

THE PROGRESSIVE RANCHIER



*Traditional Past...
Embracing the Future*

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Toads, Humans, Sage Grouse and the Endangered Species Act

By David Spicer, Rancher and Miner from Beatty, Nevada

INTRODUCTION

Following is Part One of a three part interview with David Spicer, a rancher from Beatty Nevada, who speaks of his experiences and actions when he faced the potential listing of an amphibian in his valley under the Endangered Species Act. He also owns and operates a mining company and formed the non-profit, STORM-OV, which is dedicated to keeping species from becoming endangered through cooperative programs and educational approaches. It stands for Saving Toads through Off-road racing, Ranching, and Mining in Oasis Valley. You can find out more on the web-site www.STORM-OV.org.

HOW AND WHY DID YOU FIRST GET INVOLVED WITH THE AMARGOSA TOAD?

They have been a part of my life, all my life. I was raised here on our ranch in Oasis Valley and had a very fortunate upbringing. We grew everything we needed and lived off the land, selling the excess to community residents from a small dairy, selling hay and garden produce and doing custom butchering of our animals. The Amargosa toads were always in and around the dairy and under the lights in the yard, they're nocturnal. It was pointed out to me on many levels by my parents and grandparents that we share this land with lots of other creatures and we should be thankful to them for the diversity they bring us.

I witnessed something while in high school during the mid 1970's; The Ash Meadows Pup-Fish were put on the endangered species list. Many of my classmates were children of the farmers of Amargosa Valley, where Ash Meadows is located. Those pioneers were working the land, producing products, raising their families in a valley that is such desert; it even has a huge sand dune right in the middle of it. I remember the anger, grief, hopelessness, and hatred that played out in our young high school minds. We watched and listened to late night discussions of our parents

and their friends. Bumper stickers showed up on everyone's car announcing "KILL THE PUP-FISH".

Those families fought hard against something they were never prepared to...their own government. They did not understand what use a hand full of fish was, all of them in existence wouldn't even make a meal; how anyone could choose them over the cotton, mint, alfalfa, and produce they were growing. All of it was contrary to rational thinking. Pressures continued to mount against the families of my friends. Federal law enforcement showed up and threats and rumors of law suits spread like wildfire. Talk of punitive damages charges collectively against all the farmers using water circulated around. One by one they gave up and left, abandoning the fight they couldn't win...their homes, farms, and dreams swallowed up by this new Omnipotent Force called the Endangered Species Act (ESA).

A TALE OF TWO BIRDS

I remember points in my life that defined me. I was fortunate to have mentors that could guide these moments into being the boundaries I now live my life by. One such time was out in our alfalfa field, I was about 10, and my grandfather had been teaching us kids about cutting hay. We grew and baled it ourselves for our dairy cows and winter feed for the beef cattle. We'd spent the entire day with him learning about the importance of crop yield. That every bale of hay was important, after all, it might be the last bit of food that carries the animals through winter until the spring grasses come. We left for a while, and when we got back to the field, the cutting was done. Grandpa met us out by the tractor, about the time we noticed something. He had missed a spot. Right in the middle of the field, there was an island of alfalfa 40' wide and about 100' long, at least a good bale's worth. We were anxious to point this out...yet he said, "Come with me." He walked us out to the strip of uncut hay and carefully guided us into the middle of it where he said, "Look," and pointed down into the alfalfa. We couldn't see it at first...this thing that had stopped the haying process...the whatever it was that compelled my grandfather to get off the tractor. He leaned over a little farther getting closer...then we saw them. Three little red spots opening and closing and they were cheeping loudly. They were meadowlark chicks in their nest complaining that it was time to eat. My grandfather said as he looked at them, "I almost didn't see them." I remember thinking he must be testing us, pulling a trick on us to see if we had listened to him earlier about farm yield. I told him, "Grandpa, it's only a bird nest, we need that hay." He put his arm around all of us grandkids and said, "Kids, that's true, and to us it's only a bale of hay, to them, it's their life." Those meadowlarks survived and lived out their lives. Their children are still here today. I don't hear one singing that I don't hear a thanks for that moment when I was awakened some 40 years ago. I never looked at things the same way again. The smallest things became important. The toad was simply part of this awareness of all things as I grew up here.

In stark contrast, decades later, other birds touched my life. I was out one day in the large breeding area of our Barn Spring restoration. This particular in-house project was the actual demonstration that was the turning point for all of us. Its enormous productivity in new found water, breeding pools, and upland feeding zones, was more convincing than was necessary to the authorities in justifying our physical remodeling of it. We had dug it

Society for Range Management literally wrote the book on Coordinated Resource Management (CRM) back in 1993. Today the groups that meet voluntarily to solve problems for resource management issues are called collaborative, which is a stakeholder consensus decision-making process. Stakeholders are any interest with a stake in the consequences of the decision. In this process, the stakeholders make decisions by consensus, rather than by traditional voting and majority rule.

The original "CRM Guidelines" by Rex Cleary and Dennis Phillippi state, "The Society for Range Management believes that the issues of natural resource management are not about livestock, wildlife, fish, water, soil, and vegetation. The issues are about people. The concept and philosophy of working together is the clarion point we emphasize. We must build partnerships out of all those interested and concerned about our natural resources. We must then create, from these partnerships, a master plan that is compatible and acceptable to all involved."

CRM

- ✓ Opposing Views
- ✓ Common Goals
 - Unwillingness to Change
 - Tradition
 - Lack of Cooperation
 - Peer Pressure
 - Frustration
- ✓ Common Sense - Begin to Think
- ✓ Communication
- ✓ Cooperation - Coordination
- ✓ Compromise - Concensus
- ✓ Conflict Resolution
 - Conservation
 - Shared values - Benefits

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out, removing vast amounts of silt, mud, and organic debris. We forever stabilized its ability to produce water by installing a “rock cell” in it, (like a French drain), with an internal manifold collection system and a final distribution pipeline able to serve more than one area. It is a wonderful spring, just percolating along, producing habitat for many creatures. That day though, I was not impressed with one that had shown up to eat my tadpoles. It was a kingfisher, rare to visit our area. He’d hover above my breeding pools, then drop like a rock, snatching one of my potentially endangered toad tadpoles. Not Good! I couldn’t have this, no way was I going to stand by and watch. I yelled and threw rocks at him. He just moved to another pool. Worse yet a friend showed up and the feeding frenzy began. I was witnessing the execution of the Amargosa toad. I ran to the house, grabbed my rifle and headed—full tilt—to save my defenseless buddies. Those two birds looked like Grandma’s sewing machine, straight up—straight down, never missing a beat. I took aim....had one in my crosshairs, and was squeezing the trigger.....when all of a sudden it hit me. It wasn’t their fault they were eating tadpoles.....that’s what they do when that’s what to eat. I was witnessing a natural event, one that goes on everywhere all the time. In fact these guys were probably here because my efforts in increasing the population also increased the food source for migrating birds. I had renewed an ancient pulse of life.....and I was about to kill it. I had become like the Endangered Species Act itself.....preservation of the species “At All Costs.” Needless to say, I stopped. I realized that my execution of these birds would have been the same thing the government did to the Ash Meadows farmers over the pup-fish. I just walked away shaking my head. I knew this had to change. Scared me that I’d become so narrow minded.

WHAT HAPPENED IN THE INTERVENING YEARS?

When the petition to list the Amargosa toad as “endangered” by a Denver-based environmental group, combined with their threat to sue the US Fish and Wildlife Service (USFWS) hit the news, tempers flared in Oasis Valley with the memory of Ash Meadows. Our town was ready to “Lock and Load.” We were not going to let anyone reduce our rights to use our land, private or otherwise – after all by God, - we live here. It would have been so easy to join this idea to just flat out deny there were no toads on my property – go somewhere else Mr. Regulator. No toads – No problems.

My problem was that I knew this would be a losing proposition. I couldn’t do the “Wild West” thing, times had changed. Already taxes, insurance, regulations and commodity markets had conspired against us... our ability to support the farm diminished. We couldn’t produce enough products to support the added costs. The property simply did not have a large enough agricultural base to survive so we had to diversify. We started a gravel pit to

The Society for Range Management (SRM) is “*the professional society dedicated to supporting persons who work with rangelands and have a commitment to their sustainable use.*” SRM’s members are ranchers, land managers, scientists, educators, students, conservationists – a diverse membership guided by a professional code of ethics and unified by a strong land ethic. This series of articles is dedicated to connecting the science of range management with the art, by applied science on the ground in Nevada. Articles are the opinion of the author and may not be an official position of SRM. Further information and a link to submit suggestions or questions are available at the Nevada Section website at <http://nevada.rangelands.org/>. SRM’s main webpage is www.rangelands.org. We welcome your comments.

serve local needs and got involved with many exploration companies looking for gold, silver and uranium in our area as service contractors. Opened up old mining shafts, exploring and sampling them for our clients. Set up a mineral exploration company, including permitting, drilling, geologic evaluation and analytical analysis. We got technical and serious.

I opened up stone quarries and established a diamond sawing facility, providing dimensional stone to the architectural markets. We now have diverse quarries providing commodities to different markets. All of these activities established a property position on federal as well as private ground. We secured rights-of-ways, and constructed miles of roads and power lines to serve our needs. This land position today lends itself to other uses. Through our business endeavors we developed relationships with many agencies as well as the education and licensing that went along with my career pursuits.

We also became aware of things in the bigger world beyond the cattle guards at each end of the valley. I watched my ability to do business diminish and sometimes stopped by new federal laws. It occurred to me that if the timber industry could be shut down by the spotted owl that major mines with key resources vital to this country could also be held up by numerous environmental issues and that if our grazing cattle were no longer welcome on public land; our denial and anger against these laws was a feeble defense.

I also knew that slowly but surely, these laws were creeping onto our private property and into our homes. The right to use our land as our grandfathers did pitted us against an omnipotent force, one that all of us don’t understand and certainly were never prepared to face. We knew we stood wrongly accused. This was a challenge to take on, a wrong that needed to be righted. So we set to it

We invited Nevada Department of Wildlife and USFWS to our property; told them that the petition was way off on the total population...come and see. They actually told me that they weren’t coming down to Beatty, out of fear for their safety for they had been confronted by angry locals and been accused in the newspapers of conspiring with the litigant. They did not feel welcome at all. This was bad. I knew where the result of this would lead; an inevitable listing of the Amargosa toad. A road our community could not afford to go down. I told them my company would charter a bus to pick them up, that a private tour awaited them, and that I would guarantee their safety. Maybe they were amused, or possibly their fears, imagined or real, were abated. Either way they came, a relationship was established; trust began. We have been building on this since 1994; a lot of water has gone under the bridge. I knew that if I demonstrated to the community, this developing trust in these government agencies, that they were our friends...not our enemies, we could change public perception.

“I believe we need to go to basics. So many things have happened in this process, all of which guided us to where we are today. Life’s experiences are the best messages and contain the finest lessons.” Dave Spicer

Nevada Rancher Testifies on Realities of Federal Regulations

— Public Lands Ranchers Face Siege of Regulations, Federal Land Grab

ELKO, NEVADA (March 13, 2012) – Fourth generation Nevada rancher J.J. Goicoechea told members of the House Subcommittee on National Parks, Forests and Public Lands that recent actions by federal land management agencies are diminishing water rights and restricting access to forage on federal lands. Goicoechea, who is a practicing veterinarian and current president of the Nevada Cattlemen’s Association (NCA), testified on behalf of NCA, the Public Lands Council and the National Cattlemen’s Beef Association during a field hearing in Elko, Nev., titled Explosion of Federal Regulations Threatening Jobs and Economic Survival in the West.

Goicoechea said a major challenge for ranchers across the West is dealing with the U.S. Forest Service on the issue of privately held water rights. The crux of the problem, he said, is that the agency is in many areas implementing a new policy of denying permits for privately owned water improvement development and maintenance unless the agency is granted partial ownership of the water right. He said the agency’s continued unwillingness to

allow water improvements places the health of the range at risk, threatens ranchers’ ability to retain the water rights and ultimately results in the federal government taking private property.

“The agency’s continued action presents a major threat not just to the resource but to ranchers. These actions create the prospect of losing our water rights. Nevada water law states that the water must be put to ‘beneficial use.’ In the case of stock water, that use is for watering livestock. If the water cannot be used to water livestock, it will no longer be a valid right,” Goicoechea said. “The fact that the Forest Service would facilitate the loss of personal property rights in this manner flies in the face of the principles upon which our nation was founded; in my view constituting a federal regulatory taking of private property.”

Goicoechea also urged the lawmakers to work with ranchers and the federal land management agencies to enact meaningful reforms to the Endangered Species Act,

an act he said has resulted in a less than two percent species recovery rate over the past 40 years. He said ranching should be considered part of the solution to prevent the listing of the greater sage grouse on the Endangered Species List.

“Listing the sage grouse as endangered would have such far-reaching and potentially devastating impacts across the West that the Bureau of Land Management and Forest Service have embarked on a sage grouse conservation initiative, unprecedented in its size and scope, in an attempt to preempt the bird’s listing,” he said. “But will the cure be worse than the illness? Unfortunately, the agencies’ plans fail to recognize that grazing is responsible for retaining expansive tracts of sagebrush-dominated rangeland, stimulating growth of grasses, controlling the spread of noxious and invasive weeds and reducing the risk of catastrophic wildfire. These services can only be provided by ranches that are stable and viable. The best strategies for agencies to employ are those that work for ranchers and sage grouse alike.”

