

Healing vs. Jones Def. Ex. 467A

Wilmington Federal Records Center. Bureau of Indian Affairs. Field
Records. Navajo Service, Window Rock, Ariz. FRC No. 72954.

62000-35-301
(Amended 1-28-38)

16092

UNITED STATES
DEPARTMENT OF THE INTERIOR
Office of Indian Affairs
Washington

GRAZING REGULATIONS

FOR THE NAVAJO AND HOPI RESERVATIONS

[Approved June 2, 1937]

Authority:

The Secretary of the Interior has the authority to regulate the grazing of livestock on tribal lands within Indian reservations so as to prevent overgrazing and the destruction of the soil through erosion. The following statutory authority is cited:

Act of June 30, 1834 (4 Stat., 738); 25 U.S.C. 9
Act of March 3, 1849 (9 Stat., 395); R.S. Sec. 441; 5 U.S.C. 485
Act of March 3, 1865 (13 Stat., 563); 25 U.S.C. 192
Act of July 4, 1884 (Sec. 1) (23 Stat., 94); 25 U.S.C. 195
Act of August 15, 1894, Sec. 1 (28 Stat., 305); 25 U.S.C. 402
Act of June 30, 1919 (41 Stat., 9); R.S. Sec. 2138; 25 U.S.C. 214
Act of February 15, 1929 (45 Stat., 1185); 25 U.S.C. 231

The General Grazing Regulations approved on December 28, 1935, by the Assistant Secretary of the Interior, authorized the Commissioner of Indian Affairs to regulate the grazing of livestock on Indian lands under conditions set forth therein. In accordance with this authority and that of the Grazing Committee of the Navajo Tribal Council acting in accordance with a resolution of the Navajo Tribal Council dated November 24, 1936, the grazing of livestock on the Navajo and Hopi Reservations shall be governed by the following regulations.

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Objectives:

It is the purpose of these regulations to aid the Navajo and Hopi Indians in the achievement of the following objectives:

1. The preservation of the forage, the land, and the water resources on the Navajo and Hopi Indian Reservations, and the building up of those resources where they have deteriorated.
2. The protection of the interests of the Navajo and Hopi Indians from the encroachment of unduly aggressive and anti-social individuals who may or may not be members of the tribe.
3. The adjustment of the livestock numbers to the carrying capacity of the range in such a manner that the total economy of the tribe will be preserved.
4. The improvement of livestock through better breeding practices, the establishment of buck pastures and the maintenance of a sound culling policy.

Regulations:

The following grazing regulations are hereby made effective as of July 1, 1937, for the Navajo and Hopi Indian Reservations, including all land held in trust by the United States for the Navajo and Hopi Tribes, and all lands hereafter added to the Navajo and Hopi Reservations, but not including individually owned lands: provided, that only such part of these regulations shall be enforced on the Hopi Reservation as are not in conflict with provisions of the constitution, by-laws, and charter of the Hopi Tribe heretofore or hereafter ratified or any tribal action authorized thereunder:

1. The Commissioner of Indian Affairs shall establish land management districts within the Navajo and Hopi Indian Reservations, based upon the social and economic requirements of the Indians and the necessity of rehabilitating the grazing lands.

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2. The Commissioner of Indian Affairs shall promulgate for each land management district the carrying capacity for livestock.

Instructions: Carrying capacities shall be stated in terms of sheep units year-long, in the ratio of, mules and horses 1 to 5, cattle 1 to 4, goats 1 to 1. The latter figure in each case denotes sheep units. Animals six months of age or older shall be counted against the carrying capacity. Carrying capacities shall be determined in accordance with the methods now in use by the Navajo Service and approved by the "Inter-Agency Range Survey Committee for the Southwestern States". Grazing surveys and other land management planning concerning land used exclusively by Hopi Indians will be made by the Land Management Division of the Navajo Service. Pursuant to the Constitution of the Hopi Tribe or Section 6 of the Act of June 18, 1934, the direct responsibility for carrying out all land management plans for District Six of the combined Navajo-Hopi Reservations, as indicated on the attached map, shall be that of the Superintendent of the Hopi Indians.

3. The Superintendent shall keep accurate records of ownership of all livestock.

Instructions: In order to obtain true records of ownership, the head of each livestock-owning family group shall personally appear at the dipping vat with his or her sheep and goats, together with the sheep and goats belonging to members of his or her family group. Should the head of the family group be unable to appear personally he or she shall designate a representative to act for and in his or her behalf. The sheep and goats will be dipped and recorded in the name of the family head, as defined in Section 8. Ownership will be established on the basis of such dipping records and of round-ups, counts, and other methods for determining the true number of livestock. Grazing permits will be issued for that number of stock plus the issue of such animals, including those which exceed the six-months age during the year, which the family group will be permitted to graze during the rehabilitation period. Grazing permits issued to family heads owning sheep and goats shall include all classes of livestock. Numbers of cattle, horses, mules, and burros belonging to each family group will be determined by round-ups or other methods of counting stipulated by the Superintendent. For the purpose of maintaining accurate records of ownership, all stock will be branded or marked as the Superintendent may specify. The Superintendent shall prepare and keep current a register containing the names of all family heads using the range, the number of each kind of stock grazed, the carrying capacity of each land management district, and the periods during which grazing should be

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permitted in each part thereof. An annual stock census will be taken to insure that the carrying capacity is not being exceeded. Duplicate records will be kept in the offices of the District Supervisors.

4. The Superintendent shall reduce the livestock in each district to the carrying capacity of the range.

Instructions: Necessary reductions will be made by districts. In order to make these reductions, the Superintendent should determine the total stock in each district in sheep units; calculate the total required reduction by subtracting the carrying capacity from this figure; and specify by how much each family group should reduce to accomplish this total reduction. The sale of non-productive, unserviceable and cull animals (including excess horses, scrub cattle, wether sheep and goats, and old ewes) shall be encouraged before reductions are made in breeding herds. For the purpose of effecting the widest and most equitable distribution of stock ownership and range privileges, recognized family groups will be considered as the units of ownership and reductions so far as practicable will be made so as to place the burden on those stock-owning family groups who are best able to bear the burden. To this end maximum limits and base preference numbers will be established for each land management district by the Superintendent. Reductions will be made, so far as possible, among those families having more than the maximum limit. No increases during the rehabilitation period will be permitted to any family group, except that groups owning less than the base preference number may be permitted to increase their holdings after the livestock in the district has been reduced to carrying capacity, provided there is a proportionate decrease by owners of more than the base preference number. During the rehabilitation period, no new stock-owning families or heads of families will be granted grazing permits unless warranted by unusual circumstances. (See Section 8 for definitions of terms used in this section).

5. The Superintendent is authorized to assess and collect trespass fees and, with the consent of the tribal council of the Navajo Indians, he may also assess and collect grazing fees upon all stock owned in excess of the base preference number and upon all non-productive stock owned below the base preference number. The tribal authorities of the Hopi Indians may also assess and collect similar grazing fees in accordance with the terms of the constitution and by-laws and charter of the Hopi Indians.

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All livestock found running on tribal lands of the Navajo and Hopi Reservations without a permit duly issued shall be considered in trespass, and the Superintendent is authorized to refer either to the proper tribal authorities or to the United States Attorney or other appropriate officers of the Department of Justice the matter of instituting legal proceedings based on such trespass.

If the Superintendent shall find that a condition of overgrazing and waste on tribal land is aggravated by the presence of stock not grazed under a permit duly authorized and not required for the use and subsistence of the Indians, he shall cause to be served upon any Indian claiming ownership of such stock a notice in writing ordering the removal of such stock. If within ten days after the issuance of such notice the Indian claimant has not removed the said stock from the reservation or shown cause why such stock should not be removed, said stock shall be considered in trespass, and the Superintendent is authorized forthwith to remove and sell all such stock and to deposit the proceeds thereof in an individual Indian account to the benefit of the Indian claimant. (U. S. Code, Title 25, Sec. 192).

Instructions: Trespass fees which equal the value of the forage consumed, damages to property injured or destroyed, and salaries and expenses of employees incurred in investigation, report, and prosecution of the case should be sought in addition to the penalty prescribed by law for unauthorized use of the range or failure to remove a stipulated number of unpermitted stock from the range by the date specified by the Superintendent or his authorized representative. All grazing fees on the Navajo Reservation must be paid to the District Supervisor or to the Superintendent and deposited in accordance with the fiscal regulations. All grazing fees shall be payable on or before December 1st, which shall be considered as the beginning of the permit year. All grazing fees on the Hopi Reservation shall be collected and deposited in accordance with the provisions of the constitution, by-laws and charter after the organization of the Hopi Indians has been completed. Until the tribal organization has been completed the grazing fees shall be collected and deposited as on the Navajo Reservation.

6. The Superintendent shall require to be dipped, restrict the movement of, or prevent the introduction of, livestock where necessary to prevent the spread of contagious or infectious diseases or where necessary in the economic interest of the Navajo or Hopi Indians.

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Instructions: Livestock shall be dipped annually, when in the opinion of the Superintendent such dipping is necessary to prevent the spread of contagious diseases. These annual dippings shall be completed on or before September 1st of each year. Livestock may, however, be dipped at other times when necessary. No stock shall be brought on the reservations from outside without a permit from the Superintendent, in order to safeguard Indian livestock from infectious and contagious diseases and insure good quality sires and breeding stock. The Superintendent may also hold annual round-ups of cattle, horses, and mules in each district for the purpose of vaccinating, dehorning, castrating or branding.

7. The Superintendent shall regulate the fencing of range and agricultural lands.

Instructions: Written authorization from the Superintendent or his authorized representatives must be secured before any fences are constructed. The Superintendent may require the removal of any unauthorized existing fences, if in his judgment such fences interfere with proper range management or an equitable distribution of range privileges. All inclosures fenced for the purpose of protecting agricultural land shall be kept to a size commensurate with the needs for protection of this agricultural land.

8. The Superintendent shall regulate the construction of all dwellings, corrals and other structures within one-quarter mile of government developed springs or wells.

Instructions: Written authorization from the Superintendent or his authorized representatives must be secured before any dwellings, corrals, or other structures may be constructed within one-quarter mile of government developed springs or wells.

9. Definitions:

Family Group: A single home economic unit, living closely associated in one or more grouped hogans or houses, which shares its livestock and agricultural income in common and recognizes one individual as the family head.

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Family Head: The person who exercises control of a family group either because of the responsibility placed on him by blood relationship, moral or economic obligations, or otherwise.

Rehabilitation Period: That time which is required under proper range use and administration to effect range recovery great enough to make possible a readjustment of livestock numbers to a higher carrying capacity of the range.

Navajo Service: The integrated activities of the Soil Conservation Service and the Indian Service as they apply to the Navajo and Hopi Reservations under the provisions of the "Unified Navajo Program".

Base Preference: That number of livestock which each stock-owning family group within a district would own if the carrying capacity of the district range were equally distributed among them.

Maximum Limit: That number of livestock to which all of the larger family groups in a district would have to reduce their herds in order to eliminate the livestock grazed in excess of the carrying capacity of the district. (See the attached chart for further explanation of the meaning of this term).

Hopi Reservation: For the purpose of these regulations District 6, as now established by the Navajo Service, shall constitute the Hopi Reservation until such time as the boundaries thereof are definitely determined in accordance with Article I of the Constitution and By-laws of the Hopi Tribe.

(Sgd) JOHN COLLIER,

Commissioner of Indian Affairs.

Approved: June 2, 1937

(Sgd) OSCAR L. CHAPMAN,

Assistant Secretary of the Interior.

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF INDIAN AFFAIRS
WASHINGTON

June 27, 1938

I, E. J. Armstrong, Acting Commissioner of Indian Affairs, do hereby certify that the paper hereto attached has been compared with and is identical with the true copy of the original as the same appear on file in this Office.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name, and caused the seal of this office to be affixed on the day and year first above written.

E. J. ARMSTRONG

Acting Commissioner

[This document is accompanied by a graph entitled, "Graphical Explanation of Maximum Limit and Base Preference." It shows the total livestock capacity as 3,600; the carrying capacity as 3,150; and the necessary reduction as 450.]

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