

PASTURE GRAZING LEASES: PUT IT IN WRITING

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Drought and wildfires in 2012 reduced pasture and rangeland forage supplies in many areas of Montana.

Perhaps you are a livestock owner seeking pasture to rent, or maybe you are a landowner fortunate to have forage available and wishing to increase your income via pasture leasing, or wishing to help a friend or neighbor in need of forage. Or, perhaps, you are considering using livestock grazing to reduce the wildfire danger on your property but you do not own any livestock and you want to lease your forage to someone who does.

In all of these cases, landowners and livestock owners should develop written grazing leases. Many potential misunderstandings and litigations can be avoided when grazing leases contain sufficient details and these terms are clearly understood by both the landowner and livestock owner (i.e., tenant). A written lease agreement reminds all parties of the terms originally agreed upon and also provides a valuable guide for others if either the landowner or tenant dies or otherwise becomes incapacitated.

Pasture Grazing Lease Specifications

A grazing lease should provide the legal description of the land that is being leased, and the lease should include the names, home addresses, and mailing addresses of the parties involved. Emergency phone numbers should also be included. Leases should be signed and dated by both parties, and having the signatures notarized is recommended.

The lease should specify when it begins and when it ends. That is, will the lease be for the current year only, for several years, or for a specified few months? The lease should also specify when the tenant's livestock are allowed on the property (i.e., allowable turn-on, turn-off dates). It is also advisable that the lease require the tenant to keep records of actual turn-on and

turn-off dates and numbers of livestock grazed, and that the tenant be required to submit these records to the landowner at the end of each year's grazing season.

It is very important that the lease specify any services that the landowner will provide. Who will check the water, who will check the health of the animals, who will treat sick animals, who will pay for the medicine, who will provide salt, or minerals, or hay? Who will build or repair fences? Who will maintain any sheds, windbreak fences, corrals, etc.? Who will provide weed control?

Good quality water is sometimes an issue. The lease should specify whether livestock access to good quality water is included, or whether the tenant will need to haul water. The lease should specify who is responsible to fix the situation if the water supply goes dry, pump quits working, or if the water quality goes bad. The lease also should specify that future pasture improvements such as new fences, stock water facilities, or pasture seedings will be mutually agreed upon by the landowner and tenant. It is common practice in longer-term leases to split the cost of future pasture improvements by having the landowner provide the materials and the tenant provide the labor.

Establishing Lease Rates

Research has shown that about 30 percent of the average private land pasture lease rate is for services provided by the landowner. Therefore, if the landowner is not providing any services and is only collecting the rent, the pasture lease rate should probably be about 70 percent of the average private land lease rate. In 2011 (the most recent year from which data are available), the average non-irrigated private land





lease rate in Montana was \$19.40/AUM (Animal Unit Month, defined as the amount of forage consumed by the equivalent of one 1,000-pound cow during 30 days). Seventy percent of \$19.40 is \$13.58/AUM, which is probably a reasonable floor rate for most dryland pasture grazing leases in 2013. The floor rate could be higher or lower if the land varies notably from average for accessibility, poisonous plants, or any other factors that might make the lease more or less attractive to a livestock owner. Market rates for leased forage may be higher in 2013 following the drought and wildfires of 2012 that reduced forage supplies. Sometimes landowners lease forage at below market rates in order to help a friend or neighbor, or in return for other services such as the grazing animals reducing wildfire danger to the property or the tenant keeping a watchful eye on the property when the landowner is away.

Per Acre, Per Head, or Per AUM Lease Rates?

Pasture leases are usually written on a *per acre basis*, *per head basis*, or *per AUM basis*. It is usually simpler to write the lease on a “per acre basis”, and then stipulate in the lease how many livestock and of what kind are allowed by the landowner. This approach eliminates potential confusion about what is an AUM or what is one animal unit, and maps can be used to definitively determine the number of acres in the leased pasture. A stocking rate guide (Table 1) that provides recommended numbers of AUMs/acre or acres/AUM can be used to help set the allowable stocking rate, but then the grazing lease can be written on a per acre basis to keep the terms of the lease more understandable. Table 1 provides suggested stocking rates for livestock grazing in Montana during spring-summer-fall. If livestock grazing only occurs in winter, the stocking rates in Table 1 can likely be increased 20 percent.

Other Considerations

Grazing leases should specify how the parties will handle potential drought, fire, floods, or other special situations. For example, what happens if the pasture doesn’t grow enough forage in spring/summer 2013 to support the number of livestock specified in the lease for spring, summer, or fall of 2013 or winter 2013/2014? The lease should include procedures for modifying or terminating the lease if these special situations arise. Also, the lease should specify whether hunting or fishing privileges, firewood cutting, or recreation are allowed by the tenant, and whether subleasing is allowed. Grazing leases also commonly specify that the tenant’s vehicles (trucks, pickups, ATVs, etc.) travel only on established roads or trails, although exceptions are commonly allowed if needed to facilitate weed control. Finally, it is recommended that a grazing lease requires the tenant to carry liability insurance for the livestock that graze the leased property.

Consult MSU Extension Bulletin 120, *Pasture Leases and Beef Cattle-Share Arrangements*, for a sample pasture grazing lease (www.msuextension.org/store). Legalities and tax questions concerning pasture grazing leases should be addressed by legal counsel and tax management professionals. ■

Table 1. Livestock stocking rate guidelines for Montana rangelands, pastures, and forests.

| Forage Type | Annual Precipitation (inches) | | | |
|--|-------------------------------|-----------|--------------|-----------|
| | 11-14 inches | | 15-19 inches | |
| | Acres/AUM | AUMs/acre | Acres/AUM | AUMs/acre |
| Native Rangeland | | | | |
| Run-in Sites (i.e., sites where water collects) | | | | |
| Excellent Condition | 0.9 | 1.1 | 0.8 | 1.2 |
| Good Condition | 1.2 | 0.8 | 1.1 | 0.9 |
| Fair Condition | 2.0 | 0.5 | 1.7 | 0.6 |
| Poor Condition | 4.0 | 0.25 | 3.3 | 0.3 |
| Normal Sites | | | | |
| Excellent Condition | 2.5 | 0.4 | 1.7 | 0.59 |
| Good Condition | 3.3 | 0.3 | 2.2 | 0.45 |
| Fair Condition | 5.0 | 0.2 | 3.3 | 0.3 |
| Poor Condition | 10.0 | 0.1 | 6.7 | 0.15 |
| Run-off Sites (i.e., sites where water runs off) | | | | |
| Excellent Condition | 4.0 | 0.25 | 2.5 | 0.4 |
| Good Condition | 5.0 | 0.2 | 3.3 | 0.3 |
| Fair Condition | 10.0 | 0.1 | 5.0 | 0.2 |
| Poor Condition | 20.0 | 0.05 | 10.0 | 0.1 |
| Dryland Seeded Pasture | 0.8–2.0 | 0.5–1.25 | 0.5–1.0 | 1.0–2.0 |
| Dryland Hay Aftermath | 2.5 | 0.4 | 2.0 | 0.5 |
| Irrigated/Subirrigated Seeded Pasture | 0.2–0.5 | 2.0–5.0 | 0.2–0.5 | 2.0–5.0 |
| Irrigated Hay Aftermath | 1.0 | 1.0 | 1.0 | 1.0 |
| Grain Crop Aftermath | 5.0 | 0.2 | 3.3 | 0.3 |
| Dry Coniferous Forests | | | | |
| 20 percent Tree Canopy Cover | N/A | N/A | 3.0 | 0.33 |
| 40 percent Tree Canopy Cover | N/A | N/A | 6.0 | 0.17 |
| 60 percent Tree Canopy Cover | N/A | N/A | 12.0 | 0.08 |