

#92342

P. 2528-
2531

O R D I N A N C E # 91-5

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ORDINANCE OF THE TORRANCE COUNTY COMMISSION, State of New Mexico, (1) adopting an Ordinance to protect the public peace, general welfare, health and safety of the citizens and the Governments of Torrance County from immediate and ongoing economic and financial damage, (2) providing penalties for violations of the Ordinance, and (3) requesting that the Legislature of the State of New Mexico enact similar legislation to codify within state law such statutes as enacted by County Ordinance and by the United States Congress.

THE COMMISSION FINDS:

1. That the Public Rangelands Improvement Act (PRIA), 43 U.S.C. §§1901 et seq. was authorized by Congress on October 25, 1978, and has not been repealed by statute, regulation or court decree.
2. That the purpose of the Public Rangelands Improvement Act is to "(1) inventory and identify current public rangeland conditions and trends as part of an inventory process" and "(2) manage, maintain and improve the condition of the public rangelands so that they become as productive as feasible for all rangeland values." 43 U.S.C. §1901(b).
3. That pursuant to the Public Rangelands Improvement Act, on July 30, 1980, the State of New Mexico entered into a Memorandum of Understanding (MOU) with the Bureau of Land Management, U.S. Department of the Interior, the purpose of which is to provide for "consultation, cooperation, and coordination between the parties in matters relating to rangeland management on public lands on the United States in New Mexico administered by the Bureau of Land Management." The MOU goes on to state that "It is the policy of the State Director, Bureau of Land Management, New Mexico and the Governor of New Mexico to further expand the concept of consultation, cooperation and coordination expressed in Section 8 of the Public Rangelands Improvement Act into additional phases of the Rangeland Management Program and thus complement the Congressional intent of the Act."

4. That this MOU between the State of New Mexico and the Bureau of Land Management, Department of the Interior has not been repealed or rescinded.
5. That pursuant to the Public Rangelands Improvement Act, on July 28, 1987, the Director of the New Mexico Department of Agriculture (NMDA) entered into a Memorandum of Understanding (MOU) with the Regional Forester, U.S. Department of Agriculture, Forest Service, Southwestern Region, the purpose of which is to "promote efficient multiple-use management of the range resources in the Southwestern Region, USDA Forest Service. That management is to be responsive to the overall public interest, produce healthy, useful forests and grasslands, reflect a strong land ethic and apply current scientific forest and rangeland management principles." The MOU goes on to state, "When a single allotment is involved, such cooperation "as authorized by the Public Rangelands Improvement Act of October 25, 1978) ensures full participation of the permittee(s) and NMDA in the planning process if requested and agreed to by the permittee."
6. That the MOU between the New Mexico Department of Agriculture and the U.S. Forest Service has not been repealed or rescinded.
7. That the Public Rangelands Improvement Act and the accompanying Memorandums of Understanding represent sound land management principles for all federal lands managed by the U.S. Forest Service and the Bureau of Land Management, including those lands within Torrance County, New Mexico.

BE IT DECREED BY THE TORRANCE COUNTY COMMISSION,
STATE OF NEW MEXICO

THE COMMISSION DECLARES:

1. That to provide for the general welfare, public peace, health and safety of the citizens of Torrance County, passage of this Ordinance is required to protect the economic base upon which this county and its citizens depend.

2. That the Public Rangelands Improvement Act, 43 U.S.C. §§1901 et seq. shall be adopted as a county Ordinance by the County Commissioners of Torrance County, New Mexico.
3. That the Memorandum of Understanding between the Governor of New Mexico and the New Mexico State Director, Bureau of Land Management, U.S. Department of the Interior, dated July 30, 1980 shall be incorporated by reference into this county Ordinance, with the following provisions.
4. That the Memorandum of Understanding between the Director of the New Mexico Department of Agriculture (NMDA) and the Regional Forester, U.S. Department of Agriculture, Forest Service (USFS) Southwestern Region, dated July 28, 1987, shall be incorporated by reference into this county ordinance, with the following provisions.
5. That the procedures set forth in the Public Rangelands Improvement Act and accompanying Memorandums of Understanding as modified by this Ordinance shall govern all actions involving the federal agencies of the Bureau of Land Management and the U.S. Forest Service and either an individual or group of livestock grazing permittee(s) or lessee(s), including but not necessarily limited to the issuance of a grazing permit(s) or lease(s) by the federal agencies, the transfer or sale of a grazing permit(s) or lease(s) from one party to another, the creation or revision of an allotment management plan, and other like actions or as requested by the permittee(s) or lessee(s).
6. That upon the initiation of the actions described above by the Bureau of Land Management or the permittee(s) or lessee(s), the Bureau of Land Management shall initiate the consultation procedures described in the Memorandum of Understanding between the Governor of New Mexico and the New Mexico State Director, Bureau of Land Management, U.S. Department of the Interior, dated July 30, 1980, and adopted by this Ordinance. The initiation of such action under the MOU shall occur within a two week period of time.

7. That upon initiation of the actions described above by the U.S. Forest Service or the permittee(s) or lessee(s), the U.S. Forest Service shall initiate the consultation procedures described in the Memorandum of Understanding between the Director of the New Mexico Department of Agriculture (NMDA) and the Regional Forester, U.S. Department of Agriculture, Forest Service (USFS) Southwestern Region, dated July 28, 1987, and adopted by this Ordinance. The initiation of such action under the MOU shall occur within a two week period of time.

8. That violations of this Ordinance by the federal agencies shall be deemed to be a violation of Torrance County Ordinance # _____. Liability under this Ordinance shall be placed upon the federal official or officials responsible for making and implementing any decision which fails to comply with this Ordinance.

9. That no violation of this Ordinance shall be assessed if all of the permittee(s) or lessee(s) effected by the agency decision release, in writing, the federal agency of all responsibility for the violation within two weeks of the date of the agency decision.

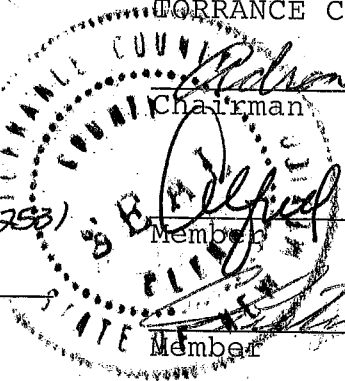
10. That if any provision of this Ordinance or the application thereof is held invalid, such invalidity does not affect any other provision of this Ordinance which can be given effect without the invalid provision or application, and to those ends the provisions of this Ordinance are severable.

PASSED, ADOPTED AND SIGNED by the Torrance County Commission as Torrance County Ordinance # 91-5 and recorded with the Torrance County Clerk this 4th day of September 1991.

STATE OF NEW MEXICO
County of Torrance

TORRANCE COUNTY COMMISSION

I hereby certify that this instrument was filed for record on the 5 day of Sept of 1991 A.D., 19 91



Robert Brown
Chairman

ATTEST: 1:56 o'clock P.M. and duly recorded in book 263 at page 2528-2531
Witness my hand and Seal of office

Laravago
Member

Carla Clayer
Clerk of County of Torrance Co., N.M.
Paula Gomez Deputy

Robert Kelly Jr.
Member