



Written by [Joe Wolverton, II, J.D.](#) on June 17, 2014

Feds Put Protection of Mice and Chickens Above Rights of Ranchers

It's official: The federal government places the protection of mice and chickens above adhering to the constitutional rights of ranchers and the survival of their herds.

As [anticipated by The New American](#) in an earlier story on the subject, the U.S. Department of Interior and U.S. Fish and Wildlife Service have listed the lesser prairie chicken (shown) as a threatened species and placed the meadow jumping mouse on the endangered species list, protecting the alleged habitat of both animals from intrusion by people.



What effect will this have on the ranchers in southern New Mexico — ranchers already under assault from nature in the form of a two-year-long drought? The Associated Press reported, “Regional officials with the U.S. Forest Service have acknowledged they will have to put up fences or take other action to protect water sources for the mouse. Ranchers say that could force them to abandon their grazing allotments.”

This will do nothing but further rile up the ranchers in Otero County, New Mexico, who have been engaged in a [protracted battle](#) with the federal green gestapo over the access to critical watering holes that happen to be on the habitat of these now-federally-protected species.

As *The New American* has reported, the federal Forest Service fenced off a 23-acre section of land, preventing a rancher's cattle from getting to a watering hole located on the tract.

In May, the county commission voted unanimously (with one commissioner absent) to empower the sheriff to open a gate, making a way for the cattle, some 200 in number, to get to the water. “We are reacting to the infringement of the U.S. Forest Service on the water rights of our land-allotment owners,” Otero County Commissioner Tommie Herrell told Reuters. “People have been grazing there since 1956,” he added.

The Associated Press (AP) reports that Scott Verhines, New Mexico's state engineer, is hopeful for renewed negotiations. “I encourage the Forest Service to engage the ranchers affected by the fences in the Agua Chiquita area to develop a similar solution that provides access to drinking water needed for livestock in this time of drought, just as the Forest Service has done in two recent disputes elsewhere in Lincoln National Forest,” Verhines said, as quoted by the AP.

As it did in the case of Cliven Bundy, the federal environmental bureaucracy points to the “delicate ecosystem” of the mouse and the chicken that runs along the Agua Chiquita as an excuse for seizing control of the land and the water in that area.

Given the fact that this area of the state has been suffering under extreme drought conditions for over a year, ranchers in Otero County are particularly angry at the government's ham-fisted attempt to



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exercise control over the site of the spring, effectively killing their cattle.

“The winds are blowing; we’re in a drought. Sacramento Mountains are dry. So whatever water source these animals can find, they have to be able to get to it,” county commissioner Susan Flores told KVIA news in May.

“The Forest Service has no right to appropriate water under New Mexico law,” Blair Dunn, an attorney for Otero County, told *New Mexico Watchdog*.

As is indicative of the whole of the Obama administration and its disdain for the rule of law and state sovereignty, the Forest Service claims the fences were erected in the 1990s and the Agua Chiquita creek runs through land owned by the federal government. “We’ve provided reasonable access to the water, even if there is a water right on these sites,” Forest Supervisor Travis Moseley told KVIA.

As for the mice that are supposedly being driven out by the thirsty herd, their presence isn’t exactly well known among locals. “I’ve never seen one of these mice, and the Forest Service claims they caught one last year,” Commissioner Tommie Herrell told Reuters.

Federal officials are expressing similar doubts over the move to protect the animals. In a statement published on his official House website, Representative Steve Pearce (R-N.M.) blasted the federal government for its autocratic assumption of control over western lands:

Once again, the U.S. Fish and Wildlife Service chose to cater to big-city radical special interests instead of protecting our jobs, and ignored the fact that conservation and economic growth are not mutually exclusive. FWS is sectioning off thousands of acres of federal, state, tribal and private lands to benefit one species at the expense of ranchers in three states. The U.S. Forest Service collaborated with FWS to deny ranchers access to water in Otero County before the Jumping Mouse was even listed. FWS failed to recognize that its own policies — which have stopped timber harvesting and forest thinning — are to blame for the raging wildfires that threaten the mouse. This decision was made before all the facts were considered.

As for the assertion that there is any such thing as “federal land” of the sort claimed by the Bureau of Land Management (BLM), Forest Service, and Fish and Wildlife, please read these [earlier articles](#) regarding the principal of constitutional law known as the equal footing doctrine and the constitutional proscription on the federal government’s ownership of land located within the sovereign boundaries of a state.

The *New Mexico Watchdog* reports on yet another threat to human livelihood posed by the protection of the mouse and the chicken:

In the meantime, officials from Eddy, Roosevelt, Lea and Chavez counties — in the heart of New Mexico’s oil patch — joined a lawsuit filed in federal court in Texas by the Permian Basin Petroleum Association, claiming the decision to protect the lesser prairie chicken puts too heavy a burden on the industry and accusing the feds of not following correct procedures when they made the listing.

“Historically, there have been at least three times when scientists have believed the bird was truly on the verge of extinction,” Ben Shepperd, president of the Permian Basin Petroleum Association, told KWES-TV. “What the data shows now is that the birds’ numbers and range of habitat have continued to grow although they’ve slowed down some during this period of extended drought.”

The Fish and Wildlife Service says the population of the chicken — known for its energetic clucking and strutting during mating — has been reduced by 50 percent since 2012.



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The *Albuquerque Journal* reported recently on the Forest Service's response to the appeal for access to water, the lack of which will devastate cattle herds in the Southwest:

The Forest Service said it has a responsibility to protect the area and it would not be able to open the gates to Agua Chiquita without extensive environmental review. The agency also said the impending listing of a rare mouse as an endangered species would be another consideration, one that's also likely to affect watering holes in other forests in New Mexico and Arizona.

In other words, "Attention, ranchers in Arizona and other areas of New Mexico: The Obama administration cares more about protecting the supposed habitat of a mouse than about adhering to the rule of law, conforming to constitutional principles of federalism, or saving the thousands of head of cattle that will die so that federal totalitarianism may be extended."

"It's extremely frustrating," Blair Dunn, an attorney for Otero County, told *New Mexico Watchdog* after a meeting last month failed to reach a compromise. "In the past when we've had drought and problems the Forest Service came and opened the gate but they didn't have any interest in doing that [this time]."

The federal government's erection of fences and taking in a mouse and a chicken as feral wards of the state are just the latest attempt by the Obama administration to send, as Thomas Jefferson complained of in the Declaration of Independence, "swarms of Officers to harass our people, and eat out their substance."

Joe A. Wolverton, II, J.D. is a correspondent for The New American and travels nationwide speaking on nullification, the Second Amendment, the surveillance state, and other constitutional issues. Follow him on Twitter @TNAJoeWolverton and he can be reached at jwolverton@thenewamerican.com.



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