

ORDINANCE 88

An ordinance of the Board of County Commissioners of Washington County, Idaho adding Title 8 Chapter 13. This will insure property rights on Federal Lands to the Washington County Code.

Whereas; the Curtis Act of 1898 (30 Stat 495) was Congresses first true split estate land disposal policy where the timber and minerals were retained by the US, and Tribes. The Stock Raising Homestead Act of 1916 (39 US 862) was the culmination of 17 years of effort by Congress to find the method by which they would dispose of the "land chiefly valuable for grazing and raising forage crops".

Whereas; there are many ranchers in Washington County that were granted preference rights and were allotted the grass and water rights on these split estate lands. The ranchers own the grass and the water rights on their allotments in Washington County.

Whereas; with any other private property rights, these rights on split estate land administered by the Federal Government are protected in the constitution.

Whereas; the Organic Act of 1897 states in Public and Private Uses (13), The pasturing of livestock on public lands in forest reservations will not be interfered with, so long as it appears that injury is not being done to the forest growth.....

Whereas; IC 25-901 states that congress passed the Taylor Grazing Act of 1934 acknowledging grazing preference rights of ranchers. IC 25-903 states any person who willfully or negligently interferes with the legal herding, grazing or pasturing of livestock or with fence, gate, water development or other range improvement of private base property or on an adjudicated allotment is guilty of a misdemeanor.....

Whereas FLPMA of 1976 Sec. 701 (a) states "Nothing in this act.... shall be construed as terminating any valid lease, permit, patent, right-of-way, or other land use right or authorization existing on the date of approval of this Act." Therefore the property rights of the ranchers on split estate lands were not done away with due to since passed laws.

Now therefore be it ordained by the Board of County Commissioners of Washington County, Idaho that Title 8 Chapter 14 read as follows;

1. Allotment owners on split estate lands have the right to manage, refurbish, repair and improve their grazing preference lands by thinning timber, planting grass and other practices that improve their grazing value as with any other private property they own.
2. Allotment owners are allowed to repair, refurbish, and improve the water on their allotments as with any other private property they own.
3. Allotment owners are allowed to use the timber and stone resources on their allotments for personal use as outlined in the Organic Act of 1897.

Enforcement; The Sherriff of Washington County has the authority to protect the property rights of the citizens of the County, from anyone that would endeavor to restrict those property rights.

Penalty; A misdemeanor fine of \$1000 dollars and 1 year in jail or both for anyone who restricts or does not allow an allotment holder to exercise his property rights on his allotments.