

... Agua Chiquita work finished, despite hurdles

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them,” VeneKlasen continued. “We urge others who use our federal public lands to do the same.”

Protecting water a top priority for sportsmen

The Agua Chiquita project has been on sportsmen’s radar since at least the 1990s, according to Dale Hall, the head of the Habitat Stamp Program for the Department of Game and Fish until he retired last May. For many years, hunters and anglers volunteered their time and provided funding to install and maintain a barbed wire fence meant to keep cattle out of the fragile riparian area, he said.

In an arid state, Hall added, “Those are premium habitats, and we should be protecting them.”

But because livestock and wildlife kept breaching the barbed wire, the Forest Service proposed to replace the barbed wire with a pipe-rail fence. The project was to be funded by the Habitat Stamp Program. It was discussed and approved by the program’s southeastern Citizens Advisory Committee more than a year ago.

Work began in the spring of 2013, using thousands of feet of pipe donated by Yates Petroleum Corp. of Artesia and \$104,000 in Habitat Stamp funds. But as word of the project spread, an Otero County Sheriff’s deputy visited the site and threatened to arrest the contractor and Forest Service personnel for allegedly violating fire restrictions in place at the time.

The Forest Service had already taken fire precautions, said USFS wildlife biologist Jack Williams. The agency’s fire management office had issued the contractor a waiver and fire personnel were on site. “All the necessary precautions were in place,” Williams said.

Work resumed, but in May 2013 the Department of Game and Fish pulled out of the Agua Chiquita project completely. Hall said he was ordered to stop work by then-director Jim Lane.

“He called me in and wanted an explanation of what I was doing down there,” Hall told NMWF. Hall said he was in the process of developing a presentation on the project when Lane pulled the plug. “I never got chance to explain it,” Hall said, “because he made a political decision, not a biological decision” to kill the habitat protection work.

At that point, Game and Fish was walking away from a project that was nearly complete, according to Williams and Hall. Both the Forest Service and the Habitat Stamp program coordinator wanted to finish it after fire restrictions were lifted, but even after Lane resigned last fall – well after fire season was over – Game and Fish would not complete the job, Hall and Williams said.

Once again, sportsmen stepped up. In March of this year, New Mexico members of the National Wild Turkey Federation made the Agua Chiquita their top priority. Scott Lerich, the federation’s biologist in New Mexico, said he met with the Forest Service, Hall and the fence contractor and determined that a little over \$11,000 was needed to finish the job. The Turkey Federation picked up the tab and work began again in early April, Lerich said.

This time, however, the Forest Service returned to the worksite with a fire engine and law enforcement officials. “We wanted to make sure the contractor was going to be able to complete the job,” Williams said, recalling the interaction with the Otero County Sheriff’s office last year. “We wanted to make sure there wasn’t going to be any further interruption in the work.”

Indeed, the job finished up on April 24. It consists of 4-foot-high pipe-rail fencing along both sides of the Agua Chiquita, enclosing about a mile of stream and



Sportsmen wanted to beef up the fence protecting sensitive habitat along the Agua Chiquita to keep cattle out, for obvious reasons. This photo was taken several weeks after the pipe fence was completed in April. (Photo courtesy U.S. Forest Service)

some 24 acres of riparian habitat. Cattle still have access to the stream through two “water lanes” built into the fence.

Work sets off firestorm

By the time the contractor was putting away his tools, opponents of the project had taken their complaints public. The Otero County Commission sided with local ranchers and issued a cease-and-desist order on the project. When the Forest Service received the letter, the work had already been completed.

Commissioners then asked the agency to unlock gates in the fence and allow cattle full access to the stream. When the Forest Service stood its ground, the commission ordered the county sheriff to cut the locks. According to news reports, the sheriff sought permission from a federal judge but was denied.

Coming on the heels of the standoff between the BLM and Nevada rancher Cliven Bundy, the Agua Chiquita project generated national attention. The news media reported charges of “federal overreach” and allegations that the government was ignoring the Constitution or taking private property without compensation.

Judyann Holcomb Medeiros, whose Holcomb Family Ranch was most affected by the fence-out project, was quoted by several newspapers and said, essentially, that the Forest Service was harming her business. “Fencing our cattle off of the water denies us our usage rights,” she told the Alamogordo Daily News. “During the drought, our cattle have to walk extended lengths to reach water. The fences also causes the cattle to use the heavily used county road, and we have had cattle hit and killed or severely crippled or damaged by the impacts.”

She did not mention the fact that her ranch will receive 15 elk tags – unit-wide – from the Department of Game and Fish this fall.

Blair Dunn, an Otero County attorney, said the Forest Service “doesn’t have the right to appropriate water for wildlife,” the Daily News reported. “So to pen something off for wildlife to go drink and to appropriate that water for wildlife when they don’t have the necessary legal permits or rights to do so amounts to an illegal diversion of water.”

Several ranchers said the Agua Chiquita project was aimed at driving them off their land, and one Otero County com-

missioner described the Forest Service’s actions as “tyranny.” More than 100 people gathered in Alamogordo in late May to protest the Agua Chiquita project, including John Bell, president of the Otero County Cattlemen’s Association, who said, “We’ve got to stand up and fight back and that is what this is about.”

Supporters have facts on their side

To those who followed the project closely, however, the Otero County protests missed the mark. “A grazing permit is not a right, but a permit that allows the permittee to occupy the forest but which can be revoked for any number of reasons,” Sacramento District Ranger James Duran said. “Nobody lost their grazing permit over the Agua Chiquita flap,” he said.

Nor did anyone lose their water rights or access to water. In fact, Duran said, “We have no documentation from the Office of the State Engineer, who we rely on for these determinations, that water rights exist or are being violated” in that portion of the Lincoln National Forest. “A lot of folks have made claims,” he said, but his office searched the water rights database maintained by the state and found no evidence. “The only licensed water right is issued to the Forest Service in the database,” he said. Even if a water right did exist, he said, “We have not limited livestock access to the use of the water. Since the herd was turned out into the area on May 18 cattle have had water all along.”

And as to claims about the Forest Service violating local, state or federal law, Duran said no law enforcement agency has brought forth charges. “We have no intentions of breaking the law,” he said.

The Forest Service is, however, mandated by law to manage its forests for multiple use. That includes protecting water quality and wildlife large and small as well as providing for livestock grazing. “I don’t want folks to believe the Forest Service wants to put ranching out of business,” Duran said.

Lerich, the Turkey Federation biologist, said the Agua Chiquita project was needed to protect a fragile stream and riparian area, and nothing more.

“I don’t have anything against cattle,” he said. But cattle and elk have starkly different impacts on a water source. “Elk

will have an impact, but they’ll leave. Cattle, if given a choice, will never leave – they’ll stay there, and before long it’s a pile of dust.”

Protecting riparian habitat like the Agua Chiquita “fits into the mission of the turkey federation,” he said. “It’s what we do. But if we want to protect 10 or 15 acres out of the 28,000 in that grazing allotment, I think that’s benefiting everybody, including the rancher. Our goal here is to provide clean water and more of it.”

Public lands like Lincoln National Forest are among the many reasons the United States is exceptional in the world, said NMWF Director VeneKlasen. Thanks to visionary sportsmen of the early 20th century like Theodore Roosevelt and Aldo Leopold, everyone – regardless of race, social status or bank account – has a place to hunt, fish and relax.

“Public lands are our birthright,” he said. “They are worth fighting for.”

But as incidents like the Agua Chiquita protests and Cliven Bundy standoff in Nevada show, there is a growing movement to treat public lands as if they were private or to transfer federal public lands to the states, and then very likely into private ownership. (See associated story on this page.)

“This is a huge threat to the sportsmen of New Mexico and throughout the West,” VeneKlasen said. “We can camp, hike and scout for big game freely on BLM and Forest Service land, but not on state land and certainly not on private land.”

If the state seized our national forests and BLM landscapes, New Mexico taxpayers would be on the hook to fund everything from fighting forest fires to maintaining thousands of miles of roads, he continued. “It wouldn’t take long before the financial demands of such management would force the state to sell, trade or lease ‘our’ lands. And sportsmen would lose, I guarantee.”

Although some have argued that federal agencies such as the Forest Service and the BLM have somehow “overstepped” their authority, “Sportsmen know they haven’t,” VeneKlasen said. “These agencies are abiding by the law laid down through 200-plus years of democratic action. Sportsmen have had to learn to share our public lands and to take responsibility for protecting them. Others who also use our federal public lands should do the same.”