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ROAD TO THE OUTHOUSE

Wise-use zealots bash feds and bull trout in Nevada

By Ted Williams

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One might suppose that lovely landscapes would inspire, rub off on or in some fashion elevate the humans thereon. But in my travels around America, particularly in the West, I find that the most beautiful places tend to be inhabited by the ugliest people. Consider Elko County, in northeastern Nevada, a land of breathtaking panoramas, ancient upheavals and pristine wilderness. Here the county government—in league with and indistinguishable from a rabble of anti-UN, anti-environmental, property-rights, local-control, new-world-order-conspiracy theorists—is attempting to teach the federal government a lesson by sacrificing the world's southernmost population of bull trout.

The trout—a distinct population segment listed as threatened by the US Fish and Wildlife Service—is extant in the Jarbidge River despite current and historic land abuse by miners and ranchers based in and around the town of Jarbidge. Best estimates place the river's entire bull trout population at between 800 and 1,500; the species occurs nowhere else in the state.

Miners have destabilized the watershed so that major rain and snow events cause landslides. The spoil is shunted down a narrow section so that, periodically, a Forest Service road paralleling the river gets blown out. This has been happening since the road went in 90 years ago. When last the road washed into the river—in 1995—the Forest Service was all set to undertake the usual repairs, but Nevada Trout Unlimited appealed, pointing out that the road could not have been built in a worse place and that it should be discontinued for the sake of the bull trout. In due course, the Forest Service agreed and in June 1998 announced that it would be replacing the road with a hillside trail. It was a huge gain for the fish and no loss to any rational human resident of Elko County. After all, the road was but 11/2 miles long and led only to a dilapidated outhouse that wasn't even stocked with toilet paper. Besides, it's a nice walk.

But, fantasizing that it had "sovereignty" over roads on federal land—in this case, the Humboldt-Toiyabe National Forest—and in defiance of the law and the United States government, Elko County attempted to rebuild the road itself with heavy earth-moving equipment. In its inept and illegal attempt it destroyed trees and other vegetation, filled wetlands and dumped tons of spoil into the river, thereby changing its course and seriously damaging bull trout habitat. "The level of the road they tried to reconstruct was literally below the bottom of the river," declared Gloria Flora, the supervisor of the Humboldt-Toiyabe National Forest, who inherited the mess. "It was the most obscene attempt at road building that I have ever run across."

The Forest Service did nothing to stop the vandalism. Finally, the Nevada Division of Environmental Protection and the US Army Corps of Engineers put an end to it by ordering the county to cease and desist. Even before the vandalism occurred the US Justice Dept. had told the Forest Service to keep its law-enforcement agents away. After the incident, and under political pressure from Senator Harry Reid (D-NV), the Forest Service "negotiated" with the vandals, eventually suggesting that they be let off the hook and that the US government build them a \$6 million road above the flood plain. But this wasn't good enough, and they stormed away from the table. With that, the Forest Service and other federal agencies spent \$420,000 of the taxpayers' money in an effort to fix the damage done by Elko County.

The US Fish and Wildlife Service, on the other hand, responded with courage and professionalism, announcing an emergency endangered listing of the Jarbidge River bull trout. Eight months later, in April 1999, it downlisted the population segment to threatened.

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Then in October 1999 Elko attorney Grant Gerber, Elko County Republican Party head O.Q. Johnson, and Nevada Assemblyman John Carpenter (R-Elko) organized a "citizens work crew" to rebuild the road. This time the vandalism was stopped before it started by a restraining order from a federal judge who ordered the Justice Dept., Forest Service, Fish and Wildlife Service, county pooh-bahs and sundry perpetually agitated citizens to enter into "mediation."

The press played it up, and like blowflies to cow pies opportunistic politicians descended on Elko. In November 1999, allegedly at the urging of Rep. Jim Gibbons (R-NV), Rep. Helen Chenoweth-Hage (R-ID), chair of the House Resources Subcommittee on Forests and Forest Health, showed up in Elko to conduct some of the dog-and-pony shows she calls "hearings." This time the pressing forest issue being examined was the closure of the road to the outhouse. A "charade" and "a public inquisition of federal employees" is how Gloria Flora aptly described the hearings. She said she wouldn't be participating, and she publicly objected to the gross conflict of interest: Chenoweth-Hage had just married Wayne Hage, the Tonapah, Nevada wise-use barker who is suing the federal government and whose cattle Flora's predecessor, Jim Nelson, rounded up and sold at auction after repeated warnings to get them off public land.

Emboldened by having made the Justice Dept. and the Forest Service blink, the "Jarbidge Shovel Brigade," as the protesters now called themselves, paraded about town last January, beating themselves on the chest and proclaiming that they had won an "amazing" and "phenomenal" victory over the vile and ubiquitous feds. "Shovels for Solidarity," a group started by a Montana logger who claims to have been victimized by the Endangered Species Act, sent shovels to Elko—10,000 according to the Elko Daily Free Press, the most unreliable of all sources on both sides of the supermarket. A giant shovel was erected beside the courthouse, and people—13,000 reports the Daily Free Press — paid a dollar each to have their names engraved on it.

Then, last July 3 and 4, in defiance of the Clean Water Act and the Endangered Species Act, the Jarbidge Shovel Brigade resumed work on the outhouse road. There were going to be 5,000 in attendance, according to the Associated Press. But only about 350 showed up, of which about 90 were cops and about 70 reporters. At least half the demonstrators weren't even from Nevada. They included, for example, whining commercial fishermen from New England who had put themselves out of work by wiping out the groundfish resource. But as Shovel Brigade board member O.Q. Johnson spun it, "On the East Coast the fishing industry is plagued by ignorant bureaucrat regulations and inspectors who won't let the fishermen keep their catches . . . They have asked for help from the Shovel Brigade."

The demonstrators sang "The Star Spangled Banner" and recited the "Pledge of Allegiance." Then, chanting "Freedom! Freedom! Freedom!," they hauled away a four-ton boulder that they had named "the Liberty Rock" and with which the Forest Service had blocked the road. Waved off by the Justice Dept., the Forest Service again declined to enforce the law or even to replace the boulder, and at this writing ATVs are crossing the river and trashing trout habitat. On July 25 Fish and Wildlife Service biologist Selena J. Werdon wrote Bob Vaught, the new supervisor of the Humboldt-Toiyabe Forest, as follows: "The [Fish and Wildlife] Service considers the cumulative impacts from vehicles in the South Canyon Road area to be directly linked to the road reopening by the Jarbidge Shovel Brigade. However, the US Forest Service shares responsibility for these impacts by allowing vehicle access to continue to the point where additional resource damage is occurring."

The only environmental groups on hand to witness the Shovel Brigade's illegal road opening were Nevada TU—including its unflinching director, Matt Holford, who lives just outside the town of Elko, in Spring Creek—and the plucky Great Old Broads for Wilderness, who later marched around with brooms, staging a symbolic cleanup of the mess. The Broads are more or less tolerated; TU isn't.

"Trout Unlimited was the chief proponent of listing the bull trout as threatened," complains John Carpenter. "Because of this listing, the Nevada Dept. of Wildlife and Idaho Dept. of Fish and Game will no longer stock rainbow trout in the Jarbidge. NDOW has always stocked from 3,000 to 4,000 rainbows in the Jarbidge. Fishermen are prohibited from catching a bull trout [not true] and if there are no rainbows to catch, why would you go to Jarbidge to fish? Trout Unlimited should change their name to 'Trout Eliminated.'"

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www.scottchurchdirect.com >> www.scottchurchdirect.com/ted-williams-archive.aspx/2001

Holford, the guy who got the Forest Service to close the outhouse road, describes the most recent demonstration as “a convention of idiots.” Although he has lived in Spring Creek for 11 years, working as a deputy for the Nye County, Nevada sheriff’s department and as a mechanic and heavy-equipment operator in a gold mine 70 miles to the northwest, the wise-users call him a “blue-blood from back East.” The county has had Holford investigated for “racketeering”—that is, colluding with the Forest Service to sabotage the local economy. Recently, he was obliged to change his phone number because of the threatening calls. His son and daughter have been harassed at school. Holford and other volunteers, including biologists from the state, Forest Service and Bureau of Land Management, used to take the sixth graders to six sites in Lamoille Canyon, teaching them about nature—stream entomology, that sort of thing. “It was a really fun day for the kids,” he recalls. “But the crazies pushed the county school board and said, ‘We want teachers teaching our kids, not these biologists.’ So the program was canceled. The mining companies can come in and teach the kids about mining methods, but we can’t teach ecology.”

The important story in Elko County is not the bizarre antics of its angry, paranoid, disconnected residents nor even the participation in those antics by wise-use wackos, aging sagebrush rebels and other assorted misfits from around the nation. It is the response of the federal government. When fed bashers flout US law in Nevada, the US Dept. of Justice is apt to have some other pressing engagement. Nevada’s US Attorney, Kathryn Landreth, seems to believe that the best approach to law enforcement is to sit down and talk things over with the criminal. Hiding behind Justice’s skirts has been Jack Blackwell, Regional Forester of the Intermountain Region of the US Forest Service.

Gloria Flora, who served as supervisor of the Humboldt-Toiyabe National Forest from July 1998 to January 2000, allows that she has major problems with this kind of approach. “There are some things that just aren’t negotiable,” she told me. “The viability of bull trout in the Jarbidge River is not negotiable. The science says the road should not be rebuilt. What are we supposed to do? Sit down, have a chat, and change our minds about the facts?” Flor—who resigned because fed-bashing had become a “state sport” and because Justice kept hanging her people out to dry—had asked the Forest Service’s chief law enforcement agent for Utah and Nevada, Wayne Smith, to give her a list of all the times Justice had failed to prosecute Forest Service cases.

Smit—a decent, competent man who worked hard at his job—complied. In an internal memo to Flora, he revealed that in the previous eight years the US Attorney’s office had declined to prosecute dozens of cases referred by the Forest Service, including at least 21 felonies and 52 misdemeanors, ranging from criminal conspiracy to assault to illegal livestock grazing. “This lack of support places federal law enforcement officers and agents at risk as they enforce the same regulations in the field,” he had written in the memo. Flora showed the document to several of her superiors who needed to see it; then someone leaked it to the press. “It went up and out,” she says.

Smith, who said he couldn’t talk to me because of ongoing investigations, took the hit for the leak and was shoved into a desk job in Milwaukee. “Basically, his career is over,” says a co-worker.

Flora, on the other hand, gave up her job voluntarily, thereby surprising and disappointing a lot of environmentalists, including me. She had never shown her back to anyone. In fact, she’d spent her career standing up to powerful special interests who threatened the public’s natural resources. As supervisor of the Lewis and Clark National Forest, in Montana, she had displayed enormous courage by blocking oil and gas drilling along a wide swath of the Rocky Mountain Front. The American Fisheries Society had honored her for championing native fishes. Her fellow line officers believed that she was being groomed to be the first woman chief of the Forest Service.

It wasn’t long, however, until Flora reassured her supporters by demonstrating that she had sacrificed her job in order to high-profile fed-bashing along with the wimpiness of the Justice Dept. and her own regional office. No sooner had she cleaned out her desk than she started firing off opinion pieces, called in the media, and set out on a butt-kicking speaking tour. Maybe her strategy is working. The Justice Dept. has just filed a complaint—

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albeit a civil one—against Elko County, seeking unspecified monetary damages in the aborted road repair efforts of 1998, penalties for Clean Water Act violations, and an injunction against further Endangered Species Act violations.

"I'm not objective, and I don't want to come across as attacking anyone," Flora told me. "But I'm extremely disappointed with the actions of the Forest Service. I think you'll find it is lack of intestinal fortitude characterizing the choices that are being made. I find it appalling. I think a lot of the heavy work was done already as far as establishing a position and gathering the research and saying, 'Look, this is where it's at; this is what the land is telling us; this is what our research says the fish are telling us.'"

Flora and her staff were supposed to be managing 6.5 million acres in the largest national forest south of Alaska. Instead they were forced to spend most of their energy and resources responding to temper tantrums in Elko County. "These people were demanding a ridiculous amount of our time," she says. "I cannot be a land steward if I'm constantly reacting to these people."

When she was still on the job Flora informed the press and her superiors about how her people were "castigated in public, shunned in [their] communities, refused service in restaurants, kicked out of motels . . . or had their very lives threatened." Specific incidents included: a Forest Service spouse who for six years was sworn at and screamed at whenever she walked her son to the bus stop; a Forest Service mine inspector who was nearly run over by a dozer operator; and an employee who was detained and harassed by police because a tail light burned out on a trailer as he was towing it. "One of the sadder things I remember," she says, "was having a woman tell me she was so tired of having her children come home from school and say, 'Mommy, why does everyone hate you?' I saw significant health problems related to stress. These are not happy people; they've quit socializing within the community. They avoid wearing Forest Service uniforms. I watched the unraveling of their self esteem." In just the 18 months Flora was in Nevada 60 of her 200 co-workers left.

That was considered a grand victory in Elko County, where District Attorney Gary Woodbury recommended in writing that the county run radio and newspaper ads that expose all manner of imagined federal misconduct and conclude with: "This message is brought to you by the Elko County Commission who encourages you to let the Forest Service know what you think about this by not cooperating with them. Don't sell goods or services to them until they come to their senses."

The Forest Service has brought a lot of the abuse on itself by groveling. According to TU's Matt Holford, "the big disconnect" is at the agency's regional office. "Gloria and [Forest Service chief] Dombeck came in during the middle of all this," he says. "They've both been great. People in DC are talking right; people on the ground are talking right. But we don't get anything from Blackwell, which is weird because he signed the appeal. You don't need to be heavy handed and tell people what to do, but when they don't want to work for a solution sometimes you have to break off. Blackwell won't do that. He's trying to negotiate with the devil, and he's giving the county false hope that the road is going to be reopened. We've already learned through the appeal and all the scientific data that the National Environmental Policy Act says that road's going to stay closed."

But is it? Could it be that one day all Americans—toting their own toilet paper, of course—will be able to drive the 11/2 miles to the outhouse? That's the big dream in Elko County, Nevada, a land where, more often than not, the most impressive ruminations come from cows. According to the Elko Daily Free Press, if you can believe it—and you can't—Humboldt-Toiyabe supervisor Vaught announced in August that "he favors moving forward" with rebuilding the road to the outhouse. (Vaught didn't return my phone calls, but his public-affairs person reckons he was probably misquoted.) Assemblyman John Carpenter — chosen by the people of Elko in seven consecutive elections to represent them in the state legislature—says the road closure amounts to nothing less than discrimination against the handicapped and that it is illegal under the Americans With Disabilities Act. According to Jarbidge attorney Robert Buckalew, "Bull trout can be raised in fish hatcheries just like whooping cranes and other endangered species" and besides, they "eat salmon eggs and cannibalize their own young."

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Speaking for Elko County in its ongoing fed-bashing rallies is Helen Wilson who, at 90, is Jarbidge's oldest resident. "Ah, pooh!" she told High Country News. "I've caught lots of those Dolly Vardens. What do they worry about them for? They're ugly. They're soft. They're not good eating."

Other than Nevada TU, the Fish and Wildlife Service and Gloria Flora, no one is aggressively defending the bull trout of the Jarbidge River. And yet they are a genetic treasure—ugly to the locals perhaps, but beautiful to anyone who looks at them with clear vision and a refined taste in natural objects. Had one never listened to the people of Elko County, one might have supposed that they would cherish their bull trout the way Californians cherish their giant sequoias.