

Chapter 12. Range Protection

Legislative History.

The legislative history of this chapter is identical to Chapter 13 with the exception that this chapter was originally enacted as Chapter 6.

Sec. 1. Legislative Intent.

Uncontrolled and unauthorized grazing of tribal lands by non-Indians and non-member Indians has caused significant loss of income to the Fort McDermitt Tribe and its members by loss of services normally funded by such income in 1988. The loss of income is directly related and connected to the uncontrolled grazing on the Hog John Ranch lands within Fort McDermitt Indian Country by lessees of the Bureau of Land Management.

For example, on Monday, May 16, 1988, Kathy Ryan, Range Conservationist, Western Nevada Agency, Bureau of Indian Affairs, counted SEVENTY-THREE (73) head of cattle on the Hog John Ranch from both the Happy Creek Ranch and Sod House Allotment lessee. These cattle were eating and destroying the forage and water located on tribal land. Since January 1, 1988, the Tribe has not executed a lease with anyone to utilize the Hog John Ranch, therefore whomever owns the cattle is trespassing on tribal land.

The Fort McDermitt Tribe and its members have many needy organizations that serve the tribal membership that can use beef for public fees and other needy public uses. Given the needs of our people and the organizations serving them and the need to protect our tribal lands, the Tribal Council adopts this Range Protection code provision.

Sec. 2. Stock on Tribal Property; Unlawful.

It shall be unlawful for any non-member to allow his branded stock or branded stock under his control to be on, pass over, or graze upon tribal land without the permission of the Tribal Council of the Fort McDermitt Tribe or its delegated official or entity. All stock trespassing shall be seized by the tribe and dealt with according to this chapter.

Sec. 3. Method of Seizure; Notice; Requirement of Posting; Penalties.

No trespass of branded stock or unbranded stock "mothering-up" to a branded animal on tribal lands will take place without advance notice having been posted. Notice of the trespass shall be posted for 20 consecutive days at the United States Post Office, McDermitt, Nevada, and at conspicuous places about the city of McDermitt, Nevada and McDermitt, Oregon. The Tribe may also, by written notice or telephone call, notify the known owners of the stock of such notice. The Fort McDermitt Tribe through its Tribal Council or delegated official or entity may trespass such animals and round them up and heard or transport them to a facility to care for the animals until their owners can secure them at a cost plus a fee of \$25 per head for cattle and horses and \$10 each for domestic sheep and goats.

Sec. 4. Notice of Seizure; Requirements; Disposition.

When branded stock or unbranded stock “mothering-up” to a branded stock is seized according to authority contained in this chapter, notice of the seizure shall be posted about the Fort McDermitt and McDermitt communities in conspicuous places including the United States Post Office, McDermitt, Nevada. The notice shall advise the public the date it was first posted, a description of the stock and any and all visible identifying marks as well as the color or colors of the stock and its type and sex. The notice shall also advise the public that 15 days from the date of the notice is the first posted that the trespassed stock shall be auctioned to the highest bidder unless the owner satisfies the Tribe of his ownership and pays all costs and a fee of \$25 per head for cattle and horses and \$10 per head for sheep, goats and the like. All fees and costs shall be paid to the “Fort McDermitt Tribe.”

Sec. 5. Unbranded Stock; Property of the Tribe.

Any unbranded stock of any non-member, which is not “mothering-up” to a cow bearing a brand recognized by the Fort McDermitt Tribe, found within the exterior boundaries of Fort McDermitt Indian Country is hereby declared tribal property and shall be delivered to the Tribal Council as soon as is possible or held after notice to the Tribal Council until the Tribal Council can decide the disposition of such stock.

Sec. 6. Unbranded Stock; Use.

All unbranded stock shall be held for 15 days. The only use unbranded stock may be put to is public use.

Sec. 7. Appeal from Seizure of Stock to Prevent Auction or Use.

The Tribal Court of the Fort McDermitt Tribe shall hear motions or petitions for ex parte hearings regarding the ability of the Tribe to auction seized branded or unbranded stock “mothering-up” to branded stock or the Tribe’s public use of branded stock declared the property of the Tribe. If the Tribal Court is satisfied that the moving party or petitioner is the owner of the stock, the court shall order return of the stock and any bond that was posted with the motion or petition, after the collection of costs and fees as provided for in section 4 of this chapter.

Sec. 8. Definitions.

- (a) “Fort McDermitt Indian Country”, as used in this chapter, shall mean and include all lands owned by the Fort McDermitt Tribe whether or not held in trust status by the United States.
- (b) “Delegated official” or “entity”, as used in this chapter, shall mean and include the Tribal Chairman or the executive staff of the Fort McDermitt Stockmen’s Association, respectively.
- (c) “Non-Tribal Member”, as used in this chapter, shall mean and include any non-Indian or Indian who is a member of any tribe other than the Fort McDermitt Tribe.
- (d) “Mothering-up”, as used in this chapter, shall mean and include “suckling”.
- (e) “Public use”, as used in this chapter shall mean and include use by a community group for a community function.

Sec. 9. Fee for Crossing Tribal Lands.

All non-members, except those leasing from the Tribe or one of its entities or belonging to the Fort McDermitt Stockmen's Association, wishing to cross the lands of the Fort McDermitt Tribe shall pay a fee of FOUR DOLLARS (\$4.00) per head for any stock six months of age or older. The fee shall be collected and paid to the Tribe's Finance Department in the name of the "Fort McDermitt Tribe". Such fee shall be deposited in the Tribe's General Account.

Sec. 10. Severability.

Should any sections of this chapter be disapproved by the Secretary of the Interior, in accordance with the Constitution, or be found unconstitutional or in violation of tribal or federal law by any court of competent jurisdiction, such declaration shall not affect the remaining terms or sentences of any section or the remaining sections of this chapter.