

# Range Law—Acts to Live By

By Colleen Frei

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Human management is one of the greatest influences on range resources. Range laws exert a tremendous impact on what, who, and how resources are used. Legislation is one method of connecting people to the environment because laws incorporate science, society, and economics. Since land ethics and philosophies have changed over the past decades, range laws have also been developed and adapted to suit the times. Beginning with the Taylor Grazing Act of 1934 and continuing through the 1990's with Rangeland Reform '94, the management of rangelands has improved enormously. The future direction of range policy appears to be one of collaboration among public agencies and private land-users.

## Connecting People and Resources

About 41% of the land in Idaho can be categorized as rangeland [11], with the majority of this land under state and federal jurisdiction; therefore, education about rangeland is essential to Idaho citizens and those interested in Idaho. Rangeland issues are continually being addressed in town meetings, during afternoon walks with peers, in the classrooms, and at the dinner table. The topics themselves may change over time, but the debate is always the same—what should happen on the public rangelands, who should have control over what occurs, and how should range activities be carried out? These questions and many more have been examined and decided upon within most of rangeland legislation. Laws change how everyday dealings are carried out, especially in relation to past actions and viewpoints. Not everyone is in accordance about the degree of influence range laws should exhibit on management activities. Some view laws as constraints that prohibit beneficial work from being done and believe that politics, not economics or science, drives change in rangeland policy and litigation. Range law can conversely be seen as the connection between society and the science of rangelands. Even with diverse perceptions, range laws must be acknowledged for the guidance and assistance they provide to create a uniform set of rules for all rangeland participants. Rangeland legislation facilitates management activities in accordance with sound ecological principles, while promoting active use of range resources.

## Range Law Development

Just as the ecosystem, grazing systems, and land managers are dynamic, so are the laws governing public rangeland resources. Society demands many different things from rangelands—livestock production, wildlife habitat, recreation, watershed integrity, aesthetics, mineral deposits, fossil fuels, and natural preserves. Oftentimes, rangeland objectives are viewed as conflicting and incompatible; the objectives of ranchers are different than those of non-ranchers. Range laws attempt to combine and reflect all of the resource objectives in a way that can be applied to management practices. Furthermore, laws change and evolve along with the whims of society.

Although what worked yesterday may not be effective today, lessons and information from the past are often the best teachers for the future.

### **Influential Rangeland Legislation Timeline**

1934 Taylor Grazing Act  
1960 Multiple-Use Sustained-Yield Act  
1969 National Environmental Policy Act  
1973 Endangered Species Act  
1976 Federal Land Policy and Management Act  
1977 Clean Water Act  
1978 Public Rangelands Improvement Act  
1994 Rangeland Reform

## **Past Influences**

The roots of rangeland use in the western US began during the era of settlement. During this period, expansion was a national goal driven by beliefs of unlimited resources available for consumption in the western states. Low user fees accelerated development and at the beginning of the 20th century use of public rangelands was skyrocketing. Ranchers could not protect lands they used for grazing because these lands were public and open to all citizens until they were homesteaded. In addition, many ranchers grazed on public lands without a home base or regulated grazing system and these migrant herds added another complication to the existing problem on the range.

### **Taylor Grazing Act of 1934**

Programs to control, maintain, and administer grazing on public lands were becoming necessary with the increase in rangeland use. Led by concerned ranchers, the first federal endeavor to control grazing on federal lands was the Taylor Grazing Act of 1934. This act allowed the Secretary of the Interior to establish grazing districts on public lands and create regulations concerning rangelands. A grazing permit system was a direct result of this legislation. Grazing permit rules and responsibilities as outlined in the Taylor Grazing Act:

- Permits are not for a period longer than ten years, with renewal and parameters under Secretary of Interior discretion
- Grazing fees may be limited or revoked during times of emergency or range depletion.
- Land improvements (fences, water structures) for permitted livestock are allowed within permitted grazing districts, or other arrangements with the Secretary of the Interior.
- Permittees may not use improvements from previous permittee unless arrangements have been made and adequately paid for.
- Privileges associated with grazing permits must be “safeguarded adequately but must not create any right, title, interest, or estate in or to the lands”

Thus, migrant permittees were required to have a home base of operations, eliminating one problem and creating a more unified standard of regulated grazing systems. Under the act, legal permits for grazing on public rangelands were awarded to those traditionally using the land. The Taylor Grazing Act also established a Grazing Service division, which later became the Bureau of Land Management (BLM), to assist the Forest Service with public land management. Despite the increased regulation and awareness regarding rangeland activities, the act resulted in one use on rangelands—livestock production. The promotion of rangeland values other than grazing was essentially nonexistent because of the intense compromising that occurred to even pass the act. Following the Taylor Grazing Act public land remained under the control of private industry, and the idea that federal rangeland was a place to graze domestic animals was perpetuated. Although every rangeland conflict was not resolved in 1934, the Taylor Grazing Act marked the beginning of many reforms involving public range resources. This act ended the open and exploited use of public rangelands that characterized the early 1900s.

### ***Present Conditions***

Although historically the urban population had minimal interest and investment in public land management, present times invoked change. With the increase in both urban and rural populations, public land was being converted away from ecological uses (farming, ranching, forestry) to more human uses (housing developments, factories). This decline in available natural lands facilitated an increasing awareness for rangeland preservation and conservation. Currently, citizens display concern about the state of public lands and environmental issues as natural resource themes are on the top-ten list of challenges facing Idaho.

### **National Environmental Policy Act (NEPA), 1969**

One piece of legislation that exerts a huge impact on natural resources is the National Environmental Policy Act (NEPA) of 1969. As summarized in Forest Resource Policy (1993): This act codifies the national policy of encouraging harmony between humans and the environment by promotion efforts to prevent or eliminate damage to the environment, thereby enriching our understanding of ecological systems and natural resources. NEPA calls for a conscious effort to maintain and improve the condition of the environment in a manner that will not impair future opportunities. Management activities must not only preserve resources for generations to come, but meet intense and changing demands of the economy and society. Public opinion is also to be considered during the decision-making process for public rangeland management and action plans. In addition to the focused ecological land ethic, detailed statements—called Environmental Impact Statements (EIS)—were mandated by NEPA and required a review of management practices on public lands. The first EIS for grazing was conducted here in Idaho, in the Challis area. These detailed statements launched the first time an outsider (non-BLM/Forest Service) would assess grazing activities and facilitate policy recommendations for public rangelands. The detailed statements were more complex than a mere index of rangeland conditions and current vegetation composition; they involved management analyses along with

monitoring plans for continual review. Since NEPA was enacted, the resulting EIS have provided vast amounts of information about range health and the management of public rangelands; thus advocating proper use and continued stewardship of range resources. Although such information is valuable, the process of obtaining an EIS is very detailed, time consuming, and difficult. Many environmental court cases result from complications in adhering to the EIS process outlined in NEPA.

### Federal Land Policy and Management Act (FLPMA), 1976

A range condition study conducted in 1975 uncovered startling findings: “range conditions are deteriorating at an alarming rate and budget estimates repeatedly do not meet the Federal responsibility in this area”(Hess 1992). Public land was under intense scrutiny during the 1970’s due to perceived rangeland degradation and it became necessary to implement action to recover and maintain rangeland conditions. Under the legislation of the Federal Land Policy and Management Act (FLPMA) of 1976, the Secretary of the Interior was charged to create and update an inventory of public lands and their resource values. This act perpetuated federal influence over public rangelands and their users by providing the BLM with more authority than they previously held to oversee range activities on public lands. Furthermore, FLPMA gave incentives for range managers to comply with federal policy standards. Additions to rangeland management resulting from this act involved Grazing Advisory Boards, recommendations for management activities on public lands, and public land access forums. FLPMA reflected a new age in rangeland management and an increased public awareness and concern towards natural resources. The act called for comprehensive long-term planning and the use of interdisciplinary advisory boards, all of which promoted increasing scientific applications of sustained yield and multiple-use on public rangelands. The grazing permit and fee system (established by the Taylor Grazing Act) continued to be a source of contention under FLPMA as the fees remained far below market value. In the late 1970’s Interior Secretary Cecil Andrus began to implement FLPMA through heightened management programs and livestock reduction initiatives, spawning the [Sagebrush Rebellions](#) by ranchers who disagreed with Secretary Andrus’ directions. Two years after the initiation of FLPMA, the Public Rangelands Improvement Act was established to deal with the grazing fee fiasco.

### Public Rangelands Improvement Act (PRIA), 1978

Public land grazing fees have a long history of conflict and political negotiation. The Public Rangelands Improvement Act (PRIA) of 1978 debated three main issues of rangeland management in regards to public fees: how much to charge for grazing fees, how to adjust fee prices over the long-term, and whether fees should differ among various areas. The debate was not resolved; however, the conclusion of the act was a fee formula that is in application today (refer to [Zac Moore's paper](#)). In addition to establishing the fee formula, PRIA maintained that rangeland improvement was the highest management priority on public lands. Subsequent rangeland management plans were to be tailored to this objective, as plans would also be reviewed on their effectiveness in improving rangeland condition. Focus and funding towards these efforts proved to be a valuable and wise investment. By 1984 rangelands in

excellent (climax) and good (late-seral) condition had doubled and only half as much land was in fair (mid-seral) or poor (early-seral) status since the enactment of PRIA in 1978. Further collaboration between BLM and Forest Service land managers resulted from PRIA through the experimental stewardship programs (ESPs). The ESPs include interdisciplinary teamwork and multiple-use planning; creating relations between public land users and managers. Incentives are also a part of the ESPs; range managers who exhibit improvements in the ecological condition of the leased land receive rewards such as extended grazing time on public lands for assistance in establishing wildlife reserves.

**Rangeland Reform '94** Throughout 1994-1995, Secretary of the Interior Bruce Babbitt began making changes in rangeland management on public lands. In an attempt to establish consensus building among Forest Service and BLM players to achieve common policy goals, Rangeland Reform '94 was conceived. The three major issues involved in Rangeland Reform '94 were grazing preference, ownership of range improvements, and mandatory qualifications for permit applicants. This legislation was a continuation of rangeland management and improvement ideals that began with the Taylor Grazing Act in 1934.

## **Other Laws Influencing Rangeland Management**

Although only five laws have been outlined above, there are many other pieces of legislation that greatly affect range management. The Multiple-Use Sustained-Yield Act of 1960, 1973 Endangered Species Act, and Clean Water Act of 1977 also have a huge impact on rangelands. In eastern Idaho reintroduction of wolves, reduced salmon runs, and irrigation are issues of concern. For ranchers in the Salmon-Challis region, the Endangered Species Act and Clean Water Act continually influence management activities. These laws determine how management plans are created and which objectives are most important within these management plans.

## ***Future Directions***

Individual rangeland managers have varying degrees of dependency on public lands. "Many public land ranchers depend on federal lands for a large part of seasonal grazing capacity, and, in some cases where yearlong grazing is common, federal lands provide nearly all AUMs of ranch grazing capacity"(Van Tassell et al. 2001). Dependency on public lands for management purposes creates a stronger connection with and concern about the range policy process. Just as the Taylor Grazing Act hoped to stabilize the ranching dependent on public lands, modern legislation faces the same objective. Range law is an important component of rangeland management. Policies influence what practices are allowed, how management occurs on the ground, and who has control over our resources. The methods and technologies of rangeland managers have changed over the last century, but one thing will always remain—range resources are important to individual livelihoods as well as societal and economic development, and are another type of ecosystem across the globe. Without administration, regulations, and enforcement of range law on public lands there would be a serious decline in available resources for current use and future opportunities.

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## About the Author

Colleen Frei will receive her degree in Natural Resources Ecology and Conservation Biology from the University of Idaho in May 2002. She is an active member of the Society of American Foresters and Society of Conservation Biology. Colleen has participated in numerous interdisciplinary teams to solve controversial environmental issues and has developed programs to promote natural resources education and awareness. In the past four years she has worked on projects for federal, state, and private land managers. Colleen will continue her education at the University of Idaho Law School to pursue environmental law in the Fall of 2002. [[Back to top](#)]