

A Family Legacy at Risk

Southwest New Mexico farmer, rancher and Catron County Commissioner Hugh B. McKeen has been battling environmental activist groups and the U.S. Forest Service (USFS) for years, just to keep the family operation, established by his grandfather in 1904, in business. Today, the family's farmland is at risk of being washed away because of a lack of forest health work, and they are ten years into a lawsuit against the USFS regarding punitive cuts to his grazing allotment.

"The Forest Service, the Fish and Wildlife Service, and environmental groups all want the same thing; they just don't want us here. They want to make a wilderness out of this area, and would just as soon our farm wasn't here," Hugh B. said. "They use the Endangered Species Act, lawsuits, the Wildlands Project - everything they do; they're trying to figure out some way to get rid of us."

Hugh B. and his wife, Margie, moved back to the farm in 1962. He had his first run-in with the USFS in 1964, a conflict with the USFS over a replacement fence, and the relationship has not improved over the years.

During low flows in the San Francisco River, trees encroach into the channel and disrupt the flow. For years, the McKeens would use equipment to clean the vegetation out of the river when needed, maintaining river flows and keeping the river in the channel. When the endangered Loach Minnow was found in the river, Hugh B. was no longer allowed to clean out the river because of alleged minnow damage. "The river is plugged and out of the channel, and has created a huge gully across my private land, adding tons of silt to the river. My private land and livelihood are being threatened, and still no one will do anything about it. There is also no evidence that keeping me out of the river is doing a single thing to protect the minnow."

The river is now aimed directly at the McKeens' irrigated fields. The USFS is now requiring a National Environmental Policy Act (NEPA) study and Corps of Engineers Permit for Hugh B. to do work in the river. "They just don't care. Part of my land has been destroyed - the floodplain is all gone, so now the river is aimed right at my field. I can't sue on impending danger to irrigated fields. I have to wait until there has been some actual damage. If I do sue now, they will just pay the value of the floodplain, which probably isn't much on the market but is worth a lot to me and my family."

"When it first happened, I could have gone in with a dozer and fixed the problem in two hours, in the rainy season, and no one would ever have known," he continued. "I had it to do over, that's what I would have done. I never would have asked."

The endangered status of the loach minnow also brought the requirement to fence cattle out of the river – which is often the only source of water in a pasture. “First, it was because the cows might step on a minnow,” Hugh B. laughed. “Just think about how hard it is to catch a fish in your hands, then imagine a cow stepping on one. Then, they decided they didn’t want cattle in the river because they’d stir up silt which would go downstream and encapsulate the eggs. It seems ridiculous to me that the massive silt from the river flooding my farm ground doesn’t cause anyone concern to protect the eggs, but the silt from one cow print is a problem. They are talking out of both sides of their mouths.”

“The litigation which caused the fence in the first place was bizarre. Center for Biological Diversity and Forest Guardians sued the Forest Service claiming the Forest Service failed to consider livestock grazing impacts on some minnows and a bird. The suit alleged our use of our allotments was harming these species, but all these radical groups requested was that the Forest Service go through the consultation process. The suit impacted 42 grazing allotments and ranch families. The environmental groups also asked that all grazing be stopped until the Court made a ruling on the case,” he continued.

“The ranchers banded together and through the New Mexico Cattle Growers’ Association and the Coalition of Counties for Stable Economic Growth hired an attorney to keep us on the land. We all had to spend money to travel to Tucson, Arizona to present testimony to the Federal Court Judge about why we should be able to use our land. It was both financially expensive and emotionally stressful knowing that with the bang of a gavel our livelihoods could be eliminated. In the middle of the week-long hearing the Forest Service attorneys asked the Court for some time to talk to the other parties about settlement. The next thing the ranchers and our attorneys knew, the federal government and environmental attorneys had cut a deal that the Forest Service would build fences to stop our cattle from getting water.”

“Eliminating our access to the water would have eliminated us from our land because all animals need water. Our attorneys worked all night drafting documents opposing the settlement agreement. In the end, the Court refused to endorse the agreement because of our objections. The Court eventually ruled that except on those allotments where the fish actually and physically live, the Forest Service was not required to do extra process. That took away most of the allotments that the Center and Forest Guardians were complaining about. Even though our attorneys stopped the environmental groups from eliminating all grazing and then took most of the case away

from the environmental groups on the merits, the federal government voluntarily agreed to pay the Center and Forest Guardians \$300,000 in tax dollars.

“Because I actually have minnows in my allotment and on my private land, the Forest Service eventually built a fence along the river. Maintaining a fence along the river is difficult. When the fence is down, cattle get down in the river. To punish my family for letting cattle get in the river, the USFS has cut the family’s grazing permit by 25 percent. We sued, and have been in court for ten years.”

“They have been trying to cut my permit since the 1970s,” Hugh B. said. “The range was in good condition, so they couldn’t get me that way and took to penalizing me because the cattle got in the river. They have come up with monitoring requirements that can’t be met.”

“Even if we win the suit, all I get are my numbers back, no restitution, no compensation for lost income, nothing. They cut my numbers by 25 percent, reducing our income by 25 percent. It just takes the top off, like taking our net profit. No business could sustain that.”

“If you don’t do what they want you to do, they find another way to hurt you,” he concluded. “If I had murdered someone, the police might haul me away and hang me, but they wouldn’t take the family business away from my wife and family. Why make my family suffer? The thing is, the Forest Service will do it and not even think about it.”

Between the environmental groups and the agency, there are very few old time ranchers and farmers left trying to make a living in the area. Fewer ranchers and fewer cattle are bad news for the county. “As a Catron County Commissioner, I know the impact on the county. It’s not just the declining tax on livestock, which is significant, but also fewer dollars circulating in the economy. The school in Glenwood has been threatened with closure, everything just gets chipped away,” he said.

River flows are down because the uplands are overgrown, and the Forest Service is reluctant to approve any forest health work, he explained. Environmental groups use the Endangered Species Act and the threat of lawsuits to keep things from happening, and the amount of paperwork required to meet legal requirements is staggering. “The minute the Forest Service starts to approve anything, an environmental group threatens to sue – they want it to be natural,” Hugh B. said.

“I’m not giving up, and am always willing to come to the table to talk about getting something done,” he concluded. “People ask how I can stand it, but I guess you

just get used to it. I ought to know better by now, but I keep thinking that somehow, somewhere, we'll actually get someone in here that will change things for the better."