

Committee on Natural Resources
Subcommittee on Public Lands and Environmental Regulation
Oversight hearing on "Threats, Intimidation and Bullying by Federal Land Managing Agencies, Part II."

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New Mexico, Otero County Commissioner,
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To: Honorable Chairman Hastings, Subcommittee Chairman Bishop, and Members of the Committee

I am an elected official at the county level and have been elected and re-elected by my constituents 10 different times with an opponent in each race. When I finish my term in 2016, I will have had the privilege of serving the public for a total of 16 years.

I remember a time when the BLM and Forest Service worked together with Local officials and parties of interest to use the current laws and regulations to make Otero County and this Country a better and safer place to live. Today I long for those days to come again.

Sadly I am here today to testify of what I have witnessed over the past 20 years. Instead of growing together under the current laws such as FLPMA, those laws have had the opposite effect. The Federal Government Agencies (BLM, FS) have evolved into the problem we face today, instead of the solution we can turn to.

The 1976 FLPMA was passed and introduced to America and since then it has been many things to many people.

FLPMA, when followed correctly, can be a useful tool to assure local government and groups a part of management of their lands with in their said County. However, let me assure you that what FLPMA has become is a tool for the agencies to use and hide behind with no oversight from any Elected officials, Congress included. This has become the normal day-to-day way the Bureaucracies control and devastate the Local Government's ability to do our job, destroy the very Customs and Cultures of the people who elect us, and in the name of "Preservation" cause total devastation. If this is not corrected soon, there will be irreversible damage to this Country as a whole.

Here are 2 examples of what has happen in Otero county in just the past 4 years:

1. In Southern Otero County, we are blessed with minerals, oil and gas, resources that have never been developed in Otero because we have always had plenty in the logging, cattle and agriculture industry.

During my first 8 years in office, (1992-2000) the Board of County Commissioners never had the need to ask 1 time for a tax increase.

During my second 8 years in office (2008-2016) the Board of County Commissioners has had to raise taxes twice to just maintain the services we have to the public.

Approximately 2 years ago, a company called Gulf Coast Mining came to the Commission and laid out a plan that would create 150 jobs by re-opening an existing Oro Grande mine. All they planned to do was to clean up the tailing of Oro Grande that was left over from the mining done at this site in the 1800's.

David Davidson, an owner of Gulf Coast mining company, has produced an 1897 grant signed by the President giving this mine, Iron Duke, a right of way to cross Territorial Property. This Grant has been shown to the BLM with no resolve. BLM refuses to recognize any grant to this day.

Furthermore, the leadership of BLM, State Director Jesse Juen and the District Manager Bill Childress, as well as other employees of the agency, not only refused to allow this company access to their private property, but to this day has refused to settle with them and allow Gulf Coast to use a "DIRT" road that had existed 80 years before FLPMA became law.

BLM is currently in a lawsuit with Gulf Coast for an alleged trespass that occurred on vested private property right of way owned by both the county and the mine.

At first BLM stated that if Gulf Coast paid a 250,000 trespass fee, then they would allow a permit to be issued to allow them to use this road. When Gulf Coast chose to challenge their decision, the BLM tried to coerce Gulf Coast by raising the trespass fine to 750,000 dollars if they lose.

Otero County took a bold stand and we forced the BLM to give us a permit for the road recognizing and preserving our existing vested rights. However, it wasn't until we took heavy equipment out to the road and started to fix our road that BLM decided to make a deal where Otero County could allow who ever they wanted to cross the road, but not without restriction from BLM. True to form, the first time the County went to maintain the road, BLM stopped the crew and changed the rules again.

I have some maps of the area if the Committee would like to see and get a better understanding of the situation they can be supplied later.

The bullying did not stop there. There is a section of land in this area, which the road crosses also, that is managed by the State Land office. The BLM seemed to have settled down, but the State Land office refused to issue a permit for their area until Gulf Coast paid the BLM the 750,000 in fines. BLM claims they knew nothing about this, but it fits in with what these agencies have become and what we have to deal with every day.

Had FLPMA been followed, Gulf Coast would have been exempt and we would now have

150 new high paying jobs in Otero County. Instead we have no jobs and Otero County tax payers are out thousands of dollars spent on attorneys trying to resolve an issue that should have been handled at the local level within 30 days.

2. FOREST SERVICE

The Forest Service has evolved into a machine that is totally controlled by Washington and they use the Endangered Species Act to force an “agenda” that has obviously taken an attack on the Ranching community in our Country.

They have ignored the voice of the local people to force on us a management scheme that has cost the people of New Mexico and this Country dearly. In the name of FLPMA and ESA, they have taken away thousands of jobs, burned millions of acres, become one of the biggest contributors of pollution in our Country, and killed millions of animals in forest fires, some which are on the ESA list, all the while calling this good government.

Now they are taking private water rights away from local citizens by fencing off their water and calling it conservation for wildlife. However, the FS was never given any authority to manage wildlife, and in doing so, they are going against our Constitution and the very rights this Nation has fought to protect.

Agua Chiquita is a small area in the Sacramento Mountains where ranchers have grazed since before the 1900's. This small spring, called the Barrel Springs, has served the cattle and animals for 100s of years. There are times it runs dry and times it has plenty, and for years there has been a wire fence around it, which had gates that could be closed if need be, but have always been reopened to allow all animals to use the waters.

Recently the Forest Service went up and fenced off the area with metal pipe fence and the only animals unable to obtain any water is the cattle of the local rancher who have used this water for years and years.

Please understand that we have over 10,000 head of non-indigenous Elk in the area, 1000's of Mule Deer, Bears, and feral hogs, and 100's of species of smaller animals who all water at places like these. The Rancher in this area only has, at the most, 180 head of cattle.

Elk will easily jump a 6 foot, as will deer, and the hogs can go through the fence, but the cattle are fenced out of water that rightfully belongs to the rancher according to the history and laws of this Nation.

When the Elk and Deer jump into this protected area, they now will destroy much more than by simple being able to walk in and walk out. The FS says they are protecting the habitat for the New Mexico Jumping mouse, but this makes no sense.

Now, before the New Mexico Jumping Mouse was even listed, the FS was being funded by the NM Game and Fish to put this fence up, but the NM Game and Fish decided to

withdraw on this issue and they pulled their funding. So the FS went out and solicited private money to build this fence and it is now a reality. The New Mexico Jumping mouse was listed and the gates were shut by the FS. All of this is unconstitutional and should never have been what the FS spends their time on.

The County Commission became involved and tried to find a solution to this situation. After running into a brick wall with Travis Mosley, the local supervisor, we were invited to meet with the US attorney's office.

We hoped to solve this by simply allowing the gates to open until the local rancher could go into the "protected area" and pipe their water out so both sides could be served. However, all the US attorney wanted from the County was for us to go back and settle down the people and make sure the Federal government employees were protected while they did their job. We asked if they could just open the gates for 30 days until we could get this water piped out side the fenced area and the answer was NO. Further, they also made it a point to exclude Congressman Pearce from the meeting stating that there would be no meeting if the Congressman chose to try to attend. The reason for the meeting was simple, they wanted to threaten the county and its sheriff not take action or we would be facing criminal prosecution and lawsuits for any action to allow a private citizen to access their private property.

After this I decided to break all working ties with any federal agency. I made that in form of a motion at our regular County Commission meeting this July and only part of it passed, but my point is we have a broken system. I truly don't believe it started off that way nor was FLPMA or the ESA ever intended to do what it has done to this Nation, but it has devastated us in its present form. Unless and until we can receive proper oversight from Congress for these federal employees that act maliciously or our citizens can be given the tools to stand up to the bullying themselves we are fighting a losing battle.

Mr. Chairman and members of the committee, you have the power and the duty within your elected offices to hear the Citizens of this country and to take action and fix what is an obvious problem that is plaguing our Great Nation. This will certainly be the destruction of the greatest Nation on earth if you don't act now.

I pray you will take this testimony to heart and act accordingly. I look forward to working with you to resolve this and put this Nation back on track.

Thank you.