by Lessee.

H. To reclassify the land, in whole or in part, for other uses that will better achieve the objective of Lessor. Upon reclassification this Lease may, at Lessor's discretion, be terminated in whole or as to the affected part. In the event of any such termination due to reclassification, the provisions of Section 11 relating to compensation for permitted improvements shall apply.

I. To sell timber on the leased land or otherwise conduct forest management activities, Lessor reserves the right to restrict or prohibit grazing use on all or portions of the leased land for timber management purposes. Lessee will be given not less than one hundred eighty (180) calendar days written notice of any such restrictions or termination of grazing use, together with a map of the restricted area.

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C. To grant easements and rights-of-way over and across the leased land. Lessor shall coordinate with Lessee before processing any easement applications on the leased land. The grantee of such easement shall, before exercising the same, pay Lessee the reasonable value of any permitted improvements and any growing and immature crops, if crops or improvements are impacted by the easement. Said value shall be determined by Lessor's appraisal.

D. To issue other leases on the leased premises. Such other leases may be for any purpose deemed appropriate by Lessor, including, but not limited to, the exploration and development of oil, gas, geothermal and mineral resources as provided by Title 47, Idaho Code. In the event any such other Lease is granted by Lessor, the other lessee shall, before exercising the same, pay Lessee the reasonable value of any permitted improvements and any growing and immature crops, if crops or improvements are impacted by the other lease. Said value shall be determined by Lessor's appraisal. If the other lease conflicts with the grazing use or makes consumptive use of forages, the grazing rental will be adjusted to reflect such loss of use.

E. To require that changes be made in the use under this Lease, and/or to the improvements on the leased premises, including, but not limited to, the sanitation or other facilities for the protection of public health, safety, preservation of property or water quality.

F. To reserve as Lessor's sole property any and all water appurtenant to Lessor's land or from any source arising thereon and to hold water rights for any beneficial use that may be developed as a result of this Lease, and as further provided in Section 9 herein.

G. Rights of ingress, egress, and access, over and across the leased land for Lessor and its lessees, permittees, contractors, and assigns on existing roads, or on suitable alternative roads provided by Lessee.

H. To reclassify the land, in whole or in part, for other uses that will better achieve the objective of Lessor. Upon reclassification this Lease may, at Lessor's discretion, be terminated in whole or as to the affected part. In the event of any such termination due to reclassification, the provisions of Section 11 relating to compensation for permitted improvements shall apply.

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19. **Surrender of Land**

19.1 Lessee shall, at the termination or expiration of this Lease, deliver immediate possession and vacate the leased land, leaving it in the same or better condition than it was in at the time of Lessee's entry on such premises under this agreement, except for reasonable use and wear, acts of God, or damage by causes beyond the control of Lessee, and upon vacating shall leave the demised land free and clear of all rubbish and debris, and with all improvements in good order and condition.

20. **Cancellation By Mutual Agreement**

20.1 Leases may be cancelled by mutual agreement between the Department and the Lessee. The Department will not unreasonably withhold approval of a request for cancellation by a Lessee.

21. **Notices**

21.1 Notices. Any notice or any demand given under the terms of this Lease shall be deemed given and delivered on the date when personally delivered or if mailed, the date same is deposited in the United States Mail, and mailed by regular or certified mail, postage prepaid and properly addressed to the appropriate party.

21.2 Addresses. Until changed by notice in writing, notice, demands, and communications under this Lease shall be addressed to Lessor at:

Idaho State Board of Land Commissioners  
954 W. Jefferson Street  
PO Box 83720  
Boise, Idaho 83720-0050

and to Lessee at the address set forth at the beginning of this Lease. Any notice or correspondence mailed to Lessee at the last identified address shall be deemed effective delivery. It is Lessee's duty to notify Lessor, in writing, of any change in mailing address.

22. **Waiver**

22.1 The waiver by Lessor of any breach of any term, covenant or condition of this Lease shall not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Lease. The acceptance of rent by Lessor hereunder shall not be construed to be a waiver of any violation of the term(s) of this Lease. No payment by the Lessee of a lesser amount than shall be due according to the terms of this Lease shall be deemed or construed to be other than a part payment on account of the most recent rent due, nor shall any endorsement or statement of any check or letter accompanying any payment be deemed to create an accord and satisfaction.

23. **Attorneys' Fees and Costs**

23.1 In the event Lessor initiates a legal proceeding of any kind instituted under this Lease or to obtain performance of any kind under this Lease, and Lessor prevails, Lessor shall be awarded such additional sums as the court may adjudge for reasonable attorney's fees (including fees from the Office of the Attorney General of the State of Idaho) and to pay all costs and disbursements incurred in such proceeding, including, but not limited to, accountants' fees and fees of appraisers or other experts.

24. **Lessee's Compliance with Applicable Laws and Rules**

24.1 Full compliance. Lessee shall fully comply with all applicable federal, state, or local statutes, ordinances, rules, regulations and laws now existing or hereafter enacted. This shall include, but not be limited to, all applicable rules and regulations and standards promulgated by the State Board of Land Commissioners or the Idaho Department of Lands, including but not limited to, the rules governing grazing leases and cropland leases, IDAPA 20.03.14.

24.2 No Waste or Nuisance. Lessee shall not use the land in any manner that would constitute loss or waste, nor shall Lessee allow the same to be committed thereon. Lessee shall not do anything which will create a nuisance or a danger to persons or property.

25. **Miscellaneous**

- 25.1 No Trespass. Lessee shall not use nor allow Lessee's livestock to graze or run at large over lands belonging to Lessor not under lease to Lessee or approved within the Grazing Management Plan.
- 25.2 Appraisals and Valuations. Any appraisal or valuation by Lessor called for in this Lease shall be done by Lessor in accordance with applicable state law and regulations, and the then existing policy of Lessor. Lessor's appraisals and valuations shall be conclusive.
- 25.3 Subject to Existing Leases/Easements. This Lease is expressly subject to any right-of-way, easement, lease or contract, including, but not limited to, any present or future timber sale contract, that are now in force and effect or that may hereafter be granted relating to the leased land.
- 25.4 Timber. This Lease does not authorize Lessee to cut any timber growing on the land leased. Any unauthorized use of such timber by the Lessee or with his knowledge or consent, shall work a forfeiture of this Lease without notice, and said Lessee shall be responsible for damages in the amount of treble the value of the timber used or taken and all other damages. Said timber value to be determined by Lessor.
- 25.5 Modification. This Lease may be modified only by a fully executed Lease adjustment on a form provided by Lessor.
- 25.6 Binding on Heirs and Successors. This Lease, including the Grazing Management Plan, shall inure to the benefit and be binding upon the heirs, executors, successors, sublessees, and assigns of the parties.
- 25.7 Lessee's Non-Discrimination. Lessee shall not discriminate against any person because of race, creed, religion, color, sex, national origin or disability.
- 25.8 Paragraph Headings. The paragraph headings, titles and captions used in this Lease are for convenience only and are not part of the Lease.
- 25.9 Entire Agreement. This Lease, including all exhibits attached hereto, contains the entire agreement between the parties concerning the subject matter hereof and supersedes any and all prior agreements. The execution of this Lease has not been induced by either party, or any agent of either party, by representations, promises or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the respective parties concerning this Lease except those which are expressly contained herein.
- 25.10 Governing Law and Forum. This Lease shall be construed in accordance with and governed by the laws of the State of Idaho and the parties consent to the jurisdiction of Idaho State courts located in Ada County in the event of any dispute with respect to this Lease.
- 25.11 Severability. In the event any provision of this Lease shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality or enforceability of the remaining provisions shall not in any way be affected or impaired.
- 25.12 Counterparts. This agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute but one and the same instrument.

**MONTANA**

AGREEMENT (LEASE) NO. \_\_\_\_\_

DS-434  
(Rev. 3/01)

### AGRICULTURAL & GRAZING LEASE OF STATE LANDS

This lease is entered into by the State of Montana, Board of Land Commissioners and Department of Natural Resources & Conservation (Department) as lessor, and the person herein named, as the lessee.

Date this lease takes effect: \_\_\_\_\_

Name of Lessee: \_\_\_\_\_

Address or Box No.: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Land Located in \_\_\_\_\_ County

DESCRIPTION	Sec.	Twp.	Rgp.	Acres

Total number of leased acres, \_\_\_\_\_ more or less belonging to \_\_\_\_\_ Grant.

Grazing Acres \_\_\_\_\_ Agricultural Acres: \_\_\_\_\_ Unsuitable Acres: \_\_\_\_\_

Terms of Grazing Use and Rental Rate: \_\_\_\_\_

Terms of Agricultural Use and Rental Rate: \_\_\_\_\_

Purpose for which the land is leased: \_\_\_\_\_

Term of lease: \_\_\_\_\_ Date of expiration: \_\_\_\_\_

**THIS LEASE HAS A CARRYING CAPACITY OF \_\_\_\_\_ ANIMAL UNIT MONTHS. THE LESSEE SHALL NOT EXCEED SUCH CARRYING CAPACITY. THE ANNUAL GRAZING RENTAL IS BASED ON THIS CARRYING CAPACITY.**

The State of Montana, in consideration of the payment of rentals as specified in this lease and the mutual agreements contained in this lease hereby leases the above-described lands to the lessee(s) named above.

The lessee(s) in consideration of the lease of the above-described lands and the mutual agreements contained in this lease hereby agrees to pay the rentals as specified in the lease and to perform all the conditions as specified in this lease, the applicable rules and the applicable statutes.

The parties to this lease mutually agree to the following terms and conditions:

- ALL GRAZING RENTALS ARE DUE BY MARCH 1 EACH YEAR AND FAILURE TO PAY BY APRIL 1 AUTOMATICALLY CANCELS THE ENTIRE LEASE. A NOTICE OF RENTAL DUE OR ANY OTHER CORRESPONDENCE OR NOTICE FROM THE LESSOR WILL BE SENT TO THE ABOVE ADDRESS ONLY, UNLESS A CHANGE OF ADDRESS IS REQUESTED IN WRITING, SIGNED BY THE LESSEE AND RECORDED BY THE LESSOR.
- ALL AGRICULTURAL RENTALS ARE DUE ON NOVEMBER 15 OF THE YEAR IN WHICH CROPS OR HAY ARE HARVESTED. IF THE RENTAL IS NOT PAID BY DECEMBER 31 OF THE SAME YEAR, THE ENTIRE LEASE IS CANCELED.
- CONVERSION OF CLASSIFIED GRAZING LANDS TO CROPLAND WITHOUT PRIOR APPROVAL AS REQUIRED BY LAW SUBJECTS THIS ENTIRE LEASE TO CANCELLATION.
- SUBLEASING (allowing any other person and/or their livestock to utilize the State land) WITHOUT FILING A FORM AND RECEIVING APPROVAL FROM THE DEPARTMENT MAY SUBJECT THE LEASE TO CANCELLATION. SUBLEASING ON TERMS LESS ADVANTAGEOUS TO THE SUBLESSEE THAN THE TERMS GIVEN BY THE STATE SHALL RESULT IN CANCELLATION.  
(a) SUBLEASING FOR MORE THAN TWO YEARS WILL RESULT IN LOSS OF THE PREFERENCE RIGHT.  
(b) SUBLEASING FOR MORE THAN THREE YEARS WILL RESULT IN THE LEASE BEING CANCELED. (The department's rules and applicable statutes concerning subleasing and pasturing agreements should be consulted.)
- REPORTS--Lessee is required to submit reports as requested by the Director, including weeding and production reports. Failure to submit such reports may result in cancellation of the lease.
- CULTIVATION--In the case of lands leased for agricultural purposes, the lessee hereby agrees to seed and cultivate such land in a husbandman-like manner and to strip farm if the land is subject to soil blowing. The lessee further agrees to keep the land clear of weeds and care for it in accordance with approved farm methods as determined by the state. The state shall have the right to impose reasonable restrictions on all state leases as are necessary to adequately protect the land, water, air or improvements in the area. Grain crops are to be delivered free of charge to the nearest elevator to the credit of the state of Montana on or before the fifteenth of November of each year. Other crops, including hay, are to be disposed of at the going market price unless otherwise directed. If a lessee decides to graze the stubble of harvested crops or hayland or grazes unharvested crops for haylands, he must contact the Department regarding payment for such grazing in classified agricultural lands. The Department shall determine the number of animal unit months of grazing available on the land and shall bill the lessee or licensee for the grazing use based on the minimum grazing rental established under Section 77-6-507, MCA or the competitive bid amount, whichever is greater. Failure or refusal to pay said rental or to notify the

department of such grazing may be cause for cancellation of the lease.

7. **FEDERAL FARM PROGRAM COMPLIANCE**—If a lessee or licensee has his lease or license canceled or terminated or for any reason is no longer the lessee or licensee, then he shall no longer be entitled to any payment or benefits from any federal farm program. If such a lessee or licensee does receive any such federal payment or benefit in connection with the state lease or license he shall be liable to the state for any amounts received after he is no longer recognized as the lessee or licensee. The lessee or licensee of any state land shall comply with the provisions of the federal farm program when applicable and shall indemnify the state against any loss occasioned by noncompliance with such provisions. In addition to any rentals provided in the lease or license, the state shall receive the same share as it receives for crops of all payments pursuant to any act or acts of the congress of the United States in connection with state lands under lease or license and the crops thereof. The state shall be entitled to such amounts annually for all leases based upon a cropshare, even if the lease states that the rental is based upon a crop share/cash basis, whichever is greater. All such leases shall be considered crop share leases for the purpose of receiving the state's share of the federal farm payments.
8. **IMPROVEMENTS**—The lessee may place a reasonable amount of improvements upon the lands under this lease upon approval of an Improvement permit by the Department. A report of proposed improvements, containing such information as the Director may request concerning the cost of the improvements, their suitability for the uses ordinarily made of the land, and their character whether fixed or movable, shall be submitted to the Director before installation thereof on the premises. Failure to obtain approval prior to placement of the improvement may result in such improvements not being recognized by the Department for purposes of reimbursement of such improvements. In addition, placing improvements on state lands without receiving prior approval, may result in cancellation of the lease.
9. **LIENS ON BUILDINGS AND CROPS**—The state shall have a lien upon all buildings, structures, fences and all other improvements, whether movable or not, and also upon all crops growing upon the land for any rentals due the Department.
10. **COMPENSATION FOR IMPROVEMENTS**—(a) If the land under this lease is sold or exchanged to a party other than the present lessee, or is leased to another party while the present lessee owns improvements lawfully remaining thereon, on which the state has no lien for rentals or penalties, as herein provided, and which he desires to sell and dispose of, such purchaser or new lessee shall pay the former lessee the reasonable value of such improvements. If any of the improvements consist of approved breaking (meaning the original plowing of the land) and one year's crop has been raised on the land after the breaking thereof, the compensation for such breaking shall not exceed the sum of two dollars and fifty cents (\$2.50) per acre, and that in case two or more crops have been raised on the land after the breaking thereof, the breaking shall not be considered as an improvement to the land. In case the former lessee and the new lessee or purchaser are unable to agree on the reasonable value of such improvements, such value shall be ascertained and fixed by three arbitrators, one of whom shall be appointed by the owner of the improvements, one by the new lessee or purchaser and the third by the two arbitrators so appointed. The former lessee must initiate arbitration within 60 days of notification from the Department that there is a new lessee or purchaser. Failure to initiate this process within this time period results in all improvements becoming property of the state. The reasonable compensation that such arbitrators may charge for their services shall be paid in equal shares by the owner of the improvements and the purchaser or new lessee. The value of such improvements as ascertained and fixed shall be binding upon both parties; provided, however, that if either party is dissatisfied with the valuation so fixed he may within ten (10) days appeal from their decision to the Director who shall thereupon cause his agent to examine such improvements and whose decision shall be final. The Director shall charge and collect the actual cost of such reexamination to the owner and new lessee or purchaser in such proportion as in his judgment may be demanded.
  - (b) Upon the termination of a lease, the Department may grant a license to the former lessee to remove the movable improvements from the land. Upon authorization, the movable improvements must be removed within 60 days or they become the property of the state unless the department for good cause grants additional time for the removal. The department shall charge the former lessee for the period of time that the improvements remain on the land after the termination of the lease.
  - (c) Summer fallowing (necessary cultivation done after the last crop grown) seeding, and growing crops on the land, which have not been harvested prior to March 1 next succeeding the date of sale or at the time of change of lessee, shall be considered as improvements. Their value shall be determined in the same manner as other improvements and shall be taken over by the purchaser or new lessee and paid for by him as other improvements.
11. **ASSIGNMENT OF LEASE**—If all rentals due have been paid and the terms of this lease have not been violated, the lease may be assigned on the forms provided for that purpose by the Director, but no such assignment shall be binding on the state unless the assignment is filed with the Director, approved by him, and the appropriate assignment fees submitted for such assignment. An assignment which is signed by both parties shall be conclusive proof that all payments for improvements have been paid to the assignor by the assignee. The leasehold interest herein may only be transferred to any other party by a properly executed assignment which must be approved by the Director prior to such transfer becoming effective. Until an assignment becomes effective, the Department will consider the lessee listed above to be the lessee for all purposes. There may be no consideration given for the assignment of a lease other than the value of the improvements, if any.
12. **RENEWAL LEASE**—If all rentals due under this lease have been paid, the lessee shall upon making proper application to the Director be entitled to have this lease renewed at any time within thirty (30) days prior to its expiration for an additional period of not exceeding ten years; and if there is no other applicant then offering to lease the land, the lease shall be issued at the minimum rental as determined under statutes then in effect. If there are two or more persons desiring to lease the same tract, the former lessee shall have the preference right to the lease to the extent that he may take the lease at the highest bid made by any other applicant. However, subleasing may cause loss of this renewal right. The department's rules concerning subleasing should be consulted. The lessee desiring to renew the lease must make application to the Department prior to January 28 of the year of expiration. Failure to do so will result in the lease becoming an unleased tract upon expiration, with the loss of the preference right and subject to competitive bidding.
13. **CANCELLATION OF LEASE BY THE STATE**—The Director shall have the power and authority in his discretion to cancel a lease for any of the following causes: For fraud or misrepresentation, or for concealment of facts relating to its issue, which if known would have prevented its issue in the form or to the party issued; for using the land for other purposes than those authorized by the lease, for overgrazing or any other misuse of the state lands involved, and for any other cause which in the judgement of the Director makes the cancellation of the lease necessary in order to do justice to all parties concerned, and to protect the interest of the state. Such cancellation shall not entitle the lessee to any refund of rentals paid or exemption from the payment of any rents, penalties or other compensation due the state. Lease cancellation for these causes is subject to appeal as provided in Section 77-6-211, MCA.
14. **LANDS MAY BE SOLD**—The Board of Land Commissioners may in their discretion exchange the lands under this lease for other lands, offer the lands under this lease for sale at any regular public sale of state lands held in the county where the land is situated upon the same terms and in the same manner as land not under lease, subject, however, to the rights of the lessee to compensation for improvements as herein provided; and subject also to the provision that the new owner will not be given possession by the state prior to March 1 next succeeding the date of exchange or sale unless the lease expires prior to that date, except through special agreement with the lessee.
15. **RESERVATION**—The state reserves all rights and interests in the land under this lease other than those specifically granted by this lease. These reservations include but are not limited to the following:
  - (a) **MINERAL AND TIMBER RESERVATION**—All coal, oil, gas and other minerals and all deposits of stone, gravel, sand, gems, and other nonminerals valuable for building, mining or other commercial purposes and all timber and trees are excepted from the operation of this lease. The lessee shall not open any mine or quarry or work or dig any of the minerals or nonminerals mentioned above from any mine or any quarry, pit or diggings situated on said land whether such mine, quarry, pit or diggings was open at the date of this lease or not. The lessee shall not cut, sell, remove, use or destroy any such timber dead or alive, or standing or fallen trees without the appropriate permit, license or lease.
  - (b) **ADDITIONAL RESERVATIONS**—The state reserves a right-of-way to the United States over the land above-described for ditches, canals, tunnels, telephone and telegraph, and power lines now constructed or to be constructed by the United States Government in furtherance of the reclamation of arid lands. The state also reserves the right of granting rights-of-way on the above-described land for other purposes. The state also reserves to itself and its representatives and other lessees or permittees the right to enter upon the lands embraced by this lease for the purpose of prospecting and exploring for minerals and for the purpose of mining, drilling for, developing and removing such minerals and for carrying on all operations related thereto and for any other management or administrative purposes; it also reserves to itself and its permittees the right to enter upon the said lands for the purpose of cutting and removing timber, wood and other forest products, and for removing gravel, sand, building stone, and other nonminerals. The state reserves the right to grant licenses, permits or leases for any alternative uses on state lands.
16. **NOXIOUS WEEDS AND PESTS**—The lessee agrees, at his own expense and cost, to keep the land free from noxious weeds, and if noxious weeds are present, then chemical application or other appropriate weed control measures must occur in time to prevent seed-set according to state law and to exterminate pests to the extent as required by the Department. In the event the land described in this lease shall be included in a weed control and weed seed extermination district, the lessee shall be required to comply with the provisions of Section 77-8-114, MCA, which provides as follows: "It shall be the duty of the Board in leasing any agricultural state land to provide in such lease, that the lessee of lands so leased lying within the boundaries of any noxious weed control and weed seed extermination district shall assume and pay all assessments and taxes levied by the board of County Commissioners for such district on such state lands, and such assessments and tax levy shall be imposed on such lessee as a personal property tax and shall be collected by the County Treasurer in the same manner as regular personal property taxes are collected." Failure to comply with this

provision when directed to do so by the Department may result in cancellation of the entire lease

- 17 FIRE PREVENTION AND SUPPRESSION--The lessee assumes all responsibility for carrying on at his own cost and expense all fire prevention and suppression work necessary or required to protect the forage, trees, buildings and structures on the land. The lessee is not responsible for the suppression of or damages resulting from a fire caused by a general recreational user, except that he or she shall make reasonable efforts to suppress the fire or report it to the proper firefighting authority or both, as circumstances dictate.
- 18 UNLAWFUL USE OF LANDS OR PREMISES--If any part of the lands or premises under this lease are used or allowed or permitted to be used for any purpose contrary to the laws of this state or the United States, such unlawful use shall in the discretion of the Board of Land Commissioners constitute sufficient reason for the cancellation of the lease. The lessee shall not utilize or allow to be utilized any state land under the lease for purposes other than the purpose for which it is granted.
- 19 SURRENDER OF THE PREMISES UPON TERMINATION OF THE LEASE--The lessee shall upon the expiration, cancellation, or termination of this lease peacefully yield up and surrender the possession of the land to the state of Montana or its agents or to subsequent lessees or grantees.
- 20 INCREASED RENTAL--If the Montana Legislature or the Board of Land Commissioners raises the rentals on state grazing or agriculture lands during the term of this lease, the lessee agrees to pay such increased rental for the years after such increase becomes effective. Also, the state reserves the right to determine the grazing capacity of said lands annually or from time to time as the Director in his discretion shall determine necessary and increase or decrease the rental thereon accordingly. In the event the Director should increase or decrease the carrying capacity of said lands, the lessee agrees to pay an increased or decreased rental based upon the Director's determination, and to adjust livestock numbers accordingly.
- 21 INDEMNIFICATION--The lessee agrees to save harmless and indemnify the State of Montana for any losses to the state occasioned by the levy of any penalties, fines, charges or assessments made against the above lands or crops grown upon the lands, by the U.S. Government because of any violation of or noncompliance with, any federal farm program or other acts by the lessee.
- 22 LAWS AND RULES--The lessee agrees to comply with all applicable laws and rules in effect at the date of this lease, or which may, from time to time, be adopted.
- 23 MULTI-USE MANAGEMENT--Pursuant to the obligations imposed by law, to administer state lands under a multiple-use management concept, the state reserves the right to dispose of any and all interests in the above-described land, subject, however to such interests granted to the lessee under the terms of this lease. The lessee may not close the land under lease at any time to the public for general recreational use, as defined in A.R.M. 36.25.145, without advanced written permission of the Department. Permission to close lands categorically closed under A.R.M. 36.25.150 is hereby granted and no further permission is required.
- 24 LEASE WITHDRAWAL--All or any portion of the land under lease may be withdrawn from this lease by the state. The lessee shall be entitled to reasonable compensation for any improvements thereon. The lands may be withdrawn to promote the duties and responsibilities of the Board of Land Commissioners.
- 25 SPECIAL CONDITIONS--

IN WITNESS WHEREOF, The State of Montana and the lessee have caused this lease to be executed in duplicate and the Director of the Department of Natural Resources and Conservation, pursuant to the authority granted him by the State Board of Land Commissioners of the State of Montana, has hereunto

set his hand and affixed the seal of the said Board of Land Commissioners this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

LESSEE SIGNATURE \_\_\_\_\_

DIRECTOR, DEPARTMENT OF NATURAL RESOURCES & CONSERVATION

ADDRESS OR BOX NO. \_\_\_\_\_

by \_\_\_\_\_

CITY \_\_\_\_\_ STATE \_\_\_\_\_ ZIP CODE \_\_\_\_\_

# NEW MEXICO

NEW MEXICO STATE LAND OFFICE  
 COMMISSIONER OF PUBLIC LANDS  
 NEW MEXICO STATE LAND OFFICE BUILDING  
 P.O. BOX 1148, SANTA FE, NM 87504-1148

AGRICULTURAL LEASE

LEASE NO. GS2390

THIS LEASE, DATED OCTOBER 01, 2002, IS ENTERED INTO BY AND BETWEEN THE COMMISSIONER OF PUBLIC LANDS, NEW MEXICO STATE LAND OFFICE, STATE OF NEW MEXICO, HEREINAFTER CALLED "LESSOR" AND:

CHAPPY'S O-Y LAND & CATTLE CO., INC.

HEREINAFTER CALLED "LESSEE(S)", WHOSE ADDRESS OF RECORD IS:

HCR 72, BOX 4  
 BUEYEROS, NM 88415

LESSOR AND LESSEE AGREE AND COVENANT AS FOLLOWS:

1. LEASE.

FOR AND IN CONSIDERATION OF AND SUBJECT TO THE RENTALS AND THE TERMS, COVENANTS, CONDITIONS, AGREEMENTS, OBLIGATIONS, AND RESERVATIONS CONTAINED IN THIS LEASE AND ALL OTHER EXISTING RIGHTS, LESSOR GRANTS AND LEASES TO LESSEE AND LESSEE TAKES FROM LESSOR THE TRACT(S) OF LAND DESCRIBED IN EXHIBIT A, ATTACHED HERETO AND INCORPORATED HEREIN BY REFERENCE.

2. TERM.

THE TERM OF THIS LEASE SHALL BEGIN ON OCTOBER 01, 2002 AND SHALL EXPIRE AT MIDNIGHT SEPTEMBER 30, 2007.

3. RENT.

THE ANNUAL RENTAL SHALL NOT BE LESS THAN THE MINIMUM RENTAL ESTABLISHED BY SECTION 19-7-29 NMSA 1978 AND SHALL BE PAID IN ADVANCE FOR EACH LEASE YEAR AND RECEIVED IN THE STATE LAND OFFICE ON OR BEFORE OCTOBER 1. THE ANNUAL RENTAL FOR GRAZING LAND SHALL BE DETERMINED AS FOLLOWS : ANNUAL RENTAL = BASE VALUE X CARRYING CAPACITY X ACREAGE X ECONOMIC VARIABLE INDEX (EVI), AS DEFINED BY SLO RULE 8 "RELATING TO AGRICULTURAL LEASES" (19 N.M.A.C. 3, SLO 8.11). IN NO EVENT SHALL THE PRODUCT OF THE APPLICATION OF THE EVI, FOR EACH SUCCESSIVE YEAR OF THE LEASE TERM, BE DECREASED OR INCREASED BY MORE THAN THIRTY-THREE AND ONE-THIRD PERCENT. IN THE CASE OF GRAZING RENTAL OFFERS ON OPEN ACREAGE OR PURSUANT TO COMPETITIVE BID, LESSOR MAY ACCEPT GREATER RENTAL AMOUNTS THAN THOSE DETERMINED BY THE FOREGOING FORMULA, BUT THE ANNUAL GRAZING RENTAL DUE IN ANY LEASE YEAR SHALL NOT BE LESS THAN THE FORMULA AMOUNT. THE ANNUAL RENTAL FOR CULTIVATED LAND, ASSOCIATED LAND AND CONSERVATION RESERVE PROGRAM LAND SHALL BE DETERMINED BY LESSOR AND SHALL REMAIN UNCHANGED DURING THE TERM OF THE LEASE. THE TYPE OF LAND HEREBY LEASED AND THE ANNUAL RENTAL AMOUNT FOR THIS LEASE SHALL BE AS SET OUT IN EXHIBIT A HEREIN.

4. PERMITTED USE.

LESSEE MAY USE THE LEASED PREMISES ONLY FOR SUCH OPERATIONS AND ACTIVITIES AS ARE NECESSARY TO CARRY OUT THE PURPOSES FOR WHICH THE LEASE IS GRANTED AS SPECIFIED IN EXHIBIT A, AND IN ORDER TO COMPLY WITH ALL APPLICABLE PROVISIONS OF LAW REGARDING THE CARE AND PROTECTION OF THE LEASED PREMISES.

000 SLO 7-31-02#103	\$50.00F1	000 SLO 7-31-02#106	\$6,015.45F4
000 SLO 7-31-02#104	\$50.00F4		



## 5. LIEN.

AS SECURITY FOR THE PAYMENT OF ANY RENT THAT IS OR MAY BECOME DUE AND UNPAID, LESSEE GRANTS TO LESSOR A FIRST AND PRIOR LIEN UPON ANY AND ALL IMPROVEMENTS AND CROPS ON THE LEASED PREMISES.

## 6. IMPROVEMENTS.

NO IMPROVEMENTS, EXCEPT AS OTHERWISE PROVIDED BY LAW, SHALL BE PLACED ON THE LEASED PREMISES WITHOUT THE PRIOR WRITTEN CONSENT OF THE LESSOR. ALL IMPROVEMENTS PLACED ON THE LEASED PREMISES IN VIOLATION OF THIS PARAGRAPH SHALL BE CONSIDERED AND TREATED AS UNAUTHORIZED IMPROVEMENTS IN ACCORDANCE WITH THE APPLICABLE LAWS AND RULES.

## 7. ASSIGNMENT, SUBLEASE AND RELINQUISHMENT.

LESSEE SHALL NOT ASSIGN OR SUBLEASE THE LEASED PREMISES OR THE IMPROVEMENTS ON SAID PREMISES WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR AND SUCH OTHER REQUIREMENTS AS PRESCRIBED BY LAW OR RULE. AS PROVIDED BY LAW AND RULE ANY LEASE, IN GOOD STANDING, MAY BE RELINQUISHED TO THE STATE. UPON RELINQUISHMENT HOWEVER, THE LESSEE SHALL NOT BE ENTITLED TO A REFUND OF RENTALS PREVIOUSLY OWING AND PAID.

## 8. COLLATERAL ASSIGNMENTS.

ANY AGRICULTURAL LEASE MAY BE ASSIGNED AS COLLATERAL SECURITY SUBJECT TO THE EXPRESS WRITTEN CONSENT OF THE LESSOR AND SUCH OTHER TERMS AND CONDITIONS AS PRESCRIBED BY LAW OR RULE. THE APPROVAL OF A COLLATERAL ASSIGNMENT, HOWEVER, SHALL NOT PREVENT THE CANCELLATION OF THE LEASE AND TERMINATION OF THE COLLATERAL ASSIGNMENT FOR THE NONPAYMENT OF RENTALS OR OTHER VIOLATIONS OF THE LEASE TERMS.

## 9. DEFAULT AND CANCELLATION.

THE VIOLATION BY LESSEE OF ANY OF THE TERMS, CONDITIONS, OR COVENANTS OF THIS LEASE OR THE NONPAYMENT BY LESSEE OF THE RENT DUE UNDER THIS LEASE SHALL AT THE OPTION OF THE COMMISSIONER BE CONSIDERED A DEFAULT AND SHALL CAUSE THE CANCELLATION OF THIS LEASE 30 DAYS AFTER LESSOR HAS SENT WRITTEN NOTICE OF SUCH DEFAULT TO THE LESSEE AND TO ANY HOLDERS OF COLLATERAL ASSIGNMENTS BY REGISTERED MAIL, ADDRESSED TO THE POST OFFICE ADDRESS OF RECORD, PROVIDED, HOWEVER, IF WITHIN THE THIRTY DAYS THE LESSEE OR HOLDERS OF ANY COLLATERAL ASSIGNMENTS SHALL COMPLY WITH THE DEMAND MADE IN THE NOTICE, CANCELLATION SHALL NOT BE MADE.

## 10. RENEWAL.

ANY LESSEE WHO DESIRES TO SECURE A NEW LEASE SHALL MAKE AND FILE AN APPLICATION WITH THE LESSOR ON OR BEFORE AUGUST 1 NEXT PRECEDING THE EXPIRATION OF THIS LEASE. THE RIGHT OF RENEWAL SHALL BE SUBJECT TO SUCH TERMS AND CONDITIONS AS PROVIDED FOR BY LAW AND RULE.

## 11. RESERVATIONS.

A. LESSOR RESERVES THE RIGHT TO EXECUTE LEASES ON THE LAND GRANTED BY THIS LEASE FOR MINING PURPOSES AND FOR THE EXTRACTION OF OIL, GAS, SALT, GEOTHERMAL RESOURCES, AND OTHER MINERAL DEPOSITS THEREFROM AND THE RIGHT TO GO UPON, EXPLORE FOR, MINE, REMOVE AND SELL SAME. LESSOR FURTHER RESERVES THE RIGHT TO SELL OR DISPOSE OF NATURAL SURFACE PRODUCTS OF SAID LANDS OTHER THAN GRAZING, AGRICULTURAL OR HORTICULTURAL PRODUCTS AND TO GRANT SUCH OTHER RIGHTS-OF-WAY AND EASEMENTS AS PROVIDED

BY LAW.

B. LESSOR RESERVES THE RIGHT TO WITHDRAW PURSUANT TO RULE, UP TO 640 ACRES, BUT IN NO CASE MORE THAN HALF, OF THE LAND HELD BY THIS LEASE.

12. COMPLIANCE WITH LAWS:

LESSEE SHALL AT ITS OWN EXPENSE FULLY COMPLY WITH AND BE SUBJECT TO ALL LAWS, REGULATIONS, RULES, ORDINANCES, AND REQUIREMENTS OF LESSOR AND APPLICABLE CITY, COUNTY, STATE AND FEDERAL AUTHORITIES AND AGENCIES WHICH HAVE BEEN OR MAY BE ENACTED OR PROMULGATED, IN ALL MATTERS AND THINGS AFFECTING THE LEASED PREMISES AND OPERATIONS THEREON. SUCH OTHER AGENCIES SHALL NOT BE DEEMED THIRD PARTY BENEFICIARIES UNDER THIS LEASE.

13. HOLD HARMLESS.

LESSEE SHALL SAVE AND HOLD HARMLESS, INDEMNIFY AND DEFEND LESSOR AND THE STATE OF NEW MEXICO, AND THEIR AGENT OR AGENTS, IN THEIR OFFICIAL AND INDIVIDUAL CAPACITIES, OF AND FROM ANY AND ALL LIABILITY CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF OR ALLEGED TO ARISE OUT OF OR INDIRECTLY CONNECTED WITH THE OPERATIONS OF LESSEE UNDER THIS LEASE, OFF OR ON THE LEASED PREMISES OR ARISING OUT OF THE PRESENCE ON THE LEASED PREMISES OF ANY AGENT, CONTRACTOR OR SUBCONTRACTOR OF LESSEE.

14. AMENDMENT.

THIS LEASE SHALL NOT BE ALTERED, CHANGED OR AMENDED EXCEPT BY INSTRUMENT IN WRITING EXECUTED BY LESSOR AND LESSEE.

15. WAIVER.

NO WAIVER OF ANY BREACH OR DEFAULT BY LESSEE OF ANY OF THE TERMS, CONDITIONS OR COVENANTS OF THIS LEASE SHALL BE HELD TO BE A WAIVER OF ANY SUBSEQUENT BREACH. NO WAIVER SHALL BE VALID OR BINDING UNLESS THE SAME IS IN WRITING AND SIGNED BY LESSOR.

16. DELINQUENT RENTAL.

ALL RENTAL PAYMENTS RECEIVED AFTER OCTOBER 1 OF EACH YEAR SHALL BE CONSIDERED DELINQUENT AND SHALL BE SUBJECT TO THE PAYMENT OF INTEREST AT A RATE OF ONE PERCENT (1%) A MONTH FOR ANY FRACTION OF A MONTH. INTEREST SHALL ACCRUE FROM THE DATE THE PAYMENT BECOMES DUE.

17. APPLICABLE LAW.

THIS LEASE SHALL BE GOVERNED BY THE LAWS OF THE STATE OF NEW MEXICO.

18. SUCCESSORS IN INTEREST.

ALL TERMS, CONDITIONS AND COVENANTS IN THIS LEASE SHALL EXTEND TO AND BIND THE HEIRS, ASSIGNS, AGENTS, ATTORNEYS, CONTRACTORS AND SUCCESSORS IN INTEREST OF LESSOR AND LESSEE.

19. CARRYING CAPACITY REEVALUATION.

THE LESSOR RESERVES THE RIGHT DURING THE TERM OF THIS LEASE, AND UPON THE LESSOR'S DISCRETION, TO CONDUCT CARRYING CAPACITY REEVALUATIONS AND MAKE THE NECESSARY ADJUSTMENTS TO THE LEASE AND RENTAL AS MAY BE REQUIRED.

I/WE CERTIFY THAT I WE ARE THE LESSEE(S) REFERENCED ON THE FACE PAGE OF THIS LEASE.

Robert P. Lilly  
LESSEE

(505) 374-0255  
TELEPHONE

\_\_\_\_\_  
LESSEE

( )  
TELEPHONE

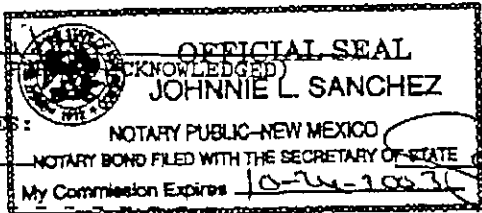
Ray Powell  
LESSOR-COMMISSIONER OF PUBLIC LANDS

ACKNOWLEDGMENTS  
NATURAL PERSON(S)

STATE OF NEW MEXICO )  
COUNTY OF Union )

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS 29<sup>th</sup> DAY OF July, 2002,

BY Robert P. Lilly  
(NAME OF PERSON ACKNOWLEDGED)



MY COMMISSION EXPIRES: 10-26-2003

Johnnie L. Sanchez  
NOTARY PUBLIC

PARTNERSHIP

STATE OF NEW MEXICO )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_,

BY \_\_\_\_\_  
(NAME OF PERSON ACKNOWLEDGED)

PARTNER(S) ON BEHALF OF \_\_\_\_\_, A PARTNERSHIP.

MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

CORPORATION

STATE OF NEW MEXICO )  
COUNTY OF \_\_\_\_\_ )

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_,

BY \_\_\_\_\_ OF \_\_\_\_\_  
(NAME OF OFFICER) (TITLE OF OFFICER)

\_\_\_\_\_ A \_\_\_\_\_ CORPORATION, ON BEHALF  
(CORPORATION NAME)  
OF SAID CORPORATION.

MY COMMISSION EXPIRES: \_\_\_\_\_

\_\_\_\_\_  
NOTARY PUBLIC

NEW MEXICO STATE LAND OFFICE

APPRAISEMENT OF GRAZING AND AGRICULTURAL LANDS

COMMISSIONER OF PUBLIC LANDS  
NEW MEXICO STATE LAND OFFICE BUILDING  
PO BOX 1148, SANTA FE, NEW MEXICO 87504-1148

LESSEE: SECTION 10 OF THE NEW MEXICO ENABLING ACT SPECIFICALLY REQUIRES THAT ALL STATE LAND TO BE LEASED BE APPRAISED AT ITS TRUE VALUE. STATE LAW, UNDER SECTION 19-7-1 NMSA 1978, FURTHER PRESCRIBES THAT SUCH APPRAISEMENT BE SECURED BY THE LESSEE WHEN ACQUIRING A LEASE AND THAT SUCH APPRAISEMENT BE COMPLETED BY A DISINTERESTED PERSON. THE INSTRUCTIONS FOR THE COMPLETION OF THIS FORM ARE SET OUT BELOW.

APPRAISEMENT

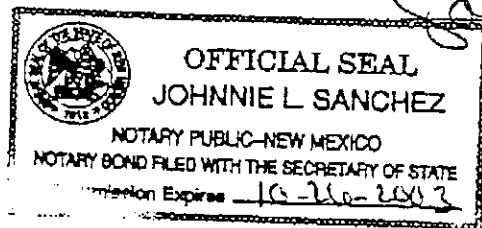
INSTRUCTIONS: THIS INFORMATION MUST BE COMPLETED BY A DISINTERESTED PERSON AND BASED ON THAT INDIVIDUAL'S INFORMATION AND BELIEF. THIS FORM CANNOT BE COMPLETED BY A LICENSED APPRAISER. (NMSA 1978, 61-30-16). YOU CANNOT PAY TO HAVE THIS FORM COMPLETED. (NMSA 1978, 60-30-3A). THE LAND MUST BE APPRAISED AS VACANT, I.E. WITHOUT IMPROVEMENTS, FOR BOTH SALE AND LEASE PURPOSES. IT MUST ALSO BE SIGNED BEFORE A NOTARY PUBLIC.

I, George R. Subman, DO SOLEMNLY SWEAR (OR AFFIRM), UNDER THE PENALTIES OF PERJURY, THAT AFTER HAVING PERSONALLY INSPECTED THE TRACT(S) OF LAND CONTAINED IN LEASE NO. 65 2390 AND DESCRIBED IN EXHIBIT A OF SAID LEASE, THAT MY OPINION OF THE APPRAISED CASH VALUE OF SAME (WITHOUT IMPROVEMENTS) IS \$ 85.00 PER ACRE, IF SOLD, AND \$ 2.50 PER ACRE, FOR LEASE PURPOSES, AND CERTIFY THAT I AM NOT INTERESTED IN SAID LAND FOR LEASING OR SALE THEREOF.

SIGNED George R. Subman  
ADDRESS 20 Subman Rd  
CITY/STATE Clayton, N.M. 88415

SUBSCRIBED AND SWORN TO BEFORE ME THIS 29th DAY OF July 20 02.

MY COMMISSION EXPIRES:  
10-20-2003



Johnnie L. Sanchez  
NOTARY PUBLIC

EXHIBIT A

LEASE NO: GS2390

SUBDIVISION				SEC-TWN-RNG	ACREAGE	U S E	PRICE PER UNIT	CARRY CAP *
LOT3	-	-	-	01 20N 32E	16.24	G	-	15
SE4NW4	E2SW4	S2SE4	-	01 20N 32E	200.00	G	-	15
NE4NW4	-	-	-	12 20N 32E	40.00	G	-	15
E2SW4	-	-	-	13 20N 32E	80.00	G	-	15
SW4NE4	NE4NW4	S2NW4	S2	14 20N 32E	480.00	G	-	15
W2NW4	-	-	-	24 20N 32E	80.00	G	-	15
SW4	N2SE4	-	-	04 20N 33E	240.00	G	-	15
LOT1	-	-	-	05 20N 33E	14.49	G	-	15
LOT2	-	-	-	05 20N 33E	14.50	G	-	15
LOT3	-	-	-	05 20N 33E	14.52	G	-	15
LOT4	-	-	-	05 20N 33E	14.53	G	-	15
SW4	N2S2	-	-	05 20N 33E	320.00	G	-	15
LOT6	-	-	-	06 20N 33E	43.60	G	-	15
LOT7	-	-	-	06 20N 33E	44.08	G	-	15
LOT4	-	-	-	07 20N 33E	44.04	G	-	15
LOT3	-	-	-	07 20N 33E	44.12	G	-	15
LOT2	-	-	-	07 20N 33E	44.20	G	-	15
LOT1	-	-	-	07 20N 33E	44.28	G	-	15
NE4	E2W2	-	-	07 20N 33E	320.00	G	-	15
NW4	-	-	-	08 20N 33E	160.00	G	-	15
LOT2	-	-	-	18 20N 33E	43.70	G	-	15
LOT1	-	-	-	18 20N 33E	43.90	G	-	15
NE4	E2NW4	-	-	18 20N 33E	240.00	G	-	15
N2	SW4	-	-	13 21N 32E	480.00	G	-	15
W2	SE4	-	-	24 21N 32E	480.00	G	-	15
NE4	N2NW4	-	-	25 21N 32E	240.00	G	-	15
N2	N2S2	-	-	36 21N 32E	480.00	G	-	15
SE4	-	-	-	18 21N 33E	160.00	G	-	15
NE4	W2SE4	-	-	19 21N 33E	240.00	G	-	15
W2	-	-	-	32 21N 33E	320.00	G	-	15
S2SW4	-	-	-	33 21N 33E	80.00	G	-	15
TOTAL ACREAGE:				5,066.20	TOTAL RENTAL:		\$6,015.45	

RENEWAL LEASE

LEGEND: USE TYPE CODES

C= CONSERVATION RESERVE PROGRAM LAND, D= DRYLAND FARMING, G= GRAZING,  
 I= IRRIGATED CROPLAND, M= MOBILE HOME ON LAND, R= RSIP LAND, 1= GRAZING (BID),  
 2= DRYLAND FARMING (BID), 3= IRRIGATED CROPLAND(BID) 4= CRP(BID) 5= RSIP(BID),  
 H= 1/2 SOUTH FOR TOWNSHIP, H= 1/2 EAST FOR RANGE

\* CARRYING CAPACITY RATES LISTED ARE BASED ON 640 ACRE PARCELS

**OREGON**

**STATE OF OREGON  
STATE LAND BOARD  
DEPARTMENT OF STATE LANDS**

**Grazing Lease GR-INSERT NUMBER**

The Oregon State Land Board and The Department of State Lands (STATE), hereby leases to the person(s) herein named (LESSEE), the following described lands on the terms and conditions stated herein, to wit:

NAME of LESSEE:

ADDRESS:

Land situated in INSERT COUNTY County more fully described as follows:

See Attachment 1: LEGAL DESCRIPTION

Total number of acres: INSERT ACRES more or less.

**SECTION 1 - TERM**

- 1.1 Term: This Lease shall continue for a period of INSERT YEARS years commencing on INSERT DATE and expiring on INSERT DATE.
- 1.2 Renewal: Upon lease expiration, this Lease shall be renewed by the STATE for a like term as specified in Section 1.1 if:
  - (a) The State Land Board determines that the lands for which this Lease is issued should remain available for grazing purposes; and
  - (b) The LESSEE is in good standing and has complied with the terms of this Lease, the related laws and administrative rules and regulations, and any applicable Rangeland Management Plan and amendments thereto.

## SECTION 2 - USES

- 2.1 Purpose: This Lease is for grazing purposes only. The grazing capacity as established by the STATE is INSERT NUMBER Animal Unit Months (AUMs).
- 2.2 Adjustment: The STATE reserves the right to redetermine the grazing capacity at any time during the term of this Lease.

## SECTION 3 - RENTAL

- 3.1 Rental: The rental to be paid for the first lease year beginning INSERT DATE, and ending INSERT DATE, is \$INSERT AMOUNT dollars, receipt of which is hereby acknowledged. For subsequent lease years, the annual base lease rental will be calculated by multiplying the grazing capacity by the base AUM rental rate as established and adjusted pursuant to the provisions of OAR 141-110-090.

## SECTION 4 - RESERVATIONS AND RESTRICTIONS

- 4.1 Compliance The STATE shall have access to the premises at all reasonable times for the purpose of securing compliance with the terms and conditions of this Lease.
- 4.2 Reservations: The STATE reserves:
- (a) The right to order the sale or exchange of all or any portion of the premises at any time, subject to this Lease.
  - (b) The right to lease and dispose of all coal, oil, gas, geothermal resources and other minerals, and all deposits of clay, stone, gravel and sand valuable for building, mining, or commercial purposes, and all timber, together with the right to explore, mine, develop, produce and remove such minerals and other deposits and timber with the right of ingress and egress thereto, and to cancel this Lease as to any portion of the premises when required for these purposes.
  - (c) The right to enter in and upon the premises at any time for purposes of inspection or management.
  - (d) The right at any time to grant easements across the premises for roadways, ditches, canals, tunnels, telephone and telegraph lines, pipelines, power lines, or other lawful purpose, with right of ingress and egress thereto.
  - (e) The right to use or lease the premises or any part thereof at any time for any purpose other than the rights and privileges granted by this Lease, so long



as the rights and privileges granted by this Lease are not substantively impaired by the subsequent lease or use.

- (f) All rights not expressly granted to LESSEE by this Lease are reserved by the STATE.

4.3 Public Access and Use Reservation: All State land leased for grazing or agricultural purposes shall be open and available to the public for recreational uses unless restricted or closed by the STATE to public entry. LESSEE may request written approval of STATE to prohibit or restrict recreational uses by the public on all or portions of the lease premises in order to protect (a) crops, (b) land cover, (c) improvements on the land, (d) livestock, (e) lessee, or (f) the general public.

4.4 Restriction on Use: In connection with use of the premises the LESSEE shall:

- (a) Conform to applicable laws and regulations of any public authority affecting the premises and the use thereof and correct at the LESSEE's own expense any failure of compliance created through the LESSEE's fault or by reason of the LESSEE's use.
- (b) Take all reasonable precautions to protect the leased area from fire and make every reasonable effort to report and suppress such fires as may affect the lease area.
- (c) Dispose of all waste in a proper manner and not allow debris, garbage or other refuse to accumulate on the leased premises. If LESSEE allows debris, garbage or other refuse to accumulate on the premises, STATE shall have the right to remove the debris and collect the cost of such removal from LESSEE.
- (d) Not cut, destroy or remove, or permit to be cut, destroyed or removed, any timber that may be upon the premises. The LESSEE shall promptly report to the STATE the cutting or removal of timber by other persons.
- (e) Conduct all grazing and agricultural operations on the premises in a manner which protects soil fertility and forage production, and does not contribute to soil erosion, over-grazing, or noxious weeds.
- (f) Maintain all buildings, wells, dams, windmills, fences, and other improvements located on the premises in a good state of repair at the LESSEE's expense.

- 4.5 Water Rights: If the LESSEE shall initiate or establish any water right on the leased premises, such right shall become an appurtenance of the leased premises, and upon the termination of the Lease, LESSEE shall convey the right to the STATE.

## SECTION 5 - REQUIREMENTS

- 5.1 Assignment and Sublease: This Lease or any portion thereof may not be assigned, mortgaged, sublet, or otherwise transferred without the prior written consent of STATE. With such consent, STATE reserves the right to change any term or condition of this Lease. Further, if LESSEE shall be a corporation or partnership and if at any time during the term of this Lease any part or all of the corporate share or partnership interest of the LESSEE shall be transferred by sale, assignment, bequest, inheritance, operation of law, or other disposition so as to result in a change in the present control of the Lease by the person or persons now owning a majority of the corporate shares or change in the holding of the partnership interest, the transfer shall be deemed as requiring an assignment, and shall be subject to approval by STATE as provided in this paragraph.
- 5.2 Condition of Premises and Improvements: The premises and improvements on the premises have been inspected and are accepted in their present condition. The improvements shall be kept in as good condition by LESSEE as existed at the commencement of the Lease allowing for reasonable wear and tear. Generally, the premises shall be managed in a husbandlike manner so as not to cause damage to the land or deterioration in the amount, type, or quality of forage as determined by the STATE. Specifically, the premises shall be maintained in accordance with the management plan as provided in Section 7. LESSEE shall be responsible for all maintenance expenses unless otherwise designated in the management plan.
- 5.3 Liability: LESSEE agrees to defend and hold STATE harmless from any and all claims suffered or alleged to be suffered on the premises or arising out of the LESSEE's operations on the premises. Further LESSEE shall be responsible for the payment of any fines or penalties charged against the premises as a result of LESSEE's action in not complying with laws or regulations affecting the premises.
- 5.4 Assessments: LESSEE shall pay all taxes and/or assessments that may be legally charged on public lands or related improvements which are levied against the property subject to this Lease, whether or not such taxes and/or assessments have been levied against the leasehold or STATE by the assessing agency.

## SECTION 6 - MISCELLANEOUS

- 6.1 No Partnership: STATE is not a partner nor a joint venture with LESSEE in connection with the business carried on under this Lease and shall have no obligation with respect to LESSEE's debts or other liabilities.

- 6.2 Non-Waiver: Waiver by either party of strict performance or any provisions of this Lease shall not be a waiver nor prejudice the party's right to require strict performance of the same provision in the future or of any other provision.
- 6.3 Attorney Fees: If a suit or action is instituted in connection with any controversy arising out of this Lease, the prevailing party shall be entitled to recover, in addition to costs, such sums as the court may adjudge reasonable as attorney fees.
- 6.4 Binding Interest: This Lease shall be binding upon and inure to the benefit of the parties, and the respective heirs, administrators, successors, and assigns of the parties hereto.
- 6.5 Notices: Any notice required or permitted under this Lease shall be given when actually delivered or when deposited in the U.S. Postal Service as follows:

To the STATE:  
 Department of State Lands  
 775 Summer Street NE  
 Salem, OR 97310-1337

To the LESSEE:

Or at the address given by the LESSEE in the signature block of this Lease or as shown on later official documents of record with this Lease.

- 6.6 Liens:
  - (a) No person shall have the right to file or place any lien of any kind or character upon the land or improvements within the leasehold premises without the prior written consent of the STATE.
  - (b) In the event liens or other charges are placed on the leasehold premises, including land or improvements, arising out of LESSEE's actions directly or indirectly, the LESSEE shall immediately cause such liens to be discharged. The STATE may cancel this Lease if LESSEE fails to discharge such liens or charges after 10 days notice to do so by STATE. LESSEE shall pay and indemnify the STATE for all costs, damages or charges of whatsoever nature, including attorney's fees, necessary to discharge such liens or charges whether such costs, damages or charges are incurred prior or subsequent to any cancellation of this Lease.
- 6.7 Default: The following shall be events of default:
  - (a) Failure of LESSEE to pay any rent or other charge within 30 days after a billing notice is sent by STATE.

- (b) Failure of LESSEE to comply with applicable laws, administrative rules, management plans, or any terms or conditions or obligations of the Lease within 30 days after written notice by STATE specifying the nature of the deficiency. If the default is of such a nature that it cannot be completely remedied within the 30-day period, this provision shall be complied with if LESSEE begins correction of the default within the 30-day period and thereafter proceeds with reasonable diligence and in good faith to effect the remedy as soon as practicable.
  
- (c) Insolvency of LESSEE; an assignment by LESSEE for the benefit of creditors; the filing by LESSEE of a voluntary petition in bankruptcy; an adjudication that LESSEE is bankrupt or the appointment of a receiver of the properties of LESSEE; the filing of any involuntary petition of bankruptcy and failure of LESSEE to secure a dismissal of the petition within 30 days after filing; attachment of or the levying of execution on the leasehold interest and failure of LESSEE to secure discharge of the attachment or release of the levy of execution within 10 days. If LESSEE consists of two or more individuals or business entities, the events of default specified in this paragraph shall apply to each individual unless within 10 days after an event of default occurs the remaining individuals produce evidence satisfactory to STATE that they have unconditionally acquired the interest of the one causing the default. If the Lease has been assigned in compliance with Section 5.1 of this Lease, the events of default so specified in this Section shall apply only with respect to the one then exercising the rights of LESSEE under the Lease.

- 6.8 Termination Upon Default: In the event of a default, the STATE shall have the right to terminate this Lease by giving written notice of termination to LESSEE. Upon such termination, the STATE shall have the right to re-enter said premises. The STATE shall be entitled to recover from LESSEE all costs arising out of the reentry and all costs of re-letting the premises. In the event the STATE elects to terminate this Lease, LESSEE shall immediately vacate the premises. All improvements located thereon shall be disposed of as provided by Section 8 of this Lease and as agreed in any improvement permits issued to LESSEE.
- 6.9 STATE's Right to Cure Defaults:
- (a) If the LESSEE fails to perform any obligation under this Lease, the STATE shall have the option to perform the obligation of the Lease after 30 days written notice to the LESSEE. All of the STATE's expenditures to carry out the obligation shall be reimbursed by the LESSEE on demand with interest at the rate of one percent per month accrued from the date of expenditure by the STATE.
  - (b) In the event any violation or breach of the provision of this Lease is causing damage to the leasehold premises or the LESSEE is utilizing the leasehold premises in a manner not permitted by the provision of this Lease, or in any case damages are occurring to the leasehold premises, the STATE may immediately enter upon the leasehold premises and take such action as necessary to cease such damages or use. In the event the damage or use is occurring by reason of a violation or breach of the provisions of this Lease, the LESSEE shall be liable for all costs incurred by the STATE by reasons of such violations. The STATE, at its option, may send notice to the LESSEE of such violations and LESSEE shall immediately cease such use or violation and correct such violation.
- 6.10 Weed Control: The LESSEE shall control noxious weeds on the lease premises as directed by the local county weed control district, or in a manner otherwise approved by the STATE. Noxious weeds shall be those plants identified as such by the county agent or local weed control district.
- 6.11 Termination for Sale or Exchange: The Lease is granted upon the express condition that should the STATE hereafter find it to be in the best interest of the STATE to sell or exchange the lands embraced in this Lease, then this Lease may be terminated upon giving the LESSEE two (2) years notice, unless by mutual consent of the STATE and the LESSEE, an earlier termination date of may be fixed.

- 6.12 Buy-Out By STATE: The STATE shall have the right to purchase back from the LESSEE all the rights and interests granted to the LESSEE by this Lease for any portion of the leasehold premises at any time by paying to the LESSEE an amount equal to \$50 per Animal Unit Months (AUM) of the grazing capacity as established by the STATE for the affected portion of the leasehold premises.
- 6.13 Holdover: If LESSEE does not vacate the leased premises at the time required, STATE shall have the option to treat LESSEE as a tenant from month to month, subject to all of the provisions of this Lease except the provisions for term and renewal. If a month-to-month tenancy results from holdover by LESSEE under this paragraph, the tenancy shall be terminable at the end of any monthly rental period upon written notice from STATE given not less than 10 days prior to the termination date which shall be specified in the notice. LESSEE waives any notice which would otherwise be provided by law with respect to a month-to-month tenancy.
- 6.14 Governing Law: This Lease and all matters relating to this Lease, shall be governed by the laws of the State of Oregon and the rules and regulations of the Department of State Lands and State Land Board in force at the time any need for interpretation of or decision regarding this Lease arises. The rights and responsibilities of the LESSEE under this Lease which are granted or imposed by the laws of the State of Oregon or rules and regulations of the Department of State Lands and State Land Board, are subject to change during the term of this Lease as a result of the adoption, amendment, or repeal of statutes or rules.
- 6.15 Binding on Successors: This Lease shall be binding on and shall inure to the benefit of the successors and assigns of the parties hereto, STATE and LESSEE, but nothing in this section shall be construed as a consent by STATE to any disposition or transfer of the Lease or any interest herein by LESSEE except as otherwise expressly provided in this Lease.
- 6.16 Nondiscrimination: The leased premises shall be used in a manner, and for such purposes, that assures fair and nondiscriminatory treatment of all persons without respect to race, creed, color, religion, handicap, disability, age, gender, or national origin.
- 6.17 Exhibits: All Exhibits to which reference is made in this Lease are incorporated in this Lease by the respective references to them, whether or not they are actually attached, provided they have been signed or initialed by all the parties. References to "this Lease" includes matters incorporated by reference.

## SECTION 7 - OPERATION OF PREMISES

- 7.1 Rangeland Management Plan: If applicable pursuant to OAR 141-110-100, the land is to be managed in accordance with the Rangeland Management Plan which is attached as Exhibit A and is hereby incorporated as part of this Lease. The STATE reserves the right to amend the Management Plan if in the opinion of the STATE the management goals are not being realized.
- 7.2 Reporting: LESSEE shall report the actual use in terms of AUMs within 45 days following LESSEE's receipt of Actual Use Form provided annually by STATE.

## SECTION 8 - IMPROVEMENTS

- 8.1 Authorized Improvements: LESSEE must obtain written permission from STATE prior to locating any new improvements on the property.
- 8.2 Unauthorized Improvements: All improvements made on or to the premises without the written permission of the STATE shall immediately become the property of the STATE. STATE may at its option immediately remove the unauthorized improvement or may allow the improvement to remain on the property.
- 8.3 Compensation For Facility Improvements: Upon expiration of the term of this Lease, if the Lease is not renewed and LESSEE owns facility improvements, on which the STATE has no lien for rentals or penalties, the STATE shall require any new LESSEE of the premises to pay the former LESSEE the fair market contributory value for such facility improvements at the time the LESSEE takes possession thereof pursuant to the provisions of OAR 141-110-130. In the event that the Lease is terminated by STATE and the Lease is not relet, STATE shall at its option allow LESSEE to remove the facility improvement(s) or compensate LESSEE for the fair market contributory value of the facility improvement(s). If STATE and LESSEE are unable to agree on the value, it shall be determined pursuant to the provisions of OAR 141-110-130.
- 8.4 Removal of Facility Improvements: Any facility improvements LESSEE is authorized to remove must be removed within 60 days of the termination of the Lease unless otherwise agreed by the parties. LESSEE shall be responsible for any damage done to the premises as a result of the removal of the facility improvements. Any facility improvements remaining on the property after the 60-day period will become the property of STATE, unless otherwise agreed by the parties.

## SECTION 9 - ENTIRE AGREEMENT

9.1 ENTIRE AGREEMENT: THIS LEASE, TOGETHER WITH THE ATTACHED EXHIBITS AND ATTACHMENTS, CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS LEASE SHALL BIND EITHER PARTY UNLESS IN WRITING. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN, AND SHALL BE VALID AND BINDING ONLY IF IT IS SIGNED BY EACH PARTY. THERE ARE NO UNDERSTANDINGS, AGREEMENTS OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS LEASE. LESSEE, BY THE SIGNATURE BELOW OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT LESSEE READ THIS LEASE, UNDERSTANDS IT AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS. THIS LEASE SUPERSEDES ALL PRIOR OR EXISTING LEASE OR RENTAL AGREEMENTS BETWEEN THE PARTIES.

The LESSEE expressly agrees to all covenants herein and binds him/herself for the payment of the rental herein before specified.

Executed this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

DEPARTMENT OF STATE LANDS

\_\_\_\_\_  
Authorized Signature

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

LESSEE

\_\_\_\_\_  
Signature



**UTAH**

**THE STATE OF UTAH  
SCHOOL AND INSTITUTIONAL TRUST LANDS ADMINISTRATION  
GRAZING PERMIT**

PERMIT NUMBER \_\_\_\_\_

AUM(S) \_\_\_\_\_

Type of Livestock \_\_\_\_\_

In consideration of the payment made and the covenants to be kept and performed, the State of Utah acting by and through the School and Institutional Trust Lands Administration, hereinafter referred to as the Trust Lands Administration, does hereby permit, let, and demise unto:

hereinafter referred to as Permittee, the rights provided herein, in the following described lands (the "Permitted Property") situated in \_\_\_\_\_ County(s), state of Utah.

Description of Permitted Property:

Containing \_\_\_\_\_ acres, more or less.

This permit shall remain in effect, unless sooner terminated as herein provided, for a term of 15 years (not more than 15 years), beginning \_\_\_\_\_; expiring \_\_\_\_\_. Season of use: \_\_\_\_\_.

This permit is granted subject to the following terms and conditions:

1. Permittee shall pay the Trust Lands Administration, in advance, the annual fee as billed by the Trust Lands Administration which shall be based on an annual price per AUM pursuant to rule and policy. The Trust Lands Administration reserves the right to adjust the rental in any year, at any time, if, in the Trust Lands Administration's opinion, such a change is appropriate based on an increase or decrease in the number of permitted AUM's.
2. Permittee shall have the right to use the Permitted Property only for the purpose of grazing livestock. The Trust Lands Administration reserves the right to determine the number and kinds of livestock, and season of use. If the Permitted Property is located within a Federal allotment, the number and kinds of livestock, and season of use will be as authorized by the Federal agency, unless the Trust Lands Administration authorizes otherwise.
3. Permittee shall report annually and otherwise, on demand, in writing to the Trust

Permit Number \_\_\_\_\_

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Lands Administration setting forth the identity of all persons utilizing this grazing permit. Such report shall include name and address of users together with character of livestock operated on the Permitted Property.

4. The Trust Lands Administration may sell or exchange the Permitted Property, in whole or in part, as it may desire, and Permittee shall quit the premises within 30 days of such sale or exchange, provided that the Trust Lands Administration shall send notice of sale or exchange to Permittee. The Trust Lands Administration also reserves the right to terminate this permit in whole or in part after not less than 60 days written notice in order to facilitate a higher and better use.

5. The rights reserved by the Trust Lands Administration include, but are not limited to, the following:

- a. Lease the Permitted Property to third persons for mining or exploration for coal, oil, and gas, and all other minerals.
- b. Issue special use leases, timber sales, materials permits, easements, rights of entry and any other interest in the Permitted Property.
- c. Issue permits for the harvesting of seed from plants on the Permitted Property. If loss of use occurs from harvesting activities, a credit for the amount of loss shall be made to the following year's assessment.
- d. Enter upon and inspect the Permitted Property or to allow scientific studies upon the Permitted Property at any reasonable time.
- e. Allow the public the right to use the Permitted Property for purposes and periods of time permitted by board policy and Trust Lands Administration rules.
- f. Close roads on the Permitted Property for the purpose of range or road protection, or other administrative purposes.
- g. Dispose of the all or a part of the Permitted Property without compensation to the permittee, subject to the right to be compensated for improvements as provided for in R850-50-1100(7) or such other rule as may be adopted.
- h. Terminate a grazing permit in order to facilitate higher and better uses of the Permitted Property, as determined by the Trust Lands Administration.

6. Permittee shall not cause waste upon the Permitted Property by improper grazing use or otherwise, and shall comply with good conservation practices to safeguard and improve water and other surface resources and shall comply with the Trust Lands Administration's requirements and requests respecting conservation practices.

Permit Number \_\_\_\_\_  
Page 3

7. Permittee shall not assign, sublet, mortgage, pledge, or otherwise dispose of any interest in the permit without the written consent of the Trust Lands Administration and payment of any fees assessed by the Trust Lands Administration. To do so shall automatically, and without notice, work a forfeiture and cancellation of the permit. Consent for assignment or subletting shall only be given if such consent is compatible with the best interests of the beneficiaries and long-term management of the land and will not unreasonably conflict with the interests of other permittees in the area. The assignment or subletting of this permit shall not release Permittee from any liability hereunder.

8. It is understood this permit is issued only under such title as the Trust Lands Administration may have and that the Trust Lands Administration does not warrant its title; and, in case of title failure, Permittee shall not be entitled to claim any refund or rentals paid to the Trust Lands Administration.

9. Permittee shall not initiate or establish any water right on the permitted premises except in the name of the State of Utah, School and Institutional Trust Lands Administration. Such right initiated or established shall become an appurtenance to the Permitted Property.

10. This permit is deemed to incorporate by reference all provisions of applicable laws and rules and regulations of the Board of Trustees for the School and Institutional Trust Lands Administration, and will be deemed modified whenever such rules and regulations are amended hereafter. NOTE: Copies of the Range Management Rules and grazing permit documents are available for review at any of the Trust Lands Administration offices.

**Attention Permittee: Read Sections 11 and 12 carefully  
Sections contain indemnity and waiver provisions**

11. Permittee agrees to indemnify, defend and hold the Trust Lands Administration harmless from any and all claims, damages, losses and expenses, including attorneys fees, on account of bodily injury, death or damage to property resulting from Permittee's activities on the Permitted Property or on account of any fire on the Permitted Property caused by permittee or its activities on the Permitted Property.

12. Permittee acknowledges that it has been afforded an opportunity to inspect the Permitted Property and, based upon such inspection, hereby accepts the permitted land in its existing condition, subject to all existing hazards to person or property - whether natural or manmade. Based on such acknowledgment and acceptance and in consideration for the grant of this Grazing Permit, Permittee does hereby release and forever discharge the State of Utah, the Trust Lands Administration, and its officer and employees, from any and all liability, claims, damages, causes of action or expenses for any bodily injury, death or property damage which is suffered by Permittee and occurs in connection with Permittee's use of the Permitted Property pursuant to this Grazing Permit.

13. This Grazing Permit constitutes the entire agreement between the parties, and supersedes any and all prior agreements or representations. Permittee acknowledges its

Permit Number \_\_\_\_\_  
Page 4

contractual right to use the Permitted Property is governed solely by this Grazing Permit,  
and Permittee waives all claims to the Permitted Property except as granted by this Grazing  
Permit.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_\_.

SCHOOL AND INSTITUTIONAL  
TRUST LANDS ADMINISTRATION

By: \_\_\_\_\_

APPROVED AS TO FORM  
MARK L. SHURTLEFF  
ATTORNEY GENERAL

By: /s/ John W. Andrews  
Special Assistant Attorney General

**WASHINGTON**

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES  
DOUG SUTHERLAND, Commissioner of Public Lands

GRAZING LEASE

Lease No. «Lease\_No»

BY THIS LEASE, the STATE OF WASHINGTON, Department of Natural Resources, hereinafter called the "State," leases to «Lessee\_Name», hereinafter called the "Lessee," the premises in «County» County, Washington, the legal description, encumbrances, and reservations, if any, of which are set forth in Exhibit 1A. This lease is made upon the terms and conditions and for the consideration enumerated herein. All exhibits to this lease are attached and incorporated herein.

SECTION 1 OCCUPANCY

**1.01 Lease Term.** This lease is effective as of «StartDate», or date of signature by the State, whichever is later, and shall expire on «EndDate».

**1.02 Condition of Premises.** Taking possession of the lease premises by the Lessee shall constitute acknowledgment by the Lessee that the lease premises are in good and tenantable condition and that the lease premises are in all respects suitable for the uses permitted in Section 2. The State has no obligation to make any repairs, additions, or improvements thereto and expressly disclaims any warranty that the lease premises are suitable for such permitted use(s).

SECTION 2 USE OF PREMISES

**2.01 Permitted Use.** For this lease, the following use(s) and no other use(s) is/are permitted:

PERMITTED USE	ACRES
Grazing	«Grazing_Acres»
«Permitted__Use2»	«Acres2»

In the event the Lessee desires a change in acreage, crops, or use, including grazing, authorization must be obtained in advance and in writing from the State. Approval may be conditioned upon adjustment of the payments identified in Section 3, in accordance with changes in acreage, crops, or use. Permitted use(s) may be further limited by Section 6. The Lessee shall put the lease premises to full beneficial use in accordance with customary industry standards, the permitted use(s), acres, and crop(s) designated herein, and any plan of development schedules identified herein. Failure to do so will be grounds for default.

**2.03 Plan of Development.** Any proposed changes in acreage, crops, or use of the lease premises must be submitted in writing to, and approved by, the State as a plan of development. The State will review the plan and, if acceptable, issue written approval. The Lessee shall perform all development according to the agreed upon terms of the plan of development.

**2.08 Limitations on Use.** In connection with use of the lease premises, the Lessee shall:

1. Conform to all applicable laws, rules and regulations of any public authority affecting the lease premises. The Lessee shall provide to the State, within ten (10) days of receipt of same, a copy of any notice received from any public authority which indicates that the Lessee is not in compliance with applicable laws, rules and regulations. In addition, the Lessee shall bear, at the Lessee's sole expense, any costs associated with bringing the lease premises into compliance, including any attorneys' fees, costs, fines or penalties;
2. Remove no valuable material or timber, without prior written approval of the State;
3. Take all reasonable precautions to protect the lease premises from fire, and make every effort to report and suppress such fires as may occur;
4. Obtain all applicable licenses or permits;
5. Use only electric fencers approved by Underwriters Laboratories;
6. Not live, reside, or permit others to live or reside on the lease premises without prior written approval from the State.

### SECTION 3 PAYMENT

Payments made hereunder will be applied first to interest then to outstanding or delinquent rent, leasehold tax and other charges owed, then to current rent, leasehold tax, and charges.



**3.01 Cash Rent.** The Lessee shall pay to the State, in advance, the required rent of \$«CashRentAmt301» for the period of «StartDate» to «CashRentEndDate», with the same amount due «BillingCycle» thereafter, subject to Subsection 3.08.

Conservation Reserve Program. All revenue from participation in the Conservation Reserve Program or similar non-tillage program shall be shared as follows:

1. When participating in any Standard Contract sign-up(s) the shares shall be 46.04 percent to the State, and 53.96 percent to the Lessee. When any contract includes a maintenance rate within the rental rate per acre, the maintenance amount shall first be deducted from the contract amount and the above percentages shall then be applied to the net. Any maintenance expense shall be the sole responsibility of the Lessee.
2. When participating in any Continuous Contract sign-up(s) or the Conservation Reserve Enhancement Program the shares shall be as outlined in Subsection 3.02 under Cereal Grains. When any contract includes a maintenance rate within the rental rate per acre, the maintenance amount shall first be deducted from the contract amount and the above percentages shall then be applied to the net. Any maintenance expense shall be the sole responsibility of the Lessee.

Unless otherwise agreed upon, if the Lessee is enrolled in one or more Conservation Reserve Program Contract(s) that extend beyond the expiration of this lease and the Lessee is not issued a new lease for the premises at its expiration, the Lessee shall take all necessary action to terminate its participation and relinquish its rights in the Conservation Reserve Program Contract(s) to allow the State or the new lessee or owner to become a successor to the existing contract or a participant to a new contract under the same terms and conditions as the existing one.

The Lessee shall be reimbursed the residual value of the Lessee's actual expenses incurred to establish eligible practices required by the existing Conservation Reserve Program Contract(s) subject to the following: Actual expenses will be taken from Form AD-245, or a similar form approved by the Commodity Credit Corporation, and offset by all cost-shares received from or payable by the Commodity Credit Corporation and any other source. Straight line depreciation will be used to determine the residual value of these expenses over the duration of the Conservation Reserve Program Contract(s) with a salvage value of zero at the expiration of the contract(s). The residual value of these expenses will be collected at the time of public auction and the money so collected will be remitted to the Lessee, less the value of any damages or waste to the property caused by the Lessee.

**3.05 Counterclaim, Setoff, or Abatement of Rent.** Rent and all other sums payable by the Lessee hereunder shall be paid without the requirement of prior notice or demand by the State, and shall not be subject to any counterclaim, setoff, deduction or defense and without abatement. The obligations and liabilities of the Lessee hereunder shall in no way be released, discharged or otherwise affected.

**3.06 Interest Penalty for Past-Due Rent and Other Sums Owed.** The Lessee shall pay interest at the rate of one percent (1%) per month (or at such higher rate as may be authorized by statute after the commencement date hereof), until paid, on rent or other sums owing under the terms of this lease, commencing the date such rent or other sum is due and payable. In the event the State pays any sum or incurs any expense which the Lessee is obligated to satisfy or pay under this lease, or which is made on behalf of the Lessee, the State shall be entitled to receive reimbursement thereof from the Lessee upon demand, together with interest thereon from the date of expenditure at the rate stated above.

**3.08 Adjustment of Cash Rent.** The cash rent shall be subject to adjustment by the State not more than once every five (5) years; such adjustment shall be determined by the State through an evaluation of fair market rental value.

The State does not waive its right to adjust or revalue rent under this subsection by any failure to adjust or revalue at the end of an adjustment period, and shall retain the authority to adjust or revalue the Lessee's rent or re-evaluate rent at any point subsequent to an adjustment period.

**3.10 Tax Compliance.** If the State must pay any taxes, penalties or interest because of the Lessee's failure to pay such taxes, penalties or interest, the Lessee shall immediately reimburse the State for such expenditures and the obligation shall accrue interest until paid.

#### SECTION 4 RESERVATIONS

**4.01 Compliance.** The State shall have access to the lease premises at all reasonable times to determine and secure compliance with this lease. Failure to inspect or enforce compliance shall not be construed as a waiver of the State's right to declare a breach, nor relieve the Lessee of any liability to the State for any breach of the terms, conditions, or requirements of this lease.

**4.02 Access.** The State reserves the right to grant easements on the lease premises. The easement applicant may be required to remedy any damages to the leasehold.

#### Insert 4.02a (OPTIONAL)

The Lessee's plan of development and placement of improvements must be such that access to State's adjacent ownership, if any will not be impaired.

**4.03 Uses.** The State reserves the right to lease the lease premises for other uses which are compatible with the Lessee's permitted use(s). The Lessee's permitted use(s) are set forth in Subsection 2.01.

**4.04 Public Hunting, Fishing and Nonconsumptive Wildlife Activities.** The premises shall be open and available to the public for purposes of hunting, fishing and nonconsumptive wildlife activities, unless a closure is authorized in writing by the State, as stated in RCW 79.10.125. In the event that a closure is authorized for hunting, fishing or nonconsumptive wildlife activities, any or all, the Lessee shall post the premises accordingly with signs to inform the general public of such closure. Authority to close the premises may be given to protect interests of the Lessee, the State, or the general public.

**4.05 Resource Disposal.** The State reserves the right to sell, lease or otherwise dispose of minerals, coal, oil, gas, gravel, stone, forestry resources or other valuable materials from the lease premises. The Lessee shall be entitled to payment for damages to its leasehold interests caused by the disposal of such materials.

**4.06 Roads.** During the term of this lease, the Lessee is granted, subject to rights previously granted, a nonexclusive easement to use existing roads on the lease premises only for permitted operations under this lease. The State reserves the right to build roads and grant easements to others to use new and existing roads, subject only to a ratable reduction in, by equitable division with other users, the cost of maintenance and repair of such roads. The Lessee may not construct new roads or undertake any modification or alteration to existing roads without the prior written consent of the State.

Insert File: 4.07 Right of Way (OPTIONAL)

**4.08 Non-Default Termination.** In response to a written request from the Lessee asking to surrender the leasehold, the State may, at its sole discretion, terminate all or part of this lease upon satisfaction by the Lessee of all outstanding rents, duties, and obligations. The State may condition the surrender upon payment of a fee to be set by the State.

This lease is also subject to termination upon sixty (60) days' written notice in the event the State includes the lease premises in a plan for higher and better use, land exchange, or sale. The Lessee will be allowed to use the lease premises for the remainder of the current grazing season for grazing purposes and/or for the remainder of the farming season to harvest any permitted crop, subject to the permitted use(s) set forth in Subsection 2.01.

## SECTION 5 REQUIREMENTS

**5.01 Assessments.** The Lessee shall pay all assessments that may be charged against the lease premises. Assessments for improvements shall be paid in an amount proportionate to the remaining term of this lease and the life of the improvements, unless otherwise provided in writing by the State. The Lessee's obligations under this subsection are not limited to assessments relating to the encumbrances (if any) listed in the legal description referred to in Exhibit 1A of this lease, but extend to all assessments that may be charged against the lease premises, including, but not limited to, weed assessments, watershed protection district

assessments, conservation district assessments, storm water runoff assessments, and local improvement district assessments.

**5.02 Utilities.** The Lessee shall be liable for all electrical power and other utility charges or expenses, including power minimums and disconnect charges incurred prior to termination or expiration of this lease.

**5.03 Taxes.** The Lessee shall pay all federal, state and local taxes including, but not limited to, personal property tax and leasehold excise tax that may be charged against the lease and improvements located on the lease premises.

**5.04 Insolvency of Lessee.** If the Lessee becomes insolvent, bankrupt, or has a receiver appointed, the State may terminate this lease. Insolvency as used herein will mean the inability of the Lessee to meet obligations as they come due.

**5.05 Insurance/Indemnity/Hold Harmless.** To the fullest extent permitted by law, the Lessee shall indemnify, defend and hold harmless the State, agencies of the State and all officials, agents and employees of the State, from and against any and all claims, including claims by the Lessee's employees, agents, and contractors, arising out of or resulting from any act or omission of the Lessee, its agents, employees and contractors while operating under this lease or at the lease premises. "Claims" as used in this subsection means any financial loss, claim, suit, action, damage, or expense, including but not limited to attorney's fees, attributable to bodily injury, sickness, disease, or death, or injury to or destruction of tangible property including loss of use resulting therefrom. The Lessee's obligation to indemnify, defend and hold harmless the State shall not be eliminated or reduced by any actual or alleged concurrent negligence of the State or its agents, agencies, employees and officials. The Lessee waives its immunity under Title 51 to the extent it is required to indemnify, defend and hold harmless the State and its agencies, officials, agents or employees.

General Insurance Requirements. The Lessee shall, at all times during the term of the lease at its cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result, at the State's option, in default of this lease.

All insurance and surety bonds should be issued by companies admitted to do business within the State of Washington and have a rating of A-, Class VII or better in the most recently published edition of Best's Reports. Any exception shall be reviewed and approved by the State's Risk Manager, before the lease is executed. If an insurer is not admitted, all insurance policies and procedures for issuing the insurance policies must comply with Chapter 48.15 RCW and 284-15 WAC.

Before starting work under this lease, the Lessee shall, at the State's request, furnish the State at its Region Office with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements and lease.

The State shall be provided written notice before cancellation or non-renewal of any insurance referred to therein, in accordance with the following specifications:

1. Insurers subject to 48.18 RCW (Admitted and Regulated by the Insurance Commissioner): The insurer shall give the State forty-five (45) days advance notice of cancellation or non-renewal. If cancellation is due to non-payment of premium, the State shall be given ten (10) days advance notice of cancellation.
2. Insurers subject to 48.15 RCW (Surplus lines): The State shall be given twenty (20) days advance notice of cancellation. If cancellation is due to non-payment of premium, the State shall be given ten (10) days advance notice of cancellation.

Sublessee(s) and assignee(s) must comply fully with all insurance requirements stated herein. The Lessee shall include all sublessee(s) and assignee(s) as insureds under all required insurance policies, or shall furnish separate certificates of insurance and endorsements for each sublessee or assignee. Failure of sublessee(s) or assignee(s) to comply with insurance requirements does not limit the Lessee's liability or responsibility.

The State, its elected and appointed officials, agents and employees shall be named as an additional insured on all general liability, excess, umbrella and property insurance policies.

All insurance provided in compliance with this lease shall be primary as to any other insurance or self-insurance programs afforded to or maintained by the State.

The Lessee waives all rights against the State for recovery of damages to the extent these damages are covered by general liability or umbrella insurance maintained pursuant to this lease.

If the Lessee is self-insured, evidence of its status as a self-insured entity shall be provided to the State and incorporated in the lease. If requested by the State, the Lessee must describe its financial condition and the self-insured funding mechanism.

By requiring insurance herein, the State does not represent that coverage and limits will be adequate to protect the Lessee, and such coverage and limits shall not limit the Lessee's liability under the indemnities and reimbursements granted to the State in this lease.

The limits of insurance, which may be increased by the State, as deemed necessary, shall not be less than as follows:

Description	Commercial General Liability (CGL) Insurance
General Aggregate Limit	\$1,000,000
Each Occurrence Limit	\$500,000

The Lessee shall maintain commercial general liability (CGL) insurance and, if necessary, commercial umbrella insurance with a limit of not less than the amounts listed above per each occurrence. If such CGL insurance contains aggregate limits, the General Aggregate limit shall

be at least twice the "each occurrence" limit. CGL insurance shall have products-completed operations aggregate limit of at least two times the "each occurrence" limit.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 (or a substitute form providing equivalent coverage). All insurance shall cover liability arising out of lease premises, operations, independent contractors, sublessees, assignees, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another party assumed in a business contract), and contain separation of insureds (cross liability) condition.

Employer's Liability Insurance and Worker's Compensation Insurance. The Lessee shall buy employers liability insurance and, if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

The Lessee shall comply with all State of Washington workers compensation statutes and regulations. Workers compensation coverage shall be provided for all employees of the Lessee and employees of any assignees or sublessees. Coverage shall include bodily injury (including death) by accident or disease, which arises out of or in connection with the performance of this lease. Except as prohibited by law, the Lessee waives all rights of subrogation against the State for recovery of damages to the extent they are covered by workers compensation, employers liability, commercial general liability or commercial umbrella liability insurance.

If the Lessee, sublessee or assignee fails to comply with all State of Washington workers compensation statutes and regulations and the State incurs fines or is required by law to provide benefits to or obtain coverage for such employees, the Lessee shall indemnify the State. Indemnity shall include all fines, payment of benefits to the Lessee, sublessees, assignees, employees, or their heirs or legal representatives, and the cost of effecting coverage on behalf of such.

Business Auto Policy. The Lessee shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit not less than \$1,000,000 per accident. Such insurance shall cover liability arising out of "Any Auto".

Business auto coverage shall be written on ISO form CA 00 01, or substitute liability form providing equivalent coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage and cover a "covered pollution cost or expense" as provided in the 1990 or later editions of CA 00 01.

The Lessee waives all rights against the State for the recovery of damages to the extent they are covered by business auto liability or commercial umbrella liability insurance.

Insert 5.05B4 Insurance for State-owned Equipment and Structures (OPTIONAL)

**5.06 Records.** The Lessee shall prepare, maintain, and keep records in accordance with acceptable record keeping practices. A clear, complete, detailed record and accounting of business of every kind and character affecting payment due the State and crop production, shall be maintained at a location in Washington, for a period of at least three (3) years following: (1) each harvest; (2) payment of rent; or, (3) the date accounting is provided to the State, whichever is later. Further, the Lessee shall prepare, maintain, and keep records of management practices conducted on the lease premises, including, but not limited to, the use of pesticides, for the term of this lease or as required by law.

**5.07 Right to Examine Books and Records.** The acceptance by the State of any payment under Section 3 herein shall be without prejudice to the State's right to examine the Lessee's books and records to verify the amount of crops and/or proceeds received by the Lessee from the lease premises. The Lessee shall authorize and permit the State or its agents to examine any and all books, records and files of all kinds for the confidential use of the State for the purpose of determining and enforcing compliance with the provisions of this lease.

**5.10 Conservation Plan.** Prior to cultivating any previously uncultivated land on the lease premises, the Lessee shall agree to and comply with a conservation plan prepared and approved by the Natural Resource Conservation Service (NRCS) before disturbing any vegetation or soil on the lease premises. The Lessee shall furnish to the State a copy of the approved conservation plan fifteen (15) days prior to disturbing any vegetation or soil on the lease premises. The plan shall be partial fulfillment of the requirements set forth in Subsection 6.02(1).

Insert File: 5.11 HCP (OPTIONAL) and insert Exhibit 5A, if needed

## SECTION 6 MANAGEMENT

**6.01 Weed Control.** The Lessee shall control all noxious weeds on all lands under this lease. The Lessee shall be responsible for, or shall immediately reimburse the State, any noxious weed control cost incurred as a result of the Lessee's failure to control noxious weeds on said lease premises.

**6.02 Management.** The Lessee shall manage and maintain the lease premises, and all improvements regardless of ownership thereof, in accordance with customary standards of the industry. In addition, the Lessee shall:

1. Follow the "Resource Management Plan" (RMP) attached hereto as Exhibit 6A and by this reference made a part hereof. The State shall have the right to amend the RMP to meet future needs or changes in circumstances.
2. Upon request of the State, and jointly with the State, enter into a "Management Agreement" (MA) which, by this reference shall be made a part of this lease, identifies specific management objectives for the Lessee's operation and the specific steps or practices which the Lessee shall implement in order to meet these objectives. The Lessee shall meet the specific management objectives by the

dates outlined in the MA. The State shall have the right to amend the MA to meet future needs or changes in circumstances.

3. The Lessee acknowledges that a “Coordinated Resource Management” (CRM) plan either has been or may in the future be developed between the Lessee, the State and other landowners in the general location of the lease premises for the protection, preservation, and use of agricultural and grazing premises under multiple ownership. The Lessee hereby agrees to cooperate voluntarily with the State and other landowners to develop a CRM plan. Once a CRM plan is developed, the terms of the CRM plan shall become a part of this lease.

Insert File: 6.02C Paragraph #7 (OPTIONAL)

**6.03 Federal Farm Program.** The Lessee shall conform with United States government federal farm programs as they now exist, or as they may be amended, to maintain the State's eligibility to obtain payments related to program participation. Deviations from such programs are permissible only if allowed, in advance, in writing by the State. Participation in any land retirement program must have prior written approval from the State.

**6.10 Deleterious, Hazardous, Toxic, or Harmful Substances.**

1. Deleterious Material. The Lessee shall not make, or suffer to be made, any filling in of the lease premises or any deposit of rock, earth, ballast, refuse, garbage, waste matter, chemical, biological or other wastes, hydrocarbons, any other pollutants, or other matter within or upon the lease premises, except as approved in writing by the State. If the Lessee fails to remove all nonapproved fill material, refuse, garbage, wastes or any other of the above materials from the lease premises, the Lessee agrees that the State may, but is not obligated to, remove such materials and charge the Lessee for the cost of removal and disposal.
2. Hazardous, Toxic, or Harmful Substances.
  - a. The Lessee shall not keep on or about the lease premises, any substances now or hereinafter designated as or containing components now or hereinafter designated as hazardous, toxic, dangerous, or harmful, and/or which are subject to regulation as hazardous, toxic, dangerous, or harmful by any federal, state or local law, regulation, statute or ordinance (hereinafter collectively referred to as “Hazardous Substances”) unless such are necessary to carry out the Lessee's permitted use(s) under Subsection 2.01 and unless the Lessee fully complies with all federal, state and local laws, regulations, statutes, and ordinances, now in existence or as subsequently enacted or amended.



b. The Lessee shall:

- (1) Immediately notify the State of (i) all spills or releases of any Hazardous Substance affecting the lease premises, (ii) all failures to comply with any federal, state, or local law, regulation or ordinance, as now enacted or as subsequently enacted or amended, (iii) all inspections of the lease premises by, or any correspondence, orders, citations, or notifications from any regulatory entity concerning Hazardous Substances affecting the lease premises, (iv) all regulatory orders or fines or all response or interim cleanup actions taken by or proposed to be taken by any government entity or private party concerning the lease premises; and
- (2) On request, provide copies to the State of any and all correspondence, pleadings, and/or reports received by or required of the Lessee or issued or written by the Lessee or on the Lessee's behalf with respect to the use, presence, transportation or generation of Hazardous Substances related to the lease premises.

c. The Lessee shall be fully and completely liable to the State, and shall indemnify, defend, and hold harmless the State and its agencies, employees, officers, and agents with respect to any and all damages, costs, fees (including attorneys' fees and costs), penalties (civil and criminal), and cleanup costs assessed against or imposed as a result of the Lessee's use, disposal, transportation, generation and/or sale of Hazardous Substances or that of the Lessee's employees, agents, assigns, sublessees, contractors, subcontractors, licensees or invitees, and for any breach of this subsection.

**6.11 Condition of Premises at End of Lease.** Prior to vacating the lease premises, the Lessee shall leave the lease premises and all improvements thereon to which the State has elected to claim title in the state of repair and cleanliness required to be maintained by the Lessee during the term of this lease, and shall peaceably and quietly surrender the same to the State.

## SECTION 7 SUBLEASES AND ASSIGNMENTS

**7.01 Sublease.** The lease premises, in whole or in part, and the appurtenances thereon shall not be subleased without prior written approval from the State. If the sublease is approved, the Lessee shall remain obligated and responsible for all actions on the lease premises, including compliance with all provisions contained in this lease.

**7.02 Assignment.** The Lessee shall not hypothecate, mortgage, assign, encumber, transfer, or otherwise alienate this lease, or any interest therein, or engage in any other transaction which has

the effect of transferring or affecting the right of enjoyment of the lease premises, without the prior written approval of the State.

If the Lessee is a corporation, partnership or other association, the transfer of more than fifty percent (50%) of the ownership interest in such entity, or the sale of all or substantially all of the assets of such Lessee shall be deemed to constitute an assignment of this lease which requires approval of the State.

**7.03 Approval of Sublease or Assignment.** In granting such approval, the State reserves the right to change the terms and conditions of this lease as it may affect the sublessee/assignee. The State shall be entitled to consider, among other items, the proposed sublessee's/assignee's financial condition, managerial capability, business reputation, nature of the proposed sublessee's/assignee's business, the then current fair market rental value of the lease premises, and such other factors as may reasonably bear upon the suitability of the sublessee/assignee or transferee as a tenant of the lease premises or the holder of this lease.

The State may require reimbursement for any additional administrative costs resulting from the assignment.

Consent of the State to an assignment or transfer shall not constitute a waiver of the State's right to approve or disapprove subsequent assignments or transfers. The acceptance by the State of payment or performance shall not constitute consent to any assignment or transfer, and the State's consent shall be evidenced only in writing.

**7.04 Assignee/Transferee Obligations.** Each permitted assignee or transferee of the Lessee shall assume all obligations under the lease occurring after the date of the assignment. Notwithstanding any such assignment or transfer, the Lessee shall remain liable for any obligations occurring prior to the date of the assignment and shall be jointly and severally liable with the assignee or transferee for all obligations under the lease occurring after the date of the assignment, unless released in writing by the State. Assignor's obligations shall continue in full force and effect as to include any additional obligations created by any renewal, amendment, modification, extension, assignment or transfer of the lease whether or not assignor shall have received notice of, or consented to the same. Assignor waives all surety defenses and waives notice of any breach by a subsequent assignee or transferee.

Insert File: 7.05 Sublease Authorization (OPTIONAL)

## SECTION 8 IMPROVEMENTS

**8.01 Authorized Improvements.** No improvement shall be placed on the lease premises without the prior written consent of the State. Consent shall be granted through this lease or a written Letter of Authorization issued by the State. Unauthorized improvements shall either be removed by the Lessee without damage to the lease premises, removed by the State at the Lessee's expense, or become the property of the State, at the State's option.

All improvements currently on the lease premises belong to the State except those authorized improvements which, if any, are listed in Exhibit 8A. Exhibit 8A may be supplemented with a Letter of Authorization issued by the State, for the purpose of authorizing additional improvements to the lease premises during the term of this lease. Letters of Authorization shall be cumulative and become addenda to Exhibit 8A when determining the sum of all authorized improvements.

**8.03 Disposition of Authorized Improvements.** Upon the expiration or earlier non-default termination of this lease, all improvements shall belong to the State as provided in RCW 79.13.050 without compensation to the Lessee, except for those authorized improvements set forth in Exhibit 8A and all subsequent Letters of Authorization, which are identified within those exhibits as remaining in the Lessee's ownership after expiration of the lease; provided, however, all improvements including crops shall be forfeited and become the property of the State upon cancellation of this lease for default.

If the Lessee has been authorized by this lease to retain ownership of improvements beyond the expiration of this lease and the Lessee is not issued a new lease at expiration, the State, at its sole discretion, will elect one of the following options: 1) the State shall purchase such improvements; 2) the State shall offer the premises and all improvements for lease or sale at public auction; or, 3) the Lessee shall remove such improvements within, and in no case later than, sixty (60) days after expiration of the lease, provided that any improvements remaining thereafter shall belong to the State.

If the value of improvements to remain the property of the Lessee is not set forth in Exhibit 8A and agreement cannot be reached between the State and the Lessee on the value of such improvements under option 1 or 2 above, a review board of appraisers consisting of three (3) individuals will be formed. These individuals must have expertise in the fields of agriculture germane to the permitted use of the lease premises to serve on this review board. Per RCW 79.13.160, said review board shall be made up of one (1) member appointed by the State, whose expenses shall be borne by the State, one (1) member appointed by the Lessee, whose expenses shall be borne by the Lessee, and one (1) member to be appointed by the two aforementioned members, whose expenses shall be shared equally by the Lessee and the State. The majority decision of the review board shall determine the value of such improvements; and, the review board shall report its findings to the State and the Lessee.

The review board of appraisers shall determine the value of the improvements, by owner, and the value of the land; and, state the distinct values which, when added together, constitute the traditional fair market value of the assets.

Under option 2 above, the State shall, upon determination of the value of the improvements, offer the lease premises for lease or sale at public auction, with improvements. The value of such improvements shall be collected at the time of public auction and the money so collected shall be remitted to the Lessee, less any damages or waste to the property or the State-owned improvements committed by the Lessee.

Replace the below paragraph w/ 8.03b if lease includes a homesite or other high value improvement

In the event the lease premises and improvements are not leased or sold as the result of public auction, then the Lessee shall have sixty (60) days to remove the authorized improvements, after which time all improvements remaining on the lease premises shall belong to the State.

**8.05 Surety Bond.** A surety bond, savings account assignment, or letter of credit may be required of the Lessee, by the State, to assure completion of construction, development, or removal of any improvements costing in excess of \$2,500.

**8.06 State's Repairs.** The State shall not be required or obligated to make any repairs, alterations, maintenance, replacements, or repairs in, on, or about the lease premises, or any part thereof, during the term of this lease.

**8.07 Lessee's Repairs, Alteration, and Maintenance.** The Lessee shall, at its sole cost and expense, keep and maintain the lease premises and all improvements thereon and all facilities appurtenant thereto (regardless of ownership) in good order and repair and safe condition for the safe conduct of any activities or enterprises conducted on the lease premises pursuant to this lease, and keep and maintain the whole of the lease premises, including all improvements in a clean, sanitary and attractive condition.

## SECTION 9 DEFAULT AND REMEDIES

**9.01 Nonwaiver.** Waiver by the State of strict performance of any provision of this lease shall not be a waiver of nor prejudice the State's right to require strict performance of the same provision in the future or of any other provision. The acceptance of performance, rent, or any other sum owing, by the State following a breach by the Lessee of any provision of this lease shall not constitute a waiver of any right of the State with respect to such breach and the State shall be deemed to have waived any right hereunder only if the State shall have expressly done so in writing.

**9.02 Attorney Fees and Venue.** Each party shall be responsible for their own attorney fees and court costs in the event of a dispute arising out of this agreement except as set forth in Subsections 6.10 and 9.05. Venue for resolving such disputes shall be in Thurston County Superior Court of Washington.

**9.03 Notices and Submittals.** Any notice or submittal given under this lease shall be deemed as received when delivered by hand or five (5) days after deposit in the United States mail with first-class postage affixed, addressed as noted below. Changes of address shall immediately be given in accordance with this subsection. Any notice or submittal given under this lease shall be sent:

To the State:

Where lease provisions require submittal to the State office:

Department of Natural Resources  
Product Sales & Leasing Division  
P.O. Box 47016  
Olympia, WA 98504-7061

Where lease provisions require submittal to the State at its Region Office:

Department of Natural Resources  
Southeast Region Office  
713 Bowers Road  
Ellensburg WA 98926

To the Lessee:

At the address affixed with the Lessee's signature or the Lessee's last known address.

**9.04 Landlord Liens.** The State may file, and maintain during the term of this lease, landlord or crop liens in order to secure any payment or obligation under this lease.

**9.05 Lessee Liens.** The Lessee shall not suffer or permit any lien to be filed against the State's interest in the lease premises, improvements or crops growing thereon by reason of work, labor, services or materials performed thereon or supplied to, by or through the Lessee. If any such lien is filed, the Lessee shall immediately cause the same to be discharged of record, but in no case later than thirty (30) days after the date of filing or creation of such lien unless other arrangements are authorized in writing by the State in advance. The Lessee shall indemnify the State for any costs, damages or expenses (including attorneys' fees and courts' costs) incurred as a result of such liens or in obtaining their discharge whether such costs, damages or expenses were incurred prior or subsequent to lease termination or cancellation.

**9.06 Default.** If the Lessee breaches or defaults on any undertaking, promise or performance called for herein, whether material or not, the State may cancel this lease after the Lessee has been given thirty (30) days notice of the breach or default and such breach or default has not been corrected within such time. Upon such cancellation, all improvements and crops on the lease premises shall be forfeited and become the property of the State subject only to any previously approved waiver of interest or security interest, and Lessee shall immediately deliver up possession of the lease premises to the State. The State may seek damages for any and all violations or defaults with or without canceling this lease. In the event the State deems the breach or default to constitute a threat to safety, life, or property it may elect to intervene immediately, without notice, to remedy the breach or default and the Lessee hereby agrees to repay the State for all costs in remedying the breach or default upon demand, together with

interest thereon from the date of expenditure at the rate set forth in this lease. Alternatively, the State may require the Lessee to act immediately to remedy the breach or default, should the State deem it a threat to safety, life, or property.

In the event of any default by the Lessee, the State shall have the right, with or without canceling the lease, to reenter the lease premises and to remove all persons and property from the lease premises and take whatever actions may be necessary or advisable to relet, protect or preserve the lease premises. Any property so removed may be stored in a public warehouse or other suitable place or otherwise disposed of in the State's discretion at the expense and for the account of the Lessee. The State shall not be responsible for any damages or losses suffered by the Lessee as a result of such reentry, removal, storage or other disposition, and no such action shall be construed as an election to terminate this lease unless a written notice of termination is given to the Lessee.

Whether or not the State elects to cancel this lease on account of any default by the Lessee and subject to any non-disturbance and attornment agreements, if any, the State shall have a right to terminate any and all subleases, licenses, concessions, or other arrangement for possession affecting the lease premises. Alternatively, the State, at its sole discretion, may succeed to the Lessee's interest in such sublease, license, concession, or arrangement, and the Lessee shall have no further right to, or interest in the rent or other consideration receivable thereunder.

**9.07 Survival.** All obligations of the Lessee to be performed prior to the expiration or earlier termination shall not cease upon the termination or expiration of this lease, and shall continue as obligations until fully performed. All clauses of this lease which require performance beyond the termination or expiration date shall survive the termination or expiration date of this lease. However, upon expiration or earlier termination of this lease, the rights of the Lessee and of all persons, firms, corporations, and entities claiming under the Lessee in and to the lease premises and all improvements thereon, unless specified otherwise in this lease, shall cease.

**9.08 State's Right to Cure Defaults.** If the Lessee fails to perform and is in default of any undertaking or promise contained herein, including those set forth in any plan of development, the State shall have the option, but is not obligated, to make such performance after giving ten (10) days written notice to the Lessee. The State's costs and expense to correct the Lessee's failure to perform shall be reimbursed by the Lessee and shall be immediately due and payable, together with interest accruing from the date such cost or expense is incurred.

**9.09 Remedies Cumulative.** The specified remedies to which the State may resort under the terms of this lease are cumulative and are not intended to be exclusive of any other remedies or means of redress to which the State may lawfully be entitled in case of any breach or threatened breach by the Lessee of any provision of this lease.

**9.10 Force Majeure.** The Lessee's failure to comply with any of the obligations under this lease shall be excused only if due to causes beyond the Lessee's control and without the fault or negligence of the Lessee, including acts of God, acts of the public enemy, acts of any government, fires, floods, epidemics and strikes.

## SECTION 10 GENERAL PROVISIONS

**10.01 No Partnership.** The State is not a partner nor a joint venturer with the Lessee in connection with the activities conducted and business carried on under this lease, and the State shall have no obligation with respect to the Lessee's debts or other liabilities.

**10.02 Lessee's Authority.** Persons executing this lease on behalf of the Lessee represent that they are authorized to do so and warrant that this lease is a legal, valid, and binding obligation on behalf of the Lessee, and is enforceable in accordance with its terms.

**10.03 State's Authority.** This lease is entered into by the State pursuant to the authority granted by statute and the Constitution of the State of Washington. The terms and conditions hereof are subject to such statutory and constitutional provisions as may be now in effect and such provisions which do not impair the contractual rights of the Lessee under this lease which may lawfully be enacted subsequent to the date of this lease.

**10.04 Preservation of Markers.** Any legal land subdivision survey corners, reference points or monuments are to be preserved. If such are destroyed or disturbed, they shall be re-established by a licensed land surveyor in accordance with U.S. General Land Office standards at the Lessee's expense. Corners and/or reference points or monuments that must necessarily be disturbed or destroyed in the process of carrying out the operations allowed by this lease must be adequately referenced and/or replaced in accordance with Chapter 58.09 RCW. Such references and replacements must be approved in writing by the State prior to removal of said corners, reference points or monuments.

**10.05 Condemnation.** If all of the premises are taken by any public authority under the power of eminent domain, this lease shall terminate as of the date possession was taken by said public authority pursuant to such condemnation. If any part of the lease premises is so taken and, in the opinion of either the State or the Lessee, it is not economically feasible to continue this lease, either party may terminate the lease. Such termination by either party shall be made by notice to the other party given not later than thirty (30) days after possession is so taken, the termination to be effective as of the later of thirty (30) days after said notice or the date possession is so taken. If part of the lease premises is so taken and neither the State nor the Lessee elects to terminate this lease, or until termination is effective, as the case may be, the payment due under this lease shall be abated in the same proportion as the portion of the lease premises so taken bears to the whole of the lease premises. All damages awarded for the taking or damaging of all or any part of the lease premises, or the State-owned improvements thereon, shall belong to and become the property of the State, and the Lessee hereby disclaims and assigns to the State any and all claims to such award.

The State will not claim any interest in any award for personal property or authorized improvements belonging to the Lessee in accordance with authorized and crop improvements set forth in Section 8. The State may share in the value of crops in accordance with the crop

division and/or additional payment set forth in Section 3. The State will not claim a share of any award made to the Lessee for interruption of or damage to the Lessee's business or for moving expenses.

**10.06 Interpretation and Numbering.** This lease has been submitted to the scrutiny of all parties hereto and their counsel if desired, and shall be given a fair and reasonable interpretation in accordance with the words hereof, without consideration or weight given to it being drafted by any party hereto or their counsel. Section and subsection numbers, headings, or titles are for convenience only and are not to be construed to limit or to extend the meaning of any part of this lease.

Section and subsection numbers may be omitted or out of sequence because of inclusion or exclusion of sections or subsections in this lease at the option of the State. Cross references to sections or subsections that are not included in this lease should not be construed as material references.

**10.07 Time of Essence.** Time is expressly declared to be of the essence of this lease and each and every covenant of the Lessee hereunder. In the event time for performance falls on a weekend or legal holiday designated by the United States or Washington State, performance shall be deemed to be timely rendered if so rendered on the next business day.

**10.08 Lease Changes and Additions.** Any changes or additions to this lease or the attached exhibits shall be made in writing, executed by the parties hereto, and neither the State nor the Lessee shall be bound by verbal or implied agreements.

**10.09 Entire Agreement.** This written lease or its successor or replacement contains the entire agreement of the parties hereto with respect to the matters covered hereby, and no other agreement, statement or promise made by any party hereto, or to any employee, officer or agent of any party hereto, which is not contained herein, shall be binding or valid.

**10.10 Invalidity.** If any term or provision of this lease or the application thereof to any person or circumstance shall to any extent prove to be invalid, unenforceable, void, or illegal, the remainder of this lease, or the application of such term or provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and provision of this lease shall be valid and be enforced as written to the fullest extent permitted by law.

**10.11 Discrimination.** The Lessee shall not conduct or suffer any business upon the lease premises which unlawfully discriminates against any person on the basis of race, color, creed, religion, sex, age, or physical or mental handicap.



10.12 Exhibits. Exhibits referenced herein, including those which may be added during the term of this lease, are incorporated herein by reference and are to be considered terms of this lease.

Dated: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
«Lessee\_Name»  
«Street\_Address»  
«City\_State\_Zip»  
Phone: «Lessee\_Phone»

STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES

Dated: \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
WILLIAM O. BOYUM \*  
Southeast Region Manager

Approved as to form this  
3<sup>rd</sup> day of October, 2000  
Jim Schwartz, Assistant Attorney General

Insert File: Notary Individual -or- Notary Representative

**EXHIBIT 1A**

Legal Description of Premises, and Encumbrances, if any

Enter quarter township description Section «Section», Township «Township» North, Range «Range» East, W.M., «County» County, Washington, containing «Legal\_Acres» acres, more or less, according to the government survey thereof.

Subject to easement for right of way for county road heretofore granted under Application No. 50-Enter number, for an indefinite term.

Subject to easement for right of way for overhead power line heretofore granted under Application No. 50-Enter number, for an indefinite term.

Subject to easement for right of way for overhead transmission line heretofore granted under Application No. 50-Enter number, for an indefinite term.

Subject to the rights of the holder of Department of Natural Resources Water Rights No. 78-W0Enter number, filed on Enter info.

**EXHIBIT 6A**  
**Resource Management Plan**

Lease No. «Lease\_No»

**OBJECTIVE**

This Resource Management Plan (RMP) describes the management objectives and practices agreed upon by the Department of Natural Resources (DNR) and the Lessee to manage agricultural and grazing production on Washington's trust lands. Adherence to this RMP is mandatory. Failure to comply may result in default under Subsection 9.06 of the associated lease or leases. If the management requirements of this RMP cannot be followed due to climatic variations or unforeseen events, the Lessee shall consult with the DNR unit manager regarding any proposed changes to the RMP.

**RANGELAND AND GRAZEABLE WOODLANDS MANAGEMENT**

**Livestock Feeding:** Feeding livestock is not acceptable in the following situations: 1) in a confined area, 2) as a feed lot, or 3) to exceed proper grazing levels. Very limited supplemental feeding may be used as a management tool, to improve livestock distribution.

**Salting:** To improve livestock distribution, the Lessee shall place salt or mineral supplements a minimum of 500 feet away from all water sources. This is done to promote uniform grazing utilization throughout the pasture. It is preferable to place salt or mineral supplements on very shallow sites or rock outcrops to minimize the impact caused by livestock concentration.

**Insert other clauses, as needed**

**WEED MANAGEMENT**

**Noxious Weed Control:** The Lessee shall prevent noxious weed infestations by applying management practices which discourage their establishment or spread. The Lessee shall detect and control the invasion of new noxious weeds. Noxious weeds will be controlled using appropriate mechanical, biological and chemical treatments that meet the requirements of state and federal law.

The Lessee shall use Integrated Pest Management (IPM) to control weeds. This means using a coordinated decision-making and action process that considers all weed management methods and strategies, and applies them in an environmentally and economically sound manner to meet weed management objectives. The elements of integrated pest management for weeds include:

1. Preventing weed problems;

2. Monitoring for the presence of weed species;
3. Establishing the density of the weed population (which may be zero) that can be tolerated;
4. Treating weed problems to reduce their populations below the tolerable threshold, using strategies that may include biological, cultural, mechanical, and chemical control methods, and that consider human health, ecological impact, feasibility and cost-effectiveness; and
5. Evaluating the effects and efficacy of weed control treatments.

**EXHIBIT 8A**

**Authorized Improvements**

State-owned improvements include, but are not limited to:

<u>Description</u>	<u>Location</u>
Key in Improvement	

Improvements authorized by the State:

<u>Description</u>	<u>Location</u>
Key in Improvement	

Use Ex8A.1 or 2, above, or insert EX8A.3; EX8A.4; EX8A.5; or EX8A.6

# WYOMING



STATE OF WYOMING  
BOARD OF LAND COMMISSIONERS

GRAZING AND AGRICULTURAL LEASE

(1) PARTIES - The parties of this lease are:

whose address is \* \_\_\_\_\_ (Lessee), and the Wyoming Board of Land Commissioners, (Lessor), whose address is Office of State Lands and Investments, 122 West 25th Street, 3rd Floor West, Cheyenne, Wyoming 82002-0600.

In the event that the addresses listed above change, the party whose address has changed shall immediately notify the other party to the lease in writing.

(2) PURPOSE OF LEASE - Under the authority of W.S. 36-5-101 et seq. Lessor is granting the leasehold right for grazing and agricultural purposes only, provided, that in the event the Lessee changes the use of grazing lands to other agricultural purposes, either by dry land process or irrigation, the Lessee shall notify the Office of State Lands and Investments of the acreage placed under cultivation and the Lessee shall pay an increased annual rental therefore as fixed by the Lessor. The parties desire to enter a lease contract (Lease) defining their rights, duties and liabilities relating to the premises. In consideration of the payment of the first year's rental, receipt of which is hereby acknowledged, and the covenants and agreements herein made, to be kept and performed by the Lessee, the Lessor hereby leases to Lessee, for GRAZING AND AGRICULTURAL purposes only, the following described lands, subject to all terms, conditions and restrictions contained in this lease, the Statutes of the State of Wyoming and the rules and regulations of the Board of Land Commissioners.

DESCRIPTION:

ACRES	DESCRIPTION	SEC	TP	RNG	CO	ACRES	DESCRIPTION	SEC	TP	RNG	CO
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(3) TERM OF LEASE - The term of this lease shall begin at 5:00 P.M. on the

\_\_\_\_\_ day of \_\_\_\_\_  
and terminate at 5:00 P.M. on the  
\_\_\_\_\_ day of \_\_\_\_\_

(4) RENT PAYMENT - The Lessee shall pay to the Lessor at the Office of State Lands and Investments, Herschler Building, Cheyenne, Wyoming, a rental for the use of the premises in the amount of \$ \_\_\_\_\_ per annum. This amount is subject to change on an annual basis and may be increased or decreased by the Lessor in the event of reclassification of the land, due to a change in its use, a change in the carrying capacity, or a change in the minimum annual rental for grazing and agricultural leases adopted by the Lessor or change in the law. Annual rentals are due and payable on the anniversary date of this lease. If the annual rental is not paid on or before the anniversary date a 10% late fee will be assessed.



(5) **LESSEE'S RESPONSIBILITIES** - Lessee Agrees:

- (a) Not to take or disturb any fur bearing animals on the premises except where a permit to do so has been secured from the Wyoming Game and Fish Commission and consent thereto has also been obtained from the Director of the Office of State Lands and Investments
- (b) To observe state and federal laws and regulations for the protection of fish and wildlife.
- (c) Not to cut, destroy or remove, or permit to be cut, destroyed or removed, any timber that may be upon the premises. The Lessee shall promptly report to the Lessor the cutting or removal of timber by other persons.
- (d) To conduct all grazing and agricultural operations on the premises in a manner which protects soil fertility and forage production, and does not contribute to soil erosion, or overgrazing. The Lessee further agrees to work in cooperation with the Lessor to make every reasonable effort to control noxious weeds and pests. Lessee may work in conjunction with County Weed and Pest Control Districts to develop projects to be submitted to the Office of State Lands and Investments for reimbursement of certain costs of eradication of weeds and pests on state lands. Cost estimates must be submitted by County Weed and Pest Districts and approved by the Office to be eligible for reimbursement. Subject to funding availability, the total cost of the project will be reimbursed for leafy spurge infestations, for all other noxious weeds and pests, the cost of materials only. Lessee of state lands shall pay the cost of application or other control measures.
- (e) To maintain all buildings, wells, dams, windmills, fences, and other improvements located on the premises in a good state of repair at the lessee's expense.
- (f) To dispose of all waste in a proper manner and not to allow debris, garbage, contaminants or other refuse to accumulate on the leased premises. Any landfill or open dump operated by the Lessee on the leased premises, must be permitted by the Board and must comply with State law and the rules and regulations of the Department of Environmental Quality. Any landfill, open dump, accumulation of debris, garbage, contaminants or refuse of any kind which the Lessee placed, or allowed to be placed, on the leased premises, and which has not been authorized by the Board, must be removed at the Lessee's expense. Lessee further agrees that the Lessor shall have the right to remove debris, garbage, contaminants, or other refuse which the Lessee placed on the premises and collect the cost of such removal from the Lessee. The Lessee further agrees to document and report, as soon as possible, to the Office any unauthorized dumping of debris, garbage, contaminants, or other refuse on the leased premises, by parties other than the Lessee, so that appropriate investigation and corrective measures can be taken by the Lessor.
- (g) **IRRIGATED LAND** - If the premises are subject to irrigation in whole or in part from water available for that purpose under a permanent water right, contract or otherwise temporary water right, as the case may be:
  - (1) The Lessee agrees to use water so as to protect and maintain all water rights.
  - (2) Where applicable, the Lessee agrees to pay when due all charges for operation, maintenance, and delivery of water.
  - (3) The lands shall be operated under a customary and appropriate crop rotation method.
  - (4) The lands shall be cultivated, irrigated and fertilized in a proper husbandlike manner so as to prevent washing, blowing, seepage leaching of the soil, waste of water and other damage.
  - (5) All irrigation ditches and laterals shall be kept in good condition at the Lessee's expense and shall be maintained so as to prevent washing, cutting and damage to the lands. Ditches and laterals shall attach to the lands and become the property of the Lessor.
  - (6) The Lessee shall file annually, on or before March 31, of each year, with the Office of State Lands and Investments, on the proper forms, a report of the location and yield of all crops grown the preceding year and the location and type of crops to be grown in the ensuing year.
- (h) Not to post signs on state lands unless specifically authorized by the Board of Land Commissioners.
- (i) Not to lock or remove gates, block or change established roads on the leased premises, which provide public access to state land unless specifically authorized by the Board of Land Commissioners.

(6) **SPECIAL PROVISIONS**

(a) **RESERVATIONS** - Lessor Reserves:

- (1) The right to order the sale of all or any portion of the premises at any time, subject to this lease.
- (2) The right to lease and dispose of all coal, oil, gas and other minerals, and all deposits of clay, stone, gravel and sand valuable for building, mining or commercial purposes, and all timber, together with the right to mine and remove such minerals or other deposits and timber with the right of ingress and egress thereto, and to cancel this lease as to any portion of the premises when required for these purposes.
- (3) The right to hold, sell, appropriate or otherwise dispose of any fences or other improvements of any character owned by the Lessee upon the premises, to insure the payment of rentals, damages or other expenses accruing to the Lessor by virtue of this lease.
- (4) The right to enter in and upon the premises at any time for purposes of inspection or management.
- (5) The right at any time to grant easements across the premises for ditches, overhead wires, pipelines, railroads, reservoirs, public roads and highways, roadways to private land or residences, snow fences, underground cables, open space, or other lawful purposes, with the right of ingress and egress thereto.
- (6) The right to use or lease the premises or any part thereof at any time for any purpose other than the rights and privileges granted by this lease.
- (7) The privilege of any person to use the premises for casual recreational day uses, fishing and hunting pursuant to Chapter 13 of the Rules and Regulations of the Board of Land Commissioners.
- (8) All rights not expressly granted to Lessee by this lease are reserved to the Lessor.

(b) **ASSIGNMENTS** - This lease shall be subject to cancellation by the Lessor if it is assigned without the approval of the Lessor. Any assignment of this lease shall be recorded in the Office of State Lands and Investments.

(c) **SUBLEASES** - Any grazing and agricultural lease is subject to cancellation if the Lessee subleases the leased premises or enters into any contract or agreement of any kind concerning the leased premises, except "price support and production adjustment" contracts of the Farm Service Agency, without approval. In no event shall the premises be subleased unless one-half of any excess rental is paid to the Lessor.

(d) **IMPROVEMENTS** -

- (1) Lessee shall have the right to construct or make improvements upon state lands in the amount of \$2,000.00 per section, without first obtaining permission.
- (2) Lessee shall request permission to construct or make improvements in excess of \$2,000.00 in value per section by submitting a completed application form furnished by the Office.
- (3) Permission may be granted to construct improvements in excess of \$2,000.00 per section for fencing, water development, or livestock handling facilities and range enhancements only. Any other improvement in excess of \$2,000.00 per section shall be applied for under a special use lease.
- (4) Any improvement on the leased premises regardless of value, which will restrict existing public access or alter existing multiple use of the lands must be approved by the Board of Land Commissioners.
- (5) Unless permission has been obtained in the manner provided, the owner of the improvements in excess of the \$2,000.00 per section shall not be entitled to compensation as provided by W.S. 36-5-111 and 36-9-105, and upon expiration of the lease the improvements shall forfeit to and become the property of the state; except that within 120 days from the date of the expiration of the lease, the owner may remove such improvements in a manner which minimizes injury to the land.

(e) **ENTRY UPON LEASED PREMISES BY THIRD PARTIES** - Third parties desiring to enter upon the leased premises shall contact the lessee prior to entry, unless it is a member of the Board of Land Commissioners or its representatives or a member of the public when entering for purposes of hunting and fishing and casual recreational use pursuant to provisions of Chapter 13 of the Rules and Regulations of the Board of Land Commissioners. For all entries by third parties, the lessee may negotiate a payment for damage to the surface of the leased premises, pursuant to Chapter 4, Section 13. Payments must be consistent with payments for damages to adjacent lands.

(f) **CANCELLATION** - If it be determined by the Lessor that this lease has been procured by fraud, deceit or misrepresentation, or if the premises or any part thereof be used for unlawful, unauthorized, or illegal purposes, or if the Lessee fails to perform or violates any of the terms of this lease, the Lessor shall have power and authority to cancel this lease.

(g) **SURRENDER OF PREMISES UPON TERMINATION OF LEASE** - The Lessee shall, upon termination of this lease, surrender and deliver unto the Lessor the peaceful and uninterrupted possession of the premises.

(h) **TIME AND SPECIFIC PERFORMANCE** are each of the essence of this lease, and all agreements and conditions herein contained shall extend to be binding alike upon the heirs, administrators, successors and assigns of the parties hereto.

(i) **RELIANCE** - The Lessor has expressly relied on the representations made by the Lessee in the written application to lease the premises.

(j) **EXCHANGE** - The lease is granted upon the express condition that should the Lessor hereafter find it to be in the best interest of the Lessor to exchange the lands embraced in this lease for other lands, as provided by law, then this lease may be terminated upon giving the

Lessee one (1) year notice, unless by mutual consent of the Lessor and the Lessee, an earlier date of termination may be fixed.  
(k) **BUY-OUT BY LESSOR** - The Lessor shall have the right to purchase back from the Lessee all the rights and interests granted to the Lessee by this lease for any portion of the premises at any time by paying to the Lessee the fair market value of those rights and interest for the remaining term of the lease.

**(7) GENERAL PROVISIONS**

- (a) **NOTICES** - All notices arising out of, or from, the provisions of this lease shall be in writing and given to the parties at the address provided under this lease, either by regular mail, or delivery in person.
- (b) **EFFECT OF CHANGE IN LAW** - The rights and responsibilities of the Lessee under this lease which are granted or imposed by the Statutes of the State of Wyoming or rules and regulations of the Board of Land Commissioners, are subject to change during the term of this lease as a result of the adoption, amendment, or repeal of statutes or rules.
- (c) **COMPLIANCE WITH LAWS** - The Lessee shall keep informed of and comply with all applicable federal, state and local laws and regulations in the performance of this lease.
- (d) **APPLICABLE LAW/VENUE** - The construction, interpretation and enforcement of this lease shall be governed by the laws of the State of Wyoming. The Courts of the State of Wyoming shall have jurisdiction over this lease and the parties, and the venue shall be the First Judicial District, Laramie County, Wyoming.
- (e) **ENTIRETY OF LEASE** - This lease contains the entire contract between the parties and supersedes all prior negotiations, representations, leases or other contracts, either written or oral. This lease cannot be changed except by a written instrument subsequently executed by the parties or included in the body of the lease and signed by the parties.
- (f) **INDEMNITY** - The Lessee shall release, indemnify, and hold harmless the State, the Lessor, and their officers, agents, employees, successors and assignees from any cause of action, or claims or demands arising out of this lease.
- (g) **SOVEREIGN IMMUNITY** - The State of Wyoming and the Lessor do not waive sovereign immunity by entering into this lease, and specifically retain immunity and all defenses available to them as sovereigns pursuant to W.S. 1-39-104(a) and all other state law.
- (h) **WAIVERS** - The failure of Lessor to insist on a strict performance of any of the terms and conditions hereof shall not be deemed a waiver of the rights or remedies that Lessor may have regarding that specific term or condition.
- (i) **EXTENUATING CIRCUMSTANCES** - In the event circumstances arise for whatever reason which create the impossibility of continuing the lease, it may be canceled by either party upon written notice. Neither party shall be liable for failure to perform under this lease if the failure is based upon the extenuating circumstances. Lessor reserves the right to determine whether circumstances create an impossibility. A partial refund of the annual payment may be made on a case-by-case basis.

**(8) SIGNATURES - IN WITNESS WHEREOF**, the parties to this lease through their duly authorized representative have executed this lease on the dates set out below, and certify that they have read, understand, and agree to the terms and conditions of this lease.

LESSOR: THE STATE OF WYOMING  
BOARD OF LAND COMMISSIONERS

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Director, Office of State Lands and Investments

LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

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LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

LESSEE: \_\_\_\_\_ Date: \_\_\_\_\_

BEFORE THE STATE BOARD OF LAND COMMISSIONERS AND  
THE DEPARTMENT OF NATURAL RESOURCES AND CONSERVATION  
OF THE STATE OF MONTANA

In the matter of the )  
amendment of ARM 36.25.117, )  
Renewal of Lease or License )  
and Preference Right )

NOTICE OF PUBLIC HEARING  
ON PROPOSED AMENDMENT

TO: All Concerned Persons

1. The Department of Natural Resources and Conservation will hold four public hearings on the proposed amendment of the above-stated rule relating to the renewal of lease or license and preference right by the Department on behalf of the State Board of Land Commissioners. The hearing dates and locations are as follows:

October 28, 2004, 7:00 p.m.  
Beaverhead County High School Auditorium  
104 North Pacific  
Dillon, Montana

November 2, 2004, 7:00 p.m.  
Glasgow High School Auditorium  
#1 Scotty Pride Drive  
Glasgow, Montana

November 3, 2004, 7:00 p.m.  
VA Auditorium  
210 Winchester  
Miles City, Montana

November 4, 2004, 7:00 p.m.  
MSU Great Falls Campus - Heritage Hall Auditorium  
College of Technology  
2100 16th Avenue South  
Great Falls, Montana

2. The Department of Natural Resources and Conservation and the State Board of Land Commissioners will make reasonable accommodations for persons with disabilities who wish to participate in these public hearings or need an alternative accessible format of this notice. If you require an accommodation, contact the agency no later than 5:00 p.m. on October 22, 2004, to advise us of the nature of the accommodation you need. Please contact Kevin Chappell, Agriculture & Grazing Management Bureau Chief, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-2074; FAX (406) 444-2684; e-mail kchappell@state.mt.us.

3. The rule as proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

36.25.117 RENEWAL OF LEASE OR LICENSE AND PREFERENCE RIGHT (1) The board retains the right to select the best lessee possible to fulfill the operating obligations under any lease. In the exercise of the board's discretion to select the best lessee possible for agriculture and grazing leases, the board recognizes that retention of stable, long-term lessees who are familiar with the operating history and characteristics of the lease promotes good stewardship of the land. Such security of land tenure encourages the lessee to place and develop improvements which, in turn, increases the productivity of the land and improves its management. Consequently, it is the board's policy to allow an incumbent lessee in good standing, a preference right to meet the high bid and retain the lease.

(2) A current lessee or licensee shall be sent an application to renew his lease or license if he has paid all rentals due. The application shall be accepted under the same conditions as specified in ARM 36.25.115; however, applications for renewal will only be accepted after December 1 of the year preceding the expiration of the lease or license and must be postmarked on or before January 28 of the year of expiration of the lease or license. Failure to submit a renewal application by the lessee or licensee postmarked on or before January 28 will result in an unleased or unlicensed tract and will be subject to the requirements for leasing or licensing an unleased or unlicensed tract under ARM 36.25.115.

(a) remains the same.

~~(2)~~ (3) Unless the board decides on its own volition and sole discretion that a lease should be given to a better qualified applicant, A a surface lessee or licensee who has strictly complied with the applicable conditions set forth in 77-6-113(1), MCA, has a preference right to meet the high bid offered for the lease or license and may retain the lease or license subject to the provisions in (8), if all rentals have been paid and appropriate reports submitted and ~~(3)~~ (4) has not been violated. When an agricultural lessee or licensee meets the high bid and retains his lease or license, the new rental rate must be paid for all crops harvested after the renewal date even if such crops were planted before the lessee met the high bid. The lease or license shall be renewed at the fair market rental provided no other applications for the lease or license have been received by the department within the time limits as set forth by ARM 36.25.116(2). Grazing or agricultural uses on classified forest lands may be terminated if it is determined that the resources under that classification are being damaged or not perpetuated.

(a) A cabinsite lease is not subject to bids upon renewal if the lessee continues the lease and the lessee has paid all rentals and ~~(3)~~ (4) is not violated. The lease shall be renewed at the rental provided by law.

(b) If, during the previous lease term, an existing lessee has violated any condition set out within 77-6-113(1), MCA, the lessee shall not have the right to renew the lease or

match any other bids submitted. The department shall notify the lessee if it determines that they have failed to comply with the requirements of 77-6-113(1), MCA. The notice shall include the factual basis for that determination.

(c) The lessee may, within 15 days of receipt of the notice, appeal the decision by requesting an informal hearing before the director or his designee. If the director, or his designee, concludes that the conditions under 77-6-113(1), MCA, have not been met by the lessee during the previous terms, no preference right shall be recognized. The renewal lease shall then be advertised for competitive bids as provided in ARM 36.25.115.

(d) No applicant shall have the right to seek an administrative hearing to challenge the award of a lease to any lessee chosen by the board under this rule or the board's policies.

(3) remains the same but is renumbered (4).

~~(a) For leases or licenses issued before 1987, a lessee or licensee who has only subleased prior to April 7, 1987, under the lease or license may exercise the preference right at renewal if he has not subleased for more than 30% of the term of the lease at the time of renewal. If such lessee or licensee subleases at any time after April 7, 1987, the other provisions of this rule apply.~~

~~(b) For leases or licenses issued before 1987, that have been subleased for two years prior to April 7, 1987, the lessee or licensee may sublease only one year after April 7, 1987, during the current lease term and retain the preference right at renewal.~~

~~(c) For leases or licenses issued before 1987, that have been subleased for one year prior to April 7, 1987, the lessee or licensee may sublease only two years after April 7, 1987, during the current lease term and retain the preference right at renewal.~~

~~(d) For leases or licenses issued before 1987, that have not been subleased prior to April 7, 1987, then the provisions of (3) apply.~~

(e) through (g) remain the same but are renumbered (a) through (c).

~~(4)~~ (5) If a lease or license is renewed pursuant to the preference right and it is later discovered that the lessee or licensee was not entitled to exercise such preference right pursuant to ~~(3)~~ (4) during the prior lease or license term, then the renewed lease or license shall be canceled and readvertised for lease or license. However, the department will retain all rentals paid until the time the renewed lease or license is canceled. The prior lessee or licensee shall be allowed to bid in this instance.

(5) remains the same but is renumbered (6).

(6) (a) and (b) remain the same but are renumbered (7) and (7) (a).

~~(7)~~ (8) If other applications are received by January 28 of the year the lease or license expires, and the lessee or licensee has not violated ~~(3)~~ (4) or 77-6-113(1), MCA, the

lessee or licensee shall have a preference right to renew his lease or license provided he meets the high bid for such lease or license. Such bid is deemed to be met if the amount of the high bid is received by the department prior to the expiration of the lease or license or, in the case of agricultural land leased solely on a crop share rental basis, if the lessee or licensee agrees in writing to meet the high bid prior to the expiration of the lease or license.

(a) A lessee or licensee who believes the bid to be excessive may request in writing a hearing before the director after he meets the high bid. The request for a hearing must contain a statement of reasons and supporting evidence why the lessee or licensee believes the bid not to be in the state's best interest, because it is above community standards for a lease of such land; or would cause damage to the tract; or impair its long-term productivity. The lessee or licensee shall also submit evidence of rental rates for similar land in the area with his request.

(b) The director may grant or deny a request for a hearing. If a hearing is granted, the director shall consider testimony and evidence from the lessee and high bidder regarding the rental rate. The lessee and high bidder may also provide a basis for why they should be selected as the best lessee by the board. The director shall recommend to the board whether there should be a reduction to the bid rate, and who should be selected as the lessee. and if the request is granted, ~~The director may recommend to the board that the bid be lowered only if he feels that it is in the best interests of the state to do so.~~ The hearing is not subject to the Montana Administrative Procedure Act. The board may accept or reject the director's recommendation.

(c) The lessee is obligated to lease or license the property at the rate determined by the board. It is the duty of the board to achieve fair market value. The lease or licensing of such land shall be such so as to generate revenue commensurate with the highest and best use of the land or portions thereof, as determined by the department.

(8) and (9) remain the same but are renumbered (9) and (10).

AUTH: 77-1-209, MCA

IMP: 77-6-205, 77-6-208, and 77-6-210, MCA

REASONABLE NECESSITY: In July, District Court Judge Jeffrey Sherlock ruled the preference right provision in 77-6-205, MCA is unconstitutional because it denies the State Board of Land Commissioners the discretion to choose the best lessee possible for the trust. The proposed amendment is to establish a process for the board to reissue the 800 to 1000 agricultural and grazing leases that expire each year.

4. Concerned persons may submit their data, views, or arguments, either orally or in writing, at the hearings. Written data, views, or arguments may also be submitted to

Kevin Chappell, Chief, Agriculture & Grazing Management Bureau, Department of Natural Resources and Conservation, P.O. Box 201601, Helena, MT 59620-1601; telephone (406) 444-2074; FAX (406) 444-2684; or e-mailed to kchappell@state.mt.us. All written data, views, or arguments must be received no later than 5:00 p.m. on November 8, 2004.

5. Kevin Chappell, Agriculture & Grazing Management Bureau Chief, Department of Natural Resources and Conservation, will preside over and conduct the hearings.

6. An electronic copy of this Notice of Proposed Amendment is available through the department's website at <http://www.dnrc.state.mt.us>. The department strives to make the electronic copy of this Notice of Proposed Amendment conform to the official version, as printed in the Montana Administrative Register. However, the department advises that it will decide any conflict between the official printed version and the electronic version in favor of the official printed version. In addition, the department advises that the website might be inaccessible at times, due to system maintenance or technical problems.

7. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this agency. Persons who wish to have their name added to the list may make a written request, which includes their name and mailing address. Interested persons should specify that they wish to receive notices regarding conservation districts and resource development, forestry, oil and gas conservation, trust land management, water resources, or a combination of topics. The written request may be mailed or delivered to Legal Unit, Department of Natural Resources and Conservation, P.O. Box 201601, 1625 11th Avenue, Helena, MT 59620-1601, or faxed to the office at (406) 444-2684 or may be made by completing a request form at any rules hearing held by the department.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

BOARD OF LAND COMMISSIONERS

DEPARTMENT OF NATURAL RESOURCES  
AND CONSERVATION

By: /s/ Judy Martz  
JUDY MARTZ  
Chair

By: /s/ Arthur R. Clinch  
ARTHUR R. CLINCH  
Director

By: /s/ Tommy H. Butler  
TOMMY H. BUTLER  
Rule Reviewer

Certified to the Secretary of State September 27, 2004.

**STATE OF COLORADO  
BOARD OF LAND COMMISSIONERS**

**AGENDA: September 24, 2004**

XX ACTION       INFORMATION       OLD BUSINESS       TABLED FROM:

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<b>TOPIC:</b> .....	Grazing Rental Rates
<b>PROJECT MANAGER:</b> .....	Larry Routten
<b>REVIEWED BY:</b> .....	Susan McCannon

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**BACKGROUND INFORMATION/REMARKS:**

**HISTORY OF OUR GRAZING RATE STRUCTURE:**

In 1999, the Board established a model for grazing rental rates based on the results of a survey of private grazing leases in Colorado that was conducted by the USDA Colorado Agricultural Statistics Service (CASS) for the Land Board. The following year, the Colorado Cattlemen’s Association (CCA) raised concerns about the mechanism by which the Land Board established its current rental rates for grazing lands. The major concern centered around the fact that the Board’s rates were being based only on leases with Animal Unit Month (AUM) rental rates and those leases accounted for only 18% of the private leases reported in the survey. The CCA was concerned that state lease rates would be based on such a small number of survey responses. The CCA also asked the Board to consider including a mechanism into the model that reflected cattle producers’ ability to pay increased rents during times when market conditions were unfavorable.

The Commissioners subsequently asked staff to review the basis for the Board’s grazing rates. In 2001, staff convened a group with expertise in various aspects of the cattle industry to review the model for setting grazing rates. The goal of this effort was to ensure that the Board’s grazing rates are established in a sound and appropriate manner. The group developed a set of proposals that were adopted by the Board on December 14, 2001 (please refer to Attachment 1- Board Order 2001-97).

When the revised model for establishing grazing rates was adopted, the Board anticipated that another survey of private grazing lease rates would be conducted by CASS in 2002. However, the survey was postponed in 2002 and again in 2003 due to the statewide drought and concerns about the impact of the drought on the market for grazing leases. The survey planned for 2002 was finally completed during 2004 and the results are included as Attachment 2. The recommendations in this document are therefore derived using the model for establishing State Land Board grazing rental rates proposed by the advisory group and adopted by the Board in 2001, and incorporating results of the 2004 CASS survey of private grazing lease rates.

**The 2004 CASS Private Grazing Lease Rate Survey**

The 2004 survey questionnaire was identical to the 1999 survey questionnaire, with one exception. One question was added in order to filter out responses where private leases were based on some factor other than an arm’s length fair market monetary payment. Survey respondents were asked,

“Is the rent for this lease discounted because of non-cash arrangements with the lessor or because you exchange labor or goods for rent in addition to money?”



There were 1,304 private grazing leases in the survey responses. The survey responses indicated that approximately 13.4 % of the leases in the survey responses were at less than market rate. These survey responses were excluded from the data upon which the grazing rate adjustments recommended below were based. Excluding the below-market leases left 1,105 leases in the survey data that were used.

The model for adjusting grazing rates adopted in the 2001 Board order also indicated that survey responses for private leases smaller than 100 acres or larger than 50,000 acres in size would be excluded from consideration. Excluding these leases left a total of 854 private leases for consideration in setting the State lease rates. The model also indicated that the 35% adjustment to private rates which was provided in the past in recognition of the fact that the Board does not typically provide water or fencing on its leases would continue. These three factors are incorporated into the recommendations below.

### 2004 CASS Survey Results

The 2004 survey results are summarized in the table below. The three columns on the right correspond to three common types of private grazing leases. Those are leases where rent is based on payment for, 1) a charge per acre of land, 2) a charge per head of livestock per month and, 3) a charge per animal unit month. Survey responses were separated into five districts across the state, as in the 1999 survey. Statewide results from the 1999 survey are also included in the table and are the basis upon which percentage adjustments are to be recommended, in accordance with the 2001 Board Order.

### Private Grazing Lease Survey Results 1999 and 2004

District (2004)	\$/ac	\$/Head	\$/AUM
NW	\$3.54	\$12.33	\$12.33
NE	\$5.82	\$16.22	\$14.42
E Central	\$4.78	\$13.68	\$14.27
SW	\$2.87	\$11.25	\$12.58
SE	\$2.61	\$11.11	\$11.88
<b>2004 STATEWIDE AVG</b>	<b>\$4.17</b>	<b>\$13.47</b>	<b>\$13.49</b>
<b>1999 STATEWIDE AVG:</b>	<b>\$4.05</b>	<b>\$11.12</b>	<b>\$12.67</b>
<b>% of Lease Type (2004)</b>	<b>46.9%</b>	<b>43.6%</b>	<b>9.5%</b>
<b>% Change (1999 to 2004)</b>	<b>3.0%</b>	<b>21.1%</b>	<b>6.5%</b>

Using the formula for adjusting grazing rates adopted by the Board in 2001 and applying the results of the 2004 survey, the following adjustment to the current grazing rates would be indicated:

$$\text{Percent adjustment} = (\text{percent change in per-acre private leases})(\text{percentage of survey results represented by per-acre leases}) + (\text{percent change in head-per-month private leases})(\text{percentage of survey results represented by head-per-month leases}) + (\text{percent change in AUM private leases})(\text{percentage of survey results represented by AUM leases}),$$

OR

$$\% \text{ Adjustment} = (.030)(.469) + (.211)(.436) + (.065)(.095) = 11\%$$

Applying the methodology for adjusting rates adopted by the Board in 2001 to the 2004 CASS survey results indicates that grazing lease rental rates throughout the state should be increased by 11% .

**The USDA Beef Parity Index**

The USDA beef parity index is essentially a ratio of beef prices to the prices of goods and services that cattle producers must buy as part of their business. The index has been published for several decades. The current ratio of approximately 0.50 reflects the fact that the price of beef has changed very little in the past decades while production costs such as fuel, vehicles, feed, etc, have increased significantly.

When the Board adopted the current model for adjusting grazing rates in 2001, one new factor added to the model was outside the purview of the private grazing lease rate survey. The 2001 Board order indicates that,

“A market adjustment factor will be applied to standard rental rates during years in which the average of the USDA’s published beef parity index for the past ten years changes by more than three percent. Rate increases or decreases will be equivalent to three percent of the standard grazing rate. Implementation of this market adjustment factor will be reviewed in conjunction with the results of the 2002 CASS survey and a decision will be made at that time about whether to continue its use. “

The percent of parity figures for recent years is presented in the table below. The three columns represent the average annual index, the average of the past ten years indexes, and the percentage change of the past ten year’s average. The last column is the figure used to determine whether the Board’s grazing rates will be adjusted as directed in the 2001 Board order.

**USDA Beef Parity Index**

	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	AVG	10-Yr Avg	% Chnge
1990													62.0		
1991													59.0		
1992													57.0		
1993													55.0		
1994	52	52	54	53	49	46	46	48	47	46	47	47	48.9		
1995	48	49	48	45	42	43	42	42	41	41	42	42	43.8		
1996	40	39	38	37	36	38	40	40	42	42	43	40	39.6		
1997	41	40	42	42	43	40	41	42	42	41	42	42	41.5		
1998	41	40	41	42	42	41	39	38	38	39	39	38	39.8		
1999	40	40	42	41	41	42	41	42	42	42	43	44	41.7	48.8	
2000	44	44	44	45	45	44	44	42	43	42	44	45	43.8	47.0	-4%
2001	48	46	48	48	46	47	45	45	44	43	41	41	45.2	45.6	-3%
2002	44	45		43	41	41	41	41	41	40	42	44	42.1	44.1	-3%
2003	46	47	45	47	47	47	46	49	52	56	57	57	49.7	43.6	-1%

As the table above indicates, the average of the USDA’s beef parity index for the past ten years decreased by more than three percent in 2000, 2001 and 2002. Therefore, the Board’s grazing rates were adjusted downward by 3% in 2002, 2003 and 2004 (There is a one-year lag in applying the adjustment due to timing of publication of the index). However, the index for the past ten years ending in 2003 (the last year of data available at this time) decreased by only 1.2%. Therefore, the 3% discount on the Board’s grazing rental rates should be removed during 2005. Finally, the 2001 Board order indicated that the Board would decide whether to continue to use this parity index factor in future adjustments of grazing rental rates when those rates were reviewed in conjunction with the recent CASS survey.

### **Public Comment on Proposed Adjustments to Grazing Lease Rates**

Staff presented an informational update to the Board at the Board's August 27, 2004 meeting. Public notice of the Board's evaluation of grazing rates was published in the Colorado Ag Journal for four consecutive weeks, beginning on August 20, 2004. The notice invited comments to be mailed to the Board. Six commenters have responded to the notice, as of September 13, 2004. Five commenters are lessees and one comment was submitted by the Las Animas Board of County Commissioners. Copies of those comments are included as Attachment 3. The commenters generally expressed concerns about increasing the rental rate on grazing leases at a time when many stock growers are still recovering from financial impacts of the recent years of drought in Colorado.

Staff also met with the State Lands Committee of the CCA on August 31, 2004 to discuss the Board's grazing rates. The CCA plans to attend the September Board meeting and provide comments at that time. At the August 31 meeting, State Lands Committee representatives wished to make the Board aware of a few points relative to its grazing rates. The major points of discussion with the CCA State Lands Committee were as follows:

1. Most stock growers have either reduced their herd numbers or sold all of their cattle during the recent drought. Many lessees have made little or no use of the State leases in the past two years. While there is widespread acknowledgement that the rent relief provided by the Board in 2002 due to the drought was very helpful, many lessees are still paying rent for grass that may not yet have recovered from the drought.
2. Those growers who have reduced or sold their herds now face difficulty restocking because cattle prices are currently at their highest level in several years.
3. The committee still supports the use of the model for adjusting rental rates that was adopted by the Board in 2001. However, the committee encouraged the Board to consider phasing in any potential rent increases rather than making a one-time adjustment that might result in as much as a total 14% increase in rent.
4. The committee suggested that the Board consider adding flexibility to its subleasing policy that might provide lessees who have sold their cattle an option for using their State leases prior to restocking their own herds.
5. The committee pointed out that current costs for fencing materials have recently increased enormously. The cost of services related to fencing and provision of water are the two main factors the Board considered in setting its rates at 35% below private market rates in 1996.

Information about the possible adjustment of grazing rates was also forwarded to the Colorado Farm Bureau, which was invited to comment. As of September 13, 2004, no comments had been received from the Farm Bureau.

### **Lingering Impacts of Drought on the Board's Grazing Lessees**

The Board discounted grazing rents in 2002/03 from 10 to 50% across the entire state due to the impacts of the severe drought that affected the state during that year. While precipitation levels in many parts of the state were higher in 2004 than they have been for the past several years, impacts of the drought continue to be felt by stock growers. One indication of the lingering drought effects on the Board lessees is found in surveys that lessees returned to the Board describing use of their leases during 2003 (the latest year during which data is currently available). Twenty-six percent of the lessees who returned surveys so far for that year reported no use of their leases (393 of 1491 surveys).

The figures on the following page give a quick visual summary of drought conditions during the past two years in Colorado, and provide some perspective on current conditions relative to those that existed in 2002 when the Board provided statewide rent relief due to the drought.

Figures 1 and 2 show the relative amounts of precipitation received across the state during March, April and May of 2002 and 2004, respectively. Drier areas are yellow, areas with normal precipitation are brown and wetter areas are blue. Obviously, the spring of 2004 brought much more precipitation than the spring of 2002. However, Figure 3 shows that the precipitation for the 4-years prior to July 2004 was significantly below normal. The range conditions in the state currently reflect this, as well as the availability of forage on many state leases.

Figures 4 and 5 show how drought conditions in Colorado compare to the rest of the U.S. in September 2004 and July 2002, respectively.

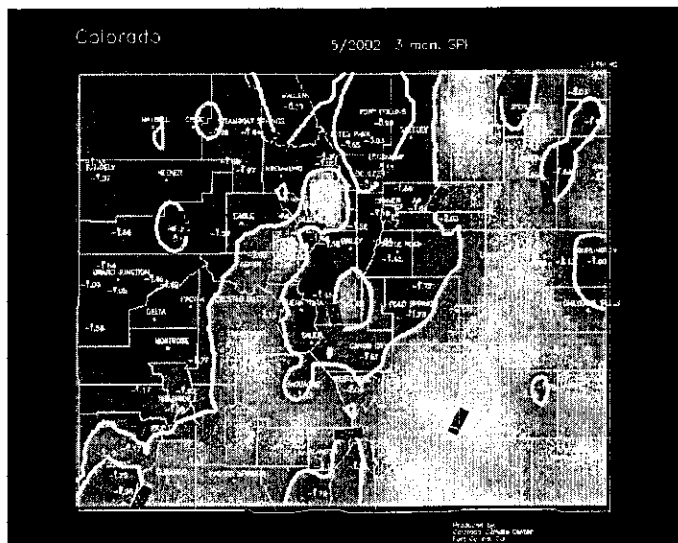


Figure 1: 3-Month Std. Precip Index (May 2002)

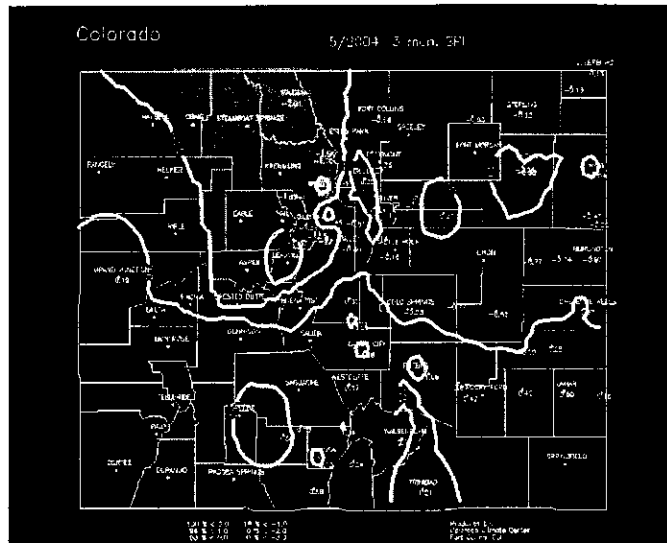


Figure 2: 3-Month Std. Precip Index (May 2004)

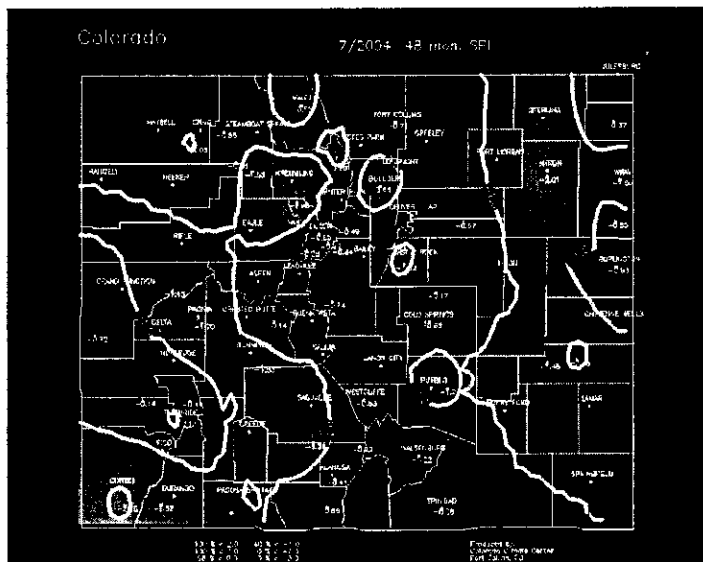


Figure 3: 4-Year Std. Precip Index (July 2004)

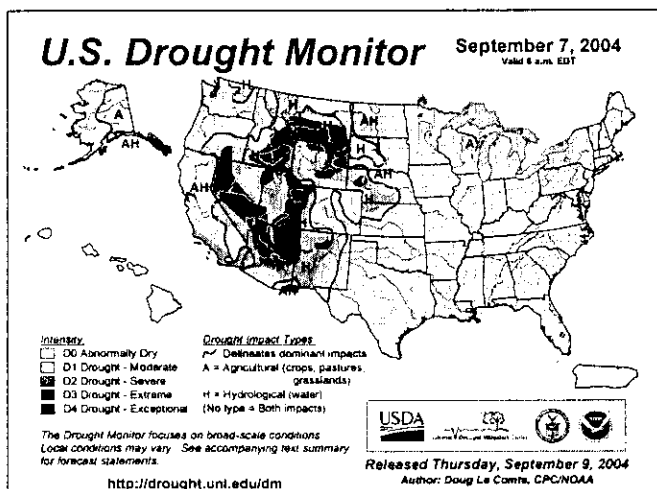


Figure 4: U.S. Drought Conditions (Sept 2004)

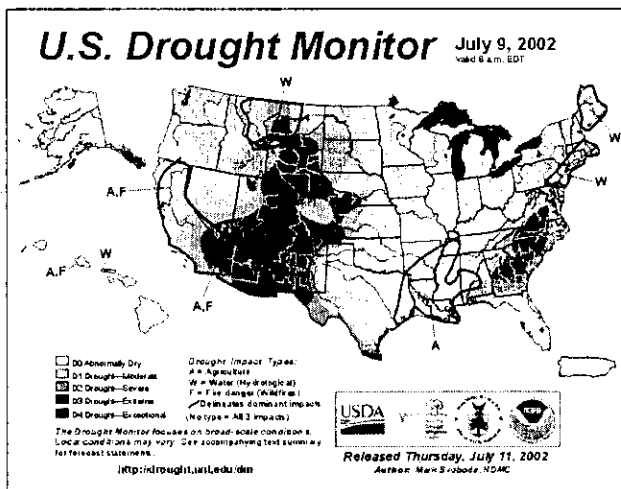


Figure 5: U.S. Drought Conditions (July 2002)

**STAFF RECOMMENDATION:**

Staff recommends that the Board’s grazing rates for 2005 through 2007 be adjusted to reflect the results of the 2004 CASS survey of private non-irrigated grazing lease rates in Colorado, using the model for adjusting grazing lease rates that was adopted in Board Order 2001-97. Three possible ways of implementing this adjustment are presented below for the Board’s consideration. Briefly, these three are,

1. Increase grazing lease rates by 14% in 2005, reflecting the 11% differential found in the 2004 CASS survey and removing the 3% market adjustment factor to reflect the change in the USDA beef parity index. Rates for 2006 and 2007 would remain at the 2005 level, unless the beef parity index indicated that an adjustment should be included during 2006 and/or 2007, OR
2. Implement the change in rates reflecting the 2004 CASS survey over the three year period prior to the next survey and remove the 3% market adjustment factor in 2005 to reflect the change in the USDA beef parity index. This would effectively increase rental rates by 7% in 2005, by 3.5% in 2006, and by 3.5% again in 2007, OR
3. Delay implementing rate changes reflecting the 2004 CASS survey for one year, increasing rents by 5.5% in 2006 and again in 2007, while removing the 3% market adjustment factor to reflect the change in the USDA beef parity index in 2005. This would effectively increase rental rates by 3% in 2005, by 5.5% in 2006, and by 5.5 % again in 2007.

**Changes in Grazing Rates With 3 Potential Means of Implementing the 2004 CASS Survey**

	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Plan 1</b>	+11%	No change	No change
<b>Plan 2</b>	+4.0%	+3.5%	+3.5%
<b>Plan 3</b>	+ 0%	+5.5%	+5.5%

The market adjustment factor included in Board Order 2001-97 introduced a potential annual adjustment to grazing rates based on the average of the USDA’s published beef parity index during the past ten years. Since the latest ten year average of the index only decreased by 1%, the –3% adjustment that has been applied to the Board’s grazing rates in each of the past two years will be removed during 2005. This means lessees will effectively see a 3% increase in rental rates during 2005 even if grazing rates are not adjusted to reflect the 2004 CASS survey. Annual changes to the market adjustment factor could occur in 2006 and 2007, depending on changes in the USDA beef parity index. The market adjustment factor is likely to be either 0 or –3%. The likelihood of the factor increasing to +3% is very remote since the Board uses the average of the last ten years and the index has decreased in each of the past ten years.

The table below illustrates the *effective* changes in rental rates that lessees would see under the three previously discussed plans, *assuming* that a –3% market adjustment factor is applied again during 2006 and 2007.

**Effective Changes in Grazing Rates With 3 Potential Means of Implementing the 2004 CASS Survey  
(With Removal of Last Year’s –3% Market Adjustment Factor and Assuming a –3% Market Adjustment Factor Returns in 2006 and 2007)**

	<b>2005</b>	<b>2006</b>	<b>2007</b>
<b>Plan 1</b>	+14%	-3%	-3%
<b>Plan 2</b>	+7%	+0.5%	+0.5%
<b>Plan 3</b>	+3%	+2.5%	+2.5%

Staff recommends that the third option above be implemented. This would replace the current 3% discount based on the Board's market adjustment factor as of January 2005. It would postpone aligning the Board's rates with the private market for three years while providing the Board's lessees with advance notice that those larger increases in rental rates are scheduled for their leases in upcoming years. Postponing increases in grazing rents is proposed in recognition of the fact that many of the Board's lessees have had reduced or no use of their leases during the recent years of drought, and that the financial impacts of the drought and restocking efforts will continue to significantly impact many lessees in the next few years. A table with statewide AUM rates that would result from this plan is included as Attachment 4.

Staff recommends that the Board continue to use its current model for adjusting its grazing lease rates in the future. Another survey of private grazing lease rates will be commissioned from CASS in 2007. The next evaluation of the Board's grazing rates will be completed in the fall of 2007 and any appropriate adjustments made in the 2008 rates following the Board's review and decision.

Attachments:

1. Board Order 2001-97.
2. Colorado Private Non-Irrigated Grazing Lease Rate Survey, 2004 (CASS) (4 pages)
3. Public comments (5 pages)
4. State Land Board AUM Rates (3 pages)

The State Board of Land Commissioners is reviewing its grazing lease rates. The information below explains how this process works and why it is happening now. If you would like to submit comments concerning the Board's grazing lease rates and possible changes in those rates, please mail them to The Colorado State Board of Land Commissioners, 1313 Sherman St., Rm. 621, Denver, CO. 80203; ATTN: Larry Routten. Please mail your comments as soon as possible so they are received before September 17, 2004.

**How did the Land Board determine the current grazing rates for State leases?**

Beginning in 1999, the Board decided its grazing lease rates would be equal to 65% of private grazing lease rates in the state. The 35% difference is due to the fact that the Board does not provide water or fencing services on most of its leases. The Board estimated how much private leases cost using results from a statewide survey of private grazing lease rates conducted by the USDA/Colorado Agricultural Statistics Service (CASS) in 1999.

In 2001, the Board refined its grazing rates by adopting recommendations from a working group made up of representatives of the Colorado Cattlemen's Association, the Colorado Department of Agriculture, the USDA, the CSU Extension Service and stock growers. The group recommended that the Board should retain the formula where its rates are 65% of private rates and add another 3% market adjustment factor. This factor reflected changes in the cost of business for stock growers and lowered the Board's rates by another 3% during the last three years.

This means that current grazing rates on State leases are 62% of what private grazing leases cost on comparable lands.

**So what are the Board's current grazing rates?**

The 1999 survey showed that private grazing rates varied across the state so, the Board's rates also vary across the State, from \$6.86 to \$9.18 per animal unit month (AUM). The Board divides the state into 5 regions with varying grazing rates. They are:

Northeast	\$9.18/ AUM
East Central	\$8.58/ AUM
Southeast	\$8.29/ AUM
Southwest	\$6.86/ AUM
Northwest	\$7.31/ AUM



### **How has Colorado's recent drought affected State grazing lease rates?**

In 2002-03, the Board reduced grazing lease rates by 50% in most of the state as a result of the severe statewide drought that hit the state in 2002. Rates were reduced 10 to 35% in parts of the state where the drought was not as severe.

The plan for setting grazing rates that the Board adopted in 1999 anticipated that a survey of private grazing rates would be done every three years. Because of the drought, the Board asked USDA/CASS to postpone doing another survey of private lease rates that had been scheduled to occur in 2002. The survey was postponed again in 2003 because of the drought. So the Board's 2004 grazing lease rates are based on private market rates from 1999.

### **Why is the Board considering changing its grazing rates now?**

Because the Board's grazing rates are tied to private lease rates that are 5 years old.

The survey of private grazing lease rates that was postponed in 2002 and 2003 has recently been completed by USDA/CASS. *The survey results indicate that private grazing lease rates increased by 11% between 1999 and 2004.* To keep its lease rates reflecting the private market place, the Board would need to increase its grazing lease rates by 11%. *This would be the first time the Board has increased its grazing lease rates in 5 years.*

Statistics from the USDA also indicate that the 3% market adjustment that has been included State lease rates since 2002 should also be removed in 2005, because the index of costs for stock growers has not changed enough to justify keeping the 3% discount in 2005. *If this change is added to the adjustment for changes in private grazing lease rates, the Board would need to increase its grazing lease rates by 14% to make them current.*

### **Is the Land Board going to increase its grazing lease rates?**

The Board of Land Commissioners will discuss the results of the 2004 survey of private grazing lease rates at its monthly meeting on August 27, 2004 at the Marriott Inn in Pueblo, CO. The Board is discussing the survey results and a possible change in its leasing rates with the Colorado Cattlemen's Association and the Colorado Farm Bureau. The Board is accepting comments about a possible adjustment of its grazing lease rates until September 17<sup>th</sup>. The commissioners tentatively plan to vote on any changes to grazing lease rates at their September 24, 2004 meeting in Durango, CO.

If you would like to submit comments concerning the Board's grazing lease rates and possible changes in those rates, please mail them to The Colorado State Board of Land

**COLORADO STATE BOARD OF LAND COMMISSIONERS  
2005 AUM RATES**

District 1		District 2		District 3		District 4		District 5		District 6		
Southwest	Northeast	East Central	Northeast	East Central	Southwest	Southwest	East Central	Southwest	East Central	Southwest	East Central	Northeast
99 - \$6.65 00 - \$6.86 01 - \$6.86 02 - \$6.65 03 - *	99 - \$8.66 00 - \$9.18 01 - \$9.18 02 - \$8.91 03 - *	99 - \$8.17 00 - \$8.58 01 - \$8.58 02 - \$8.32 03 - *	99 - \$8.66 00 - \$9.18 01 - \$9.18 02 - \$8.91 03 - *	99 - \$8.17 00 - \$8.58 01 - \$8.58 02 - \$8.32 03 - *	99 - \$6.65 00 - \$6.86 01 - \$6.86 02 - \$6.65 03 - *	99 - \$7.53 00 - \$8.29 01 - \$8.29 02 - \$8.04 03 - *	99 - \$8.17 00 - \$8.58 01 - \$8.58 02 - \$8.32 03 - *	99 - \$6.65 00 - \$6.86 01 - \$6.86 02 - \$6.65 03 - *	99 - \$7.53 00 - \$8.29 01 - \$8.29 02 - \$8.04 03 - *	99 - \$6.65 00 - \$6.86 01 - \$6.86 02 - \$6.65 03 - *	99 - \$8.17 00 - \$8.58 01 - \$8.58 02 - \$8.32 03 - *	99 - \$8.66 00 - \$9.18 01 - \$9.18 02 - \$8.91 03 - *
04 - \$6.65 05 - \$6.86	04 - \$8.91 05 - \$9.18	04 - \$8.32 05 - \$8.58	04 - \$8.91 05 - \$9.18	04 - \$8.32 05 - \$8.58	04 - \$6.65 05 - \$6.86	04 - \$8.04 05 - \$8.29	04 - \$8.32 05 - \$8.58	04 - \$6.65 05 - \$6.86	04 - \$8.04 05 - \$8.29	04 - \$6.65 05 - \$6.86	04 - \$8.32 05 - \$8.58	04 - \$8.91 05 - \$9.18
Chaffee Delta Gunnison Lake Mesa Ouray Pitkin	Eagle Garfield Grand Jackson Moffat Montrose Rio Blanco Routt Summit	Elbert Lincoln	Adams Arapahoe Morgan Weld	Logan Phillips Sedgwick Washington Yuma	Kit Carson	Alamosa Archuleta Conejos Costilla Custer Dolores Fremont Hinsdale La Plata Mineral Montezuma Rio Grande Saguache San Juan San Miguel	Huerfano Las Animas	Cheyenne Kiowa	Baca Bent Crowley Otero Prowers Pueblo	Clear Creek Gilpin Park Teller	Douglas El Paso	Boulder Broomfield Denver Jefferson Larimer

\* 03 rates were adjusted due to drought on a county-by-county basis from 9/1/02 through 8/31/03. 04 rates are effective from 9/1/03 through 12/31/04.

Commissioners, 1313 Sherman St., Rm. 621, Denver, CO 80203, ATTN: Larry Routten.  
Please mail your comments as soon as possible so they are received before September 17,  
2004.

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# DETERMINING the VALUE

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## of LEASES for

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# ANNUAL RANGELAND

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Cooperative Extension **University of California**  
Division of Agriculture and Natural Resources

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LEAFLET 21456

# DETERMINING THE VALUE OF LEASES FOR ANNUAL RANGELAND

The value of a lease for grazing land depends on several factors including forage quantity and quality, producer and landowner costs. This leaflet includes discussion on, and examples of, methods for estimating livestock forage requirements, forage availability, forage quality, and seasonal influences on forage availability and quality. It also includes worksheets to aid livestock producers (lessees) and landowners (lessors) in negotiating fair lease values.

Lessees should analyze all costs to arrive at profitable lease prices (worksheet 1). Lessors should examine their expenses to set prices that meet their needs (worksheet 2). In addition, the forage resource has a value based on the volume and quality of feed available (worksheet 3). It is unlikely that calculations on each worksheet will lead to identical values. Nor will the numbers calculated to be the "true value" of the lease. They will be a starting point from which the contractual value can be negotiated.

For information on formulating leases for grazing land, read *Developing Livestock Leases for Annual Grasslands*, Leaflet 21424, University of California ANR Publications.

To calculate the total available forage, subtract the desired residue level from the production value estimated from figure 1 and multiply the difference by the number of grazable acres.

$$\left( \begin{array}{c} \text{Production} \\ \text{per acre} \\ \text{(figure 1)} \end{array} \right) - \left( \begin{array}{c} \text{Residue} \\ \text{per acre} \\ \text{(figure 1)} \end{array} \right) \times \text{Acres} = \text{Available forage}$$

**Example 2:**

There are 100 grazable acres on which average production is estimated at 2,000 pounds per acre. The desired residue level is 750 pounds per acre.

$$(2,000 \text{ lb/A} - 750 \text{ lb/A}) \times 100 = 125,000 \text{ lb of available forage}$$

### Section 3 Adjusting Forage Production for Seasonal Influences

The production values in figure 1 are season-long averages. Since the quantity of available forage changes throughout the year, it is necessary to adjust available forage estimates for season of use. Multiply the production estimate by the adjustment values in table 2 to calculate total available forage. If a pasture is to be grazed more than one season, average the values for the seasons it will be grazed.

**Table 2.**  
**SEASONAL FORAGE AVAILABILITY ADJUSTMENT**

Season of use	Seasonal availability adjustment
Year long	1.0
Winter	0.7
Spring	1.3
Summer	0.8
Fall	0.6

To determine the total available forage, multiply the available forage (figure 1) by the seasonal adjustment (table 2).

$$\begin{array}{r} \text{Available} \\ \text{forage} \\ \text{(figure 1)} \end{array} \times \begin{array}{r} \text{Seasonal} \\ \text{adjustment} \\ \text{(table 2)} \end{array} = \begin{array}{r} \text{Total} \\ \text{available} \\ \text{forage} \end{array}$$

**Example 3:**

Grazing occurs from February 15 to May 15.

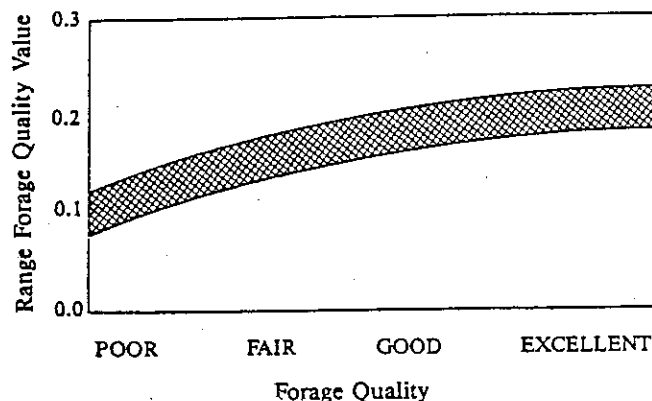
$$125,000 \text{ lb of forage (from previous example)} \times 1.3 = 162,500 \text{ lb of available forage (table 2)}$$

The livestock in this example require 200,000 pounds of forage for the term of the lease (example 1). However, only 162,500 pounds of forage is available from the pasture. Since the total requirement exceeds total available forage, it may be necessary to provide supplemental feed, reduce animal numbers or grazing season, or take steps to increase forage production.

### Section 4 Estimating Forage Quality

The quality of available forage will have an impact on animal performance and therefore affect the value of the pasture. The graph in figure 2 can be used to estimate forage quality value for a pasture.

**Figure 2. Forage Quality on Dryland Pastures**



#### Forage Quality Descriptions

**Excellent**

Improved grasslands: Includes areas that have been seeded and fertilized. Legumes and other desirable forbs are usually abundant. These lands may also support desirable perennial grasses. Slopes are usually flat to moderate.

**Good**

High-producing grasslands: These areas are characterized by deep soils. Legumes and other desirable forbs are usually conspicuous but not abundant. Slopes are usually flat to moderate.

# WORKSHEET 1

## "BREAK EVEN" LEASE VALUE WORKSHEET FOR LESSEES

The break even value is the lease price at which expenses are met. It does *not* allow for profit. From this and the forage value worksheet (3), producers can determine a fair lease rate.

### A. BEGINNING INVENTORY

	Value/Head \$	Total \$
1. _____ / _____ / _____	_____	_____
2. _____ / _____ / _____	_____	_____
3. _____ / _____ / _____	_____	_____
Beginning value \$ _____		(A)

### B. FORAGE REQUIRED (section 1)

(For each animal type, calculate the total forage requirement as shown in section 1. Add these totals to determine the overall forage requirement.)

Animal type	AU (table 1)	Number			Forage required/mo.
1. _____	_____	_____	×	1,000	= _____ lb
2. _____	_____	_____	×	1,000	= _____ lb
3. _____	_____	_____	×	1,000	= _____ lb
Total forage required/month =					_____ lb
_____ × _____ =					_____ (B)
Total forage required/mo.		Grazing season (mo.)		Total forage required	

### C. FORAGE AVAILABLE (section 2)

$$\left( \frac{\text{Production per acre (figure 1)}}{\text{Residue per acre (figure 1)}} \right) \times \text{Grazable acres} = \text{Available forage}$$
  

$$\frac{\text{Available forage}}{\text{Seasonal availability adjustment (table 2)}} \times \text{Seasonal availability adjustment (table 2)} = \text{Total available forage} \quad (C)$$

(continued)

## WORKSHEET 2

### "BREAK EVEN" LEASE VALUE WORKSHEET FOR LESSORS

The break even value is the lease price at which expenses can be met. It does *not* allow for profit. From this and the forage value worksheet (3), landowners can determine a fair lease rate.

#### A. LAND COSTS\*

	\$	
Land payment (mortgage & principal)		_____
Tax (property)		_____
Insurance		_____
Interest		_____
Total land costs	\$	_____ (A)

#### B. OPERATING COSTS

	\$	
Labor		_____
Maintenance	\$	_____
Structures		_____
Fences		_____
Handling facilities		_____
Water developments		_____
Other ( _____ )		_____
Total maintenance costs	\$	_____
Total operating costs	\$	_____ (B)

#### C. DEPRECIATION

	New value	÷	Life span	=	Annual depreciation
	\$				\$
Structures	_____	÷	_____	=	_____
Fences	_____	÷	_____	=	_____
Handling facilities	_____	÷	_____	=	_____
Water developments	_____	÷	_____	=	_____
Improvements (short term)	_____	÷	_____	=	_____
Other ( _____ )	_____	÷	_____	=	_____
Total annual depreciation costs					\$ _____ (C)

#### D. TOTAL COSTS

(A) \$ \_\_\_\_\_ + (B) \$ \_\_\_\_\_ + (C) \$ \_\_\_\_\_ = \$ \_\_\_\_\_ (D)  
 Land costs + Operating costs + Depreciation costs = Break even lease value

(D) \$ \_\_\_\_\_ ÷ \_\_\_\_\_ = \$ \_\_\_\_\_ /month  
 Break even lease value ÷ Lease term = Break even lease value/month

(D) \$ \_\_\_\_\_ ÷ \_\_\_\_\_ = \$ \_\_\_\_\_ /acre  
 Break even lease value ÷ Total acres = Break even lease value/acre

\*Based on land value for grazing.



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**COSTS OF GRAZING ON  
FEDERAL LANDS AND PRIVATE LEASES**

**A 1991 Colorado Comparison**

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**November 1993**

## INTRODUCTION

Much controversy has surrounded the grazing fee formula used to determine grazing fees on federal land. The current grazing fee formula was established by Congress in the 1978 Public Rangeland Improvement Act (PRIA) and extended by Executive Order in 1986. The grazing fee has been and is below the lease rate for private grazing land, and has been criticized as an 'unfair' subsidy to livestock producers who utilize public forage resources. Legislation has been introduced to increase the fee during the last several congressional sessions.

The current fee formula, established in PRIA, is based on a 1966 base fee of \$1.23 per Animal Unit Month (AUM), a Forage Value Index, a Beef Price Index, and a Prices Paid Index. The base of \$1.23/AUM was derived from the 1966 Western Livestock Grazing Survey by comparing costs of leasing private grazing to those of using federal grazing.

The 1966 Western Livestock Grazing Survey reported data on the fee and non-fee costs of grazing livestock on both private and federal lands. The fee cost is the charge or explicit lease rate of the forage. The non-fee costs are in addition to the lease charged and include all costs that a lessee incurs while using the lease. These costs include expenses such as labor, services, repairs, and supplies necessary to obtain forage for the livestock. The fee plus the non-fee costs comprise the total amount that a lessee pays to run livestock on any pasture.

The non-fee costs of grazing federal lands are subtracted from the total cost incurred by private lessees (lease charge plus non-fee costs) to obtain the apparent value of federal forage. The value, viewed as a residual, is the amount left after the additional expenses incurred by grazing on federal lands have been subtracted from private lease costs. Any cost that a rancher does not pay in non-fee costs will be included in the value of grazing on federal lands.

The costs of grazing cattle on private lands reported in the 1966 Western Livestock Grazing Survey included a \$1.79/AUM lease cost and a \$2.75/AUM non-lease cost for a total cost of \$4.54/AUM. The non-fee cost of grazing on federal lands was \$3.28/AUM. The \$1.26 difference (\$4.54-3.28) was the imputed value for cattle grazing on federal lands. The value for sheep was \$1.13/AUM. These values were weighted at 80 percent cattle and 20 percent sheep to arrive at the \$1.23/AUM base currently used in the PRIA fee formula.

Obermiller and Lambert (1984) conducted non-fee grazing costs studies in Oregon, Idaho, Nevada, Wyoming, North Dakota, and South Dakota. The authors reported similar total costs of grazing on private and federal lands, but in their study the private-land lease rate comprised a larger percentage of the total than the fee did on federal lands. A statistical comparison between this study and the values reported in the 1966 Western Livestock Grazing Survey was not possible because no random survey of lessees was made. To date, there has been no effort to duplicate the methodology of the 1966 Western Livestock Grazing Survey. Bartlett et al. (1984) reported a \$17.68/AUM cost of grazing on federal lands in Colorado. A comparison between the later study and the 1966 Western Livestock Grazing Survey was not possible because the authors did not survey private land lessees.

Nielsen (1991) updated non-fee costs using indices developed by USDA. Nielsen reported a \$12.26/AUM non-fee cost of grazing on federal lands in 1990. His study assumed that the relative cost structure was the same in 1990 as it was in 1966. This assumption may not hold now because maintenance requirements for range improvements on federal allotments have

changed as have methods of grazing management.

The purposes of this study were:

- 1) To provide a comparison between the 1991 non-fee cost of grazing on federal and the non-lease cost of grazing on private lands in Colorado.
- 2) To compare the non-fee costs of grazing in 1991 on both private and federal lands to those reported in the 1966 Western Livestock Grazing Survey.

## **PROCEDURES**

Lists of range livestock producers who hold federal grazing permits and private leases were compiled. A procedure for estimating sample size was developed. Questionnaires to survey producers using grazing on federal lands and on private lands in Colorado were developed.

### **Rancher Lists**

The compilation of a complete frame (list of members of the population) and the correct selection of a sample from that frame were considered essential to the accuracy and efficiency of the survey. Two frames were required for this study, one for those producers using grazing on federal lands and the other for those producers leasing grazing on private lands. The procedure for the compilation of the frame will be discussed first followed by the procedure used for sample selection.

**Federal Permittees:** The frame was composed of individuals and firms that used grazing on federal lands. Individuals and firms were included in the frame to obtain information on non-fee costs of permittees on each allotment. The frame of permittees that used grazing in federal lands in Colorado was compiled from the Bureau of Land Management (BLM) and Forest Service (FS) rolls of federal permittees. The BLM "Range Management Grazing Record Master" for each BLM Resource Area and the FS "Grazing Permittee Action and Actual Use Record" for each National Forest were combined. Sorts by name, address, and ZIP code were done to eliminate duplication of allotments on both FS and BLM lands. Those firms or individuals having permits on the Comanche and Pawnee National Grasslands were excluded from the frame.

The original list of 2,716 federal allotments was reduced to 1,977 ranchers whom utilized federal grazing in 1991. This number is down when compared to the 2,100 ranchers whom utilized federal grazing in 1983 (Bartlett et al. 1984).

**Private Lessees:** No frame existed listing individuals who leased private rangeland for grazing in Colorado. County commissioners were asked to develop a list of names, addresses, and phone numbers of those individuals who lease private rangeland for grazing in their counties. Two hundred eighty-nine names were received from counties, local livestock organizations, and Cooperative Extension. Duplications were eliminated from the frame.

### **Sample Design**

A random sample was obtained from each frame. For federal grazing, sample size was estimated by using the variance in non-fee costs from the 1983 study (Bartlett et al. 1984). A stratified random sample was utilized to increase accuracy of the survey. Three strata became apparent when the frequency distribution of animal unit months of each ranch was analyzed. To estimate sample size, 1983 average costs and standard errors (Bartlett et al., 1984) were assigned to each strata. Strata 1 was the "large" federal permits with greater than 2050 AUM's, a \$12.54/AUM average cost, and a standard deviation of  $\pm$  \$2.03. Strata 2 was the "medium" federal permits with 501-2050 AUM's, a \$17.95/AUM average cost, and a  $\pm$  \$5.70 standard deviation. Strata 3 was the "small" federal permits with less than 500 AUM's, a \$22.10/AUM average cost, and a  $\pm$  \$8.43 standard deviation. A sample size of 64 was estimated. The sample size was doubled to 128 based on an assumed response rate of 50 percent. Using the Neyman allocation (Schaefer et al. 1979), sample proportions were 27 percent, 51 percent, and 22 percent for the large, medium, and small strata, respectively. The sample sizes for each strata were 34 for large, 66 for medium, and 28 for small. Statistical procedures are shown in Appendix A.

The sample selection procedure used for private rangeland lessees was similar to the one described above for federal allotments. The variance in costs was assumed to be the same on private leases as for federal lands as no prior estimates for private leases existed. Of the 289 private leases, 130 were randomly selected for the sample.

### **Questionnaire Design**

The questionnaire (Appendix D) for federal land permittees was designed to estimate total 1991 non-fee costs and to identify allotment characteristics influencing the magnitude of those costs. The questionnaire was slightly modified for private leases to include the lease rate. The questions were formulated based on the 1983 grazing cost study (Bartlett et al. 1984).

The questionnaire consisted of three parts. Part I provided a general ranch description, identification of the permittee (or lessee for private leases), the region of the ranch, and ranch size. Part II asked for a list of allotments (or leases) that were active in 1991 and the federal agencies responsible for those allotments. Part III pertained to specific allotment (or lease) characteristics and associated management activities. Costs were itemized in eight management activities. Management activities are the type of expenses that livestock producers incurred while using the forage (Bartlett et al. 1984). They included depreciation, lost animals, transportation, gathering, herding maintenance, routine, and other costs (association fees, meetings, paperwork, etc.). A description of these activities is given in Appendix C.

### **Interview Method**

A combination of mail and telephone surveys were conducted. Questionnaires were mailed to the randomly-selected permittees and lessees. Letters from the Colorado Cattlemen's Association and Colorado State University explaining the scope and importance of the project, questionnaires (one for each allotment), and a postage-paid envelope were mailed to each interviewee. Follow-up telephone interviews were conducted to assist permittees and lessees in filling the questionnaires. Not all interviewees could be contacted by telephone. A follow-up letter was sent to all non-respondents to encourage response. The questionnaires were returned

to the Rangeland Ecosystem Science Department at Colorado State University for analysis.

### **Data Analysis**

Of the 128 questionnaires sent to federal permittees, 45 (35 percent) were returned. Of those returned, only 39 (30 percent) were in usable form. Of the 128 questionnaires sent to private lessees, 40 (31 percent) were returned. Of those returned, only 18 (14 percent) were in usable form. Twenty-two (17 percent) were returned blank. Several reasons may account for the low rate of response. First, the questionnaire was long and took a significant block of time to complete. Second, the mailing was delayed well into the spring when livestock producers were busy. Finally, many of those included on the private lease list did not lease private land for livestock grazing.

Information from the completed surveys were entered into a spread sheet for data analysis. Cash and non-cash values were assigned to all activities using current livestock industry information and past grazing studies (Appendix B). Activity costs were summed across allotments (or leases) and divided by the total AUM's to obtain AUM-weighted non-fee costs averages and AUM-weighted private lease rates.

## **RESULTS**

The 1991 AUM-weighted non-fee costs average of grazing on federal lands in Colorado was \$19.87/AUM with a standard error of  $\pm$  \$1.30/AUM. The 1991 AUM-weighted average non-lease cost of grazing on private lands was \$13.26/AUM with a standard error of  $\pm$ 1.20 (Table 1). The confidence interval of the mean was calculated at the 95 percent level, such that we can state that 95 percent of the time the estimate of non-fee costs will fall between \$18.57/AUM and \$21.17/AUM on federal allotments and between \$12.06/AUM and \$14.46/AUM on private leases (Appendix A). The composition of the non-fee costs were examined by management activities (Table 1) and by component costs (Table 2). Lost animals (\$4.14/AUM) and gathering (\$3.75/AUM) were the two leading source of expenses incurred by permittees grazing on federal allotments (Table 1). Herding (\$3.18/AUM) and gathering (\$2.83/AUM) were the two leading source of expenses incurred by the lessees using grazing on private lands (Table 1).

Figure 1 shows the percentages that each management activity contributed to the total non-fee cost in federal lands. Lost animals accounted for 20.8 percent, gathering for 18.9 percent, herding for 16.6 percent, followed by routine activities (10.7 percent), maintenance (9.8 percent), depreciation (7.1 percent), and transportation (6.0 percent). Figure 2 shows the percentages that each management activity contributed to the total non-lease costs in private lands. Herding accounted for 24.0 percent, gathering for 21.3 percent, maintenance for 17.4 percent, death loss for 15.8 percent, routine for 8.1 percent, transportation for 4.5 percent, and depreciation for 1.7 percent.

Component costs (Table 2) categorized the type of costs that made up the management activities, e.g. labor, vehicle costs, horse costs. Component cost sources are important in allowing indexing of costs in subsequent years. Labor was the highest component costs in both federal (\$9.47/AUM) and private lands (\$7.11/AUM). Figure 3 shows the percentage that each component contributed to the total non-fee cost in federal lands. Labor accounted for 47.7 percent, followed by lost animals (20.8 percent), maintenance (9.8 percent), development

Table 1. Non-fee costs of grazing on federal allotments and private leases in Colorado in 1991 by use activities (\$/AUM).

Management activity	Federal	Private
Depreciation <sup>a</sup>	\$ 1.42	\$ 0.22
Lost animals <sup>b</sup>	4.14	2.10
Transportation <sup>c</sup>	1.20	0.60
Gathering	3.75	2.83
Herding	3.29	3.18
Maintenance	1.95	2.31
Routine	2.13	1.08
Other	<u>1.99</u>	<u>0.94</u>
Total	\$19.87	\$13.26
Standard Error	1.30	1.20

<sup>a</sup> Depreciation of developments based on total cost of improvements on each allotment or lease paid by permittee or lessee.

<sup>b</sup> Based on the value of animals unaccounted for, includes death loss and missing animals.

<sup>c</sup> Included are those resources used for moving animals to a lease or an allotment (hired trucking, vehicle use, and horse expenses).

Table 2. Weighted average 1991 non-fee costs in Colorado for federal allotments and private leases, and value of federal forage.

Component cost <sup>a</sup>	Federal \$/AUM	Private Lease \$/AUM
Death loss	4.14	2.10
Hired trucking to and from allotment	0.46	0.02
Labor for all management activities	9.47	7.11
Vehicle use for all management activities	0.89	0.51
Horse cost for all management activities	0.53	0.39
Animal health	0.45	0.38
Maintenance	1.95	2.31
Association fees	0.26	0.20
Development depreciation <sup>b</sup>	1.42	0.22
Miscellaneous (vandalism, meetings, paperwork, predator control, theft, contracted feed, etc.)	<u>0.30</u>	<u>0.02</u>
Total nonfee costs	\$19.87	\$13.26
Private lease rate <sup>c</sup>	---	<u>7.64</u>
Total costs for private lease		\$19.90
Value of federal forage <sup>d</sup>	\$0.03	

<sup>a</sup> Categories of costs that made up management activity costs.

<sup>b</sup> Depreciation of developments based on total cost of improvements on each allotment or lease paid by permittee or lessee.

<sup>c</sup> Average lease rate reported, may include payment for services in addition to grazing.

<sup>d</sup> Total costs for private lease minus total nonfee costs on federal.



depreciation (7.1 percent), vehicle use (4.5 percent), horse use (2.7 percent), animal health (2.3 percent), trucking (2.3 percent), miscellaneous (1.5 percent) and finally, association fees (1.3 percent). Figure 4 shows the percentages that each component contributed to the total non-lease cost in private lands. Labor accounted for 53.6 percent of the total non-lease cost followed by maintenance (17.4 percent), lost animals (15.8 percent), vehicle use (3.8 percent), horse use (2.9 percent), animal health (2.9 percent), association fees (1.5 percent), development depreciation (1.7 percent), hired trucking (0.2 percent), and miscellaneous (0.2 percent).

Non-fee costs of grazing on federal lands stratified by allotment size are listed on Table 3. Non-fee costs of grazing on federal lands were \$29.42/AUM for allotments less than 500 AUM's, \$22.87/AUM for allotments with 501 to 2050 AUM's, and \$16.81/AUM for allotments greater than 2051 AUM's. Although the non-fee cost of grazing federal allotments decreases with an increase in allotment size, no inferences about increases in forage values as allotment size increases can be made because of possible corresponding economies of scale on private leases. This comparison was not possible because the response rate was insufficient to stratify non-fee costs by lease size on private lands.

### **Comparison to the 1966 Study**

Table 4 provides a comparison between the results of this 1991 study and the values from the 1966 study indexed to 1990 (USDA/USDI 1992). The comparison between 1990-indexed values and the values from this study suggests that non-fee and non-lease costs have increased at a greater rate than that reflected in the indices. The 1991 non-fee cost of grazing federal lands (\$19.87/AUM) was significantly higher than the 1990-indexed value estimated in the USDA/USDI 1992 study (\$10.19/AUM). The \$19.87/AUM non-fee cost of grazing federal lands from this study was 95 percent higher than the indexed non-fee costs of grazing on federal lands from the USDA/USDI 1992 study.

The non-fee cost of grazing on private lands estimated in 1991 (\$13.26/AUM) was also significantly higher than the 1990-indexed value estimated in the USDA/USDI 1992 study (\$8.59/AUM). Non-lease costs of grazing on private lands in 1991 were 54 percent higher than the non-lease costs indexed from 1966. In comparing cost components, lost animals and areas where labor requirements are high (veterinary, moving, herding, and maintenance) showed the greatest differences.

### **Forage Value**

The value of the federal forage was estimated in the last part of Table 4. The private lease rate was added to the non-lease cost to obtain the total costs of grazing private forage. The non-fee cost on federal lands was subtracted from the total costs of grazing private forage to compute the value of the federal forage. This value was estimated at \$0.03/AUM.

The 1990-indexed lease rate from the 1966 study was \$4.55/AUM while the reported lease rate in this 1991 study was \$7.64/AUM. The estimate of federal forage value from indexing 1966 results was \$2.95/AUM, \$2.92/AUM higher than the estimated value from this 1991 study.

### **Allotment and Lease Characteristics**

Table 5 summarizes the allotment and lease characteristics found in this study. Sixty-eight

Table 3. Non-fee costs of grazing on federal allotments by allotment size in Colorado in 1991 by use activities (\$/AUM).

	Component Cost		
	Strata 1 (1-500 AUMs)	Strata 2 (501-2052 AUMs)	Strata 3 (2053+ AUMs)
Deprecation	\$ 3.09	\$ 2.39	\$ 1.04
Lost animals	\$ 5.45	\$ 4.82	\$ 3.64
Transportation	\$ 0.97	\$ 1.68	\$ 1.01
Gathering	\$ 6.46	\$ 4.01	\$ 3.27
Herding	\$ 2.48	\$ 4.09	\$ 2.92
Maintenance	\$ 3.18	\$ 1.92	\$ 1.79
Routine	\$ 4.91	\$ 1.68	\$ 1.50
Other	\$ 2.70	\$ 2.28	\$ 1.64
<b>Total</b>	<b>\$29.24</b>	<b>\$22.87</b>	<b>\$16.81</b>
Average AUMs	237.3	1,003.5	4,448
n	19	13	6

Table 4. Comparison between 1966 non-fee costs indexed to 1990 and 1991 non-fee costs (\$/AUM) and estimates of federal forage value.

Cost	1966 Indexed to 1990 <sup>a</sup>		1991	
	Federal	Private	Federal	Private
Lost animals	1.78	1.24	4.14	2.10
Association fee	0.20	0.00	0.26	0.20
Veterinary	0.32	0.37	1.93	0.87
Moving to and from allotment	0.79	0.79	4.30	3.10
Herding	1.83	1.11	3.29	3.18
Salt and feed	1.62	2.18	0.20	0.21
Travel to and from	1.03	0.81	0.65	0.33
Water	0.27	0.23	0.10	0.02
Horse	0.46	0.27	0.53	0.39
Fence maintenance	0.60	0.67	1.05	1.44
Water maintenance	0.51	0.39	0.90	0.87
Development depreciation <sup>b</sup>	0.31	0.08	1.42	0.22
Other	0.47	0.45	1.10	0.33
Total nonfee costs	10.19	8.59	19.87	13.26
Private lease rate <sup>c</sup>	--	4.55	--	7.64
Total cost	10.19	13.14	19.87	19.90
Value of federal forage <sup>d</sup>	2.95	--	0.03	--

<sup>a</sup>1966 values indexed to 1990 as given in USDA/USDI (1992).

<sup>b</sup> Depreciation of developments based on total cost of improvements on each allotment or lease paid by permittee or lessee.

<sup>c</sup> Average lease rate reported, may include payment for services in addition to grazing.

<sup>d</sup> Total costs for private lease minus total nonfee costs on federal.

Table 5. Summary of allotment and lease characteristics.

	Federal	Private
Agency	32% BLM; 68% USFS	private
Average length of use	104 days	163 days
Livestock	27% sheep; 73% Beef	12% sheep, 88% beef
Average AUM's	1,196	780
Acres available	14,411	2,472
Time of use		
Spring	10%	20%
Summer	53%	36%
Fall	32%	31%
Winter	05%	13%
Total ranch size	385 AU's	264 AU's
Management intensity	74% High	50% High

percent of the public land grazing in Colorado was Forest Service while 32 percent was BLM. The season of use on private lands was longer than that on public lands. Producers leasing private lands had a higher percentage of cattle and a lower percentage of sheep than those producers using public lands. Although average AUM's and ranch size were higher in federal lands, differences were not significant ( $p < .05$ ).

Acres available for grazing were significantly higher ( $p < .05$ ) on federal lands (14,411 acres) than on private lands (2,472 acres). Time of use was significantly different ( $p < .05$ ) in private and federal lands. Although the largest percentage of use was summer and fall for both private and federal lands, private lands were used more in the spring and winter than federal lands.

Management intensity was determined based on the type of grazing management. Continuous grazing, non-scheduled deferment or other similar plans were considered low management intensity. Rest rotation, deferred rotation or open rotation were considered high management intensity. Management on federal lands was significantly ( $p < .05$ ) higher (74 percent) than on private lands (50 percent).

### **Conflict Indices**

When obtaining forage, conflicts from multiple use, interference, and harassment is of varying concern. Indices used in the 1983 survey (Bartlett et al. 1984) assessing the importance of each area of concern was utilized in this survey (Table 6). Survey respondents rated various factors as highly critical (4), moderately critical (3), low critical (2), and non-critical (1), as they pertained to their operation on a particular allotment or private lease.

The forest management index measured how timber and logging intensity affected forage productivity, costs or animal performance. The recreation pressure index measured the degree of disturbance four-wheeling, hunting, camping or other recreational activities caused in relation to livestock, and forage. The mining index measured the impact that mining and mineral exploration caused on labor, costs, or animal performance. The physical and topographic features index measured how physical and topographic features affected access to forage, quality of forage, and yield. The compliance index measured the degree of conflict produced by compliance with the lease, such as adjustments made by the producer to adhere to on/off dates due to range readiness and condition or change in AUM's. The wildlife index measured the competition of available forage from wildlife at critical times in the season.

The herd management index measured how the AUM allocations on the lease affected herd management. The weed and woody species index measured the degree at which management is affected by the presence of weed and woody species in the allotment. The livestock loss index measured the degree of livestock loss due to predation. The poisonous plants index measured how the control of poisonous plants on key grazing areas affected costs, labor or livestock performance.

The conflict indices showed that most areas of conflict are greater for the producers using federal allotments than those using private leases. The forest management index on federal lands (1.9) was significantly higher ( $p < .05$ ) than on private lands (1.2). The recreation pressure index for federal lands (2.7) was not significantly different than for private lands (2.47). The mining index on federal lands (1.2) was not significantly different than on private lands. The physical

Table 6. Use conflict indices (4=high, 1=low).

	Federal 1991	Private 1991
Forest management	1.9a <sup>1</sup>	1.2b
Recreation pressures	2.7a	2.5a
Mining	1.2a	1.2a
Wildlife	2.8a	2.3b
Physical & topographic features	2.7a	2.1b
Compliance	2.6a	1.7b
AUM allocations	2.7a	1.8b
Weeds & woody species	2.8a	1.7b
Livestock loss	2.1a	1.5b
Poisonous plants	2.4a	1.6b

<sup>1</sup>Numbers in the same row followed by the different letters are significantly different ( $p < .05$ ).

and topographic features index on federal lands (2.7) was significantly higher ( $p < .05$ ) than that on private lands (2.1). The compliance index on federal lands (2.6) was significantly higher than that on private lands (1.7). The wildlife index on federal lands (2.8) was significantly higher ( $p < .05$ ) than that on private lands (2.3).

The federal herd management index (2.7) was significantly higher ( $p < .05$ ) than that on private lands (1.8). The weed and woody species index on federal lands (2.8) was significantly higher than that on private lands (1.7). The loss of livestock index on federal lands (2.1) was significantly higher than that on private lands (1.5). The poisonous plants index on federal lands (2.4) was significantly higher ( $p < .05$ ) than that on private lands (1.6).

### **Livestock Performance**

Livestock performance is very important to livestock producers in evaluating the value of forage sources. Livestock statistics and performance from both federal and private surveys were summarized in Table 7. When results were compared, animals on private leases showed larger average daily gains than the same class of animals on federal forage. Also, death losses on federal allotments were generally greater than losses on private leases. There appears to be an economic advantage of grazing private leases compared to federal allotments although further investigation is necessary to fully predict the factors that are responsible for the differences in livestock gains and death losses between the two sources of forage.

### **Permit Value**

Because a competitive market exists for grazing permits, a direct estimate of the annual value of public land grazing can be obtained by computing a rate of return on the grazing permit investment and adding this to the current grazing fee (Nielsen and Wennergren 1970). Differences in production, costs and returns between grazing allotments should be captured in the market value of public land grazing permits. More productive ranches and/or ranches with lower costs should theoretically have a higher valued grazing permit. Thus, observed grazing permit values should give site specific estimates of forage value while directly considering the costs, forage quality, range improvements, and characteristics of specific public land ranches.

The average permit value per AUM estimated from the total permit value and the total AUM's on federal lands in Colorado reported by Miller and Bainbridge (1993) was \$54.64/AUM. Using a capitalization rate of 3.35% (Torell and Doll 1991), the annual value of the permit is \$1.83/AUM. This amount added to the fee paid in 1991 (\$1.97/AUM) is \$3.80 per AUM and represents another estimate of the value of federal forage. This estimate exceeds the estimate reported in Table 2 of this study by \$3.77 per AUM.

If permit values arise only because of a capitalized cost advantage for public land grazing, then this method should provide a direct estimate of forage value. However, if permit values are influenced by factors other than expected livestock returns, valid estimates of forage value will not necessarily be obtained using this method. Jensen and Thomas (1967) found that factors associated with grazing cattle on public ranges explained only 55 percent of the variation in permit sales value. Similarly, Torell and Doll (1991) found that permit values have not provided a consistent estimate of the value of public land forage.

Table 7. Livestock performance in Colorado in 1991.

	Federal	Private	Difference <sup>a</sup>
Average daily gain			
Calves (lbs/day)	2.07	2.15	-0.08
Yearling beef (lbs/day)	1.38	1.86	-0.48
Lambs (lbs/day)	0.41	0.45	-0.04
Death loss			
Cows	1.6%	0.6%	1.0%
Yearlings	1.3%	0.2%	1.1%
Calves	3.2%	2.1%	1.1%
Bulls	1.9%	2.3%	-0.4%
Rams	2.6%	0.0%	2.6%
Ewes	1.7%	2.5%	-0.8%
Lambs	2.7%	3.4%	-0.7%

<sup>a</sup> Federal value minus private value.



## DISCUSSION

When reviewing the results on both federal allotments and private leases, several conclusions may be drawn. First, livestock producers who use forage from federal allotments have a larger proportion of their total costs represented in non-fee costs than do producers who use privately leased forage. Second, when the non-fee cost of grazing federal allotments (\$19.87/AUM) is added to the fee (\$1.97/AUM) and to the permit value (\$1.83/AUM), producers who use federal allotments pay as much, if not more, than those leasing private land for grazing. Third, based on the value of the federal forage estimated in this study (\$0.03/AUM), the total cost method is not an appropriate procedure to elicit the grazing value on public land. In 1991, federal permittees paid the grazing fee (\$1.97/AUM) and the permit value (\$1.83/AUM) for an implied forage value of \$3.80/AUM. Fourth, operators graze federal allotments for a shorter time with lower animal performance than operators grazing on private leases. Fifth, operators on federal allotments are subjected to more conflicts from outside pressures than livestock operators on private leases.

Because non-fee grazing costs in federal allotments seem to decrease as allotment size increases, a comparative by-strata size analysis for private leases is recommended for future studies. Also future studies should measure the increase in non-fee costs produced by conflicts associated with multiple use, terms, and compliance with agency regulations.

The study was undertaken to provide a comparison between the 1991 non-fee cost of grazing federal land and the non-lease cost of grazing on private lands in Colorado. Non-fee costs on federal lands (\$19.87/AUM) were significantly higher than non-lease costs on private lands (\$13.26/AUM). In addition, indexing costs from the 1966 Western Livestock Grazing Survey resulted in estimates that were significantly lower than actual costs in 1991.

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## Appendix A Statistical Procedures for Estimating Sample Size

Presurvey estimates, using 1984 costs and 1991 allotment size to determine the number of allotments to sample, were calculated using the following set of equations.

### Eq. 1.

The following equation was used to estimate the average cost per animal unit month (Sheaffer et al. 1979):

where  $N$ =total number of allotments in population.

$N_i$ =number of allotments in size stratum  $i$ .

$L$ =number of strata.

$\bar{c}_i$ =average cost per AUM for stratum  $i$ .

$c_{st}$ =average cost per AUM.

### Eq. 2.

The following formula was used to assign a bound on the error of estimation (Scheaffer et al. 1979):

where  $n_i$ =number of allotments to sample in size stratum  $i$ .

$s_i^2$ =stratum variance on cost per AUM (taken from 1983 study).

( $c_{st}$ ) =Estimated variance of  $c_{st}$  (estimator of mean).

### Eq. 3.

The following equation was used to estimate the number of ranches to be surveyed (Scheaffer et al. 1979):

where  $n$ =total sample in all strata

$w_i$ =fraction of observations allocated to stratum  $i$ . (number of allotments in

stratum  $i$  / total allotments)=  $N_i/N$

$D$ =bound on error of estimation

when estimating  $i$

This yielded 64 ranches to be surveyed.

### Eq. 4.

The Neyman allocation method was utilized to assign the proportion of sample size  $n$  to each stratum (Scheaffer et al. 1979):

The following are the proportions and

sample sizes:

Large strata = 27% or  $.27*64 = 17$  allotments.  
Medium strata = 33% or  $.33*64 = 33$  allotments.  
Small strata = 22% or  $.22*64 = 14$  allotments.

**Eq. 5.**

The following formula was used to calculate the confidence interval of the non-fee costs.

$df=n-1$

**Appendix B Cash and Noncash Costs**

1. Estimated Vehicle Cost

Item	Pickup	Pickup trailer	Stock truck
New Price	\$15,000.00	\$20,000.00	\$25,000.00
Salvage	\$5,000.00	\$7,000.00	\$5,000.00
Years of use	8	8	12
Ownership cost/year	\$1,250.00	\$1,625.00	\$1,666.67
Miles/year	10000	10000	5000
Fuel consumption (mpg)	12	8	8
Fuel cost/gallon	\$1.20	\$1.20	\$1.20
Fuel cost/year	\$1,000.00	\$1,500.00	\$750.00
Annual interest	0.1	0.1	0.1
Annual tax/license	\$100.00	\$150.00	\$200.00
Annual insurance	\$400.00	\$450.00	\$450.00
Annual maintenance	\$300.00	\$350.00	\$400.00
Annual oil/lub cost	\$100.00	\$100.00	\$100.00
Misc. cost/year	\$900.00	\$1,050.00	\$1,150.00
Tire cost	500	800	1500
Miles/set of tires	25000	20000	25500
Tire cost/year	\$200.00	\$400.00	\$294.12
Total Cost/mile	\$0.37	\$0.50	\$0.85

Car cost: \$0.28/mile (Sales and Marketing Management 1990, p. 105).

Semi/Trailer cost: \$2.00/loaded mile (Edens and Carver 1991).

2. Death Loss

Death loss values were considered for animals lost through death and disappearance on federal allotments or private leases. Costs were determined by the 1987 Index of Prices Received by Farmers, and the 1991 Colorado Agricultural Statistics. Weights used to calculate the value of calves, lambs, and ewes were from Bartlett et al. 1984.

- (a) Calves (at weaning) steers and heifers:  
412 lbs @ \$99.80/cwt = \$411.18

- (b) Yearling steer and heifers:  
 800 lbs @ \$80.00/cwt = \$640.00
- (c) Cows:  
 1000 lbs @ \$53.10/cwt = \$531.00
- (d) Bulls: Bulls were valued at the depreciated rate after 2 years of service (assuming 4-year useful life).  
 Purchase \$2000.00  
 Less salvage value \$1000.00  
 Carrying value \$1000.00 4 yrs life = \$250/yr  
 Assuming loss after 2 yrs: \$250/yr \* 2yrs = \$500+loss of foregone sales (\$1000) = \$1500  
 Using a discount rate of 10% interest value for loss of bull (\$1500 \* .9) = \$1350
- (e) Lambs (ewes and weathers):  
 70 lbs @ \$54.40/cwt = \$ 38.08
- (f) Ewes: 120 lbs @ \$24.10/cwt = \$ 28.92

- (d) Rams: Rams were valued at the depreciated rate after 2 years of service (assuming 4-year useful life).  
 Purchase \$ 250.00  
 Less salvage value \$ 55.00  
 Carrying value \$ 195.00 4 yrs life = \$48.75/yr  
 Assuming loss after 2 yrs: \$48.75/yr \* 2yrs = \$97.50+loss of foregone sales (\$55) = \$152.50  
 Using a discount rate of 10% interest value for loss of ram (\$1500 \* .9) = \$137.25

### 3. Horse Costs

Horse costs were estimated on a depreciation basis of \$1200 purchase price, \$600 salvage value, and 10 years of useful life.

Purchase price:	\$1200
Salvage value	-\$ 600
Carrying value	\$ 600/10 years = \$60/year

Expenses to maintain a horse were calculated by:

Hay (3 ton/yr @ \$100/ton)	\$ 300
Pasture (7 mos @ \$20/mo)	\$ 140
Supplement	\$ 200
Ferrier	\$ 150
Veterinary	\$ 100
Miscellaneous	\$ 50
Total variable costs	\$ 940

Total costs = \$60 + \$940 = \$1000  
 On a per day basis: \$1000/365 = \$2.74/day

### 4. Labor costs:

Labor costs were calculated from returned surveys and included social security, workmans comp., and room and board where applicable.

Labor Costs			
Manager/operator	Family	Regular hired	Day labor
\$10.76/hr	\$ 5.11/hr	\$ 7.55/hr	\$ 6.52/hr

### Appendix C Description of Allotment Management

Activity Costs: All costs are reported on a dollar per animal unit basis.

1. Death Loss: Death losses were reported by the total number of unaccounted for animals per animal unit month.
2. Maintenance: Maintenance costs included labor, vehicle, horse, fence, structural and watering materials, contracted labor and equipment and owned equipment expenses.
3. Gathering: Gathering costs included those resources used for taking livestock off a lease or allotment.
4. Transportation: Transportation costs included those resources used for moving livestock to a lease or allotment (hired trucking, vehicle, labor and horse expenses). If livestock were moved to another lease or allotment following grazing on current lease or allotment, then transportation costs were considered for the next allotment.
5. Routine and Miscellaneous: This section included those resources used in herd checking, doctoring, salting, feeding, water, etc. Cash costs included the actual cash outlay for salt, supplement, feed and veterinary care. Other costs included vehicle, labor and horse costs.
6. Herding and distribution: Cost expenses in this section included the cost for livestock herding, distribution of animals according to grazing management schemes, etc. Cash expenses included vehicle, labor and horse costs.
7. Development depreciation: Total labor, equipment and materials costs for range improvements on each allotment were determined and depreciation expenses per year were calculated.
8. Other costs: Included in these sections were such cash costs as grazing association fees, contracted feed and water hauling, predator control, and water costs. Paper work, stockmen's meetings, vandalism, chasing stock, etc., were reported as noncash cost items indicated by hours spent, vehicle milage and horse use.
9. Estimated range improvement costs

	New cost	Ave cost	Life	Deprec	Intrest	Annual Cost
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Ponds <sup>1</sup>	\$1880.00	\$ 940.00	20	\$ 94.00	\$ 79.90	\$ 173.90
Springs <sup>1</sup>	\$2270.00	\$1135.00	20	\$ 113.50	\$ 96.48	\$ 209.98
Wells <sup>1</sup>	\$4700.00	\$2350.00	25	\$ 188.00	\$ 199.75	\$ 387.75
Water Tanks <sup>1</sup>	\$ 900.00	\$ 450.00	20	\$ 45.00	\$ 38.25	\$ 83.25
Spraying <sup>1</sup>	\$ 12.00	\$ 6.00	7	\$ 1.71	\$ 0.43	\$ 2.14
Fence <sup>1</sup>	\$ .75	\$ 0.38	25	\$ 0.03	\$ 0.03	\$ 0.06
Corrals <sup>3</sup>	\$1264.80	\$ 632.40	25	\$ 50.59	\$ 53.76	\$ 104.35
Cow camp <sup>2</sup>	\$2500.00	\$1200.00	10	\$ 250.00	\$ 102.00	\$ 352.00
Bentonite ponds <sup>2</sup>	\$ 500.00	\$ 500.00	5	\$ 50.00	\$ 4.25	\$ 54.25
Seeding <sup>1</sup>	\$ 42.50	\$ 21.25	25	\$ 1.70	\$ 1.80	\$ 3.52

1. Figures arrived at using 1992 USDA SCS cost doc.

a. Ponds 2000 yd<sup>3</sup> earth moved at \$0.94/yd<sup>3</sup>.

b. Well \$6.00/foot drilling, \$3.00/foot to case, \$1000/pump, m  
\$1000/power source.

c. Fence per foot.

d. Springs, water tanks, are a unit of one.

2. Cow camps and bentonite are assumptions.

3. Corrals were estimated from Feds Cattle Budget, Beef Cow  
Enterprise, Central Mountain Region adjusted from 1984 at  
3%.

#### Appendix D Questionnaire

The following questionnaire was sent to those livestock producers using federal allotments in Colorado. A similar questionnaire was sent to those using private leases for grazing. The wording of some of the questions was changed to reflect private leases instead of federal allotments.

Grazing Fee Advisory Committee  
2005 Work Plan

January 21 (Burns/Hines)

Public Comment

Committee Discussion Topics: Other State's formula/methods  
Oregon's formula factors  
Fair Market Value

February 25 (Bend?)

Committee Discussion Topics: Evaluation of Public Comments  
Narrowing of Issues/Concerns/Options  
Preliminary Committee Recommendation  
Instructions to Staff re: Committee Report

March 25 (Bend?) OPTIONAL

Committee Discussion Topics: Review of Draft Committee Report and Recommendation

April 22 (Lakeview?)

Public Comment on Draft Committee Report and Recommendation  
Committee Discussion Topic: Final changes to draft Report

May 13 Final Report sent to Committee Members for review/approval

June 17 Final Report sent to Director, Department of State Lands

By Jillly 1/19/05