

Gila Livestock Growers Association  
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[www.cowboysandcattlecountry.Ocatch.com](http://www.cowboysandcattlecountry.Ocatch.com)

President: Laura Schneberger  
Vice President Matt Schneberger  
Secretary Treasurer: Stephanie Bason  
Director At Large: Kit Laney Catron  
Director At Large: Tom Klumker Glenwood  
Director Black Range: Jack Diamond  
Director: Silver City: Alex Thal  
Director Luna District: Alvin Laney  
Director Glenwood District: Joe Nelson  
Director Reserve District: Charlie McCarty

#### Accomplishments 05

- Met with Mexican wolf recovery team over 5 year review in late 04 and ensured the completion of a socioeconomic component in the 5 year review.
- Participated in the socioeconomic component of the 5 year review .
- Ensured adequate participation of rancher issues in 5 year review by inviting Congressman Pearce to attend two meetings for SW ranchers in March. Both meetings were very well attended and followed by a published report.
- Attended the Coalition of Counties training session on Environmental Justice in Tucson.
- Coordinated help for Catron Co. ranchers dealing with wolf attacks on cattle.
- Made formal comments on 5 year review.
- Participated in Governor's task force on wolves.
- Organized and hosted a tour of cattle

ranches where wolves have inflicted damage, in cooperation with Congressman Pearce's staff and the acting director of the USFWS.

- While it seems we are all about wolves we have other irons in the fire and have met with other SW organizations on water issues.
- Represented members at the NM Game Commission meeting held in Catron Co. Gave a short presentation on wolf attacks on livestock and human encounters.
- Attended NMCGA Quarterlies and Board meetings.
- Attend New Mexico Federal lands council meetings.
- Consult with Catron County on wolf issues and assisted in developing small business claims and civil rights complaints procedures.
- Assisted in writing and passing resolutions to benefit SW ranchers on both water and wolf issues at the Joint Stockman's convention in Albuquerque in early December.

December 2005

Dear Members,

Again my apologies for a belated newsletter but as you can see it has been a busy year for the association. First off, our secretary Loretta Rabenau has resigned to take on the duties of the new Winston church so though she will be missed she has much more important goals and we wish her well. The board has approved a temporary appointment of Stephanie Bason, a rancher in Southern Sierra County who also works at the Sierra county conservation district office.

At our next meeting we will need to hold formal elections for several board members and potential officers.

Many of you may remember Roy and Shelly Walker. At this time the GLGA will be participating in an amicus brief supporting the Walkers in their US court of claims battle over ownership of water and property rights in the form of right of ways on those allotments. The Walkers once owned the Hot and Cold Springs allotments in the Gila and were removed the allotments in a manner reminiscent to Kit and Sherry Laney's initial removal from the Diamond Bar.

The Walkers appear to have just made it over the first hurdle in their takings case. They managed to exhaust their options in federal district court and are on their way through the Court of Claims despite having to deal with petty dismissal briefs by USFS attorneys. This dismissal was over the statute of limitations on their takings claim. The USFS claimed that the statute of limitations accrued since 1996 when the agency first ordered the Walkers off the allotments. The court agreed with the Walkers, that the statute of limitations accrued when the Federal District court ordered the Walkers off in 1998 and not before.

Since a case cannot be filed in the federal court of claims unless the case is ripe. Because the Walkers case had been exhausted in the federal district court before was considered ripe, it is apparent the USFS attorneys were arguing something they knew they could not win in order to exhaust the resources of the plaintiff.

In the past several years I have heard from many people who are critical of ranchers who do not follow orders to remove their livestock at once if the USFS tells them too. If that compliance happens, the statute of limitations on the US Court of Claims begins at the time of removal because that is when the permissible use of the property is known to a reasonable degree of certainty. The Walkers did the right thing by keeping their cattle on until the court order to remove them took affect.

Leaving livestock on an allotment is the way to go ONLY if you plan on pursuing your full range of legal options.

Here is where the Walker case is now.

The court of claims agrees that the water is adjudicated by NM state law, the Walkers were putting it to beneficial use, and NM law recognizes a right of way to access water. Now they have asked the New Mexico Supreme Court to clarify a few questions to determine the scope of that right of way.

**1. Does the law of the state of NM recognize a limited forage right implicit in a vested water right?**

**2. Does the law of the state of NM recognize a limited forage right implicit to a right of way for maintenance and enjoyment of a vested water right?**

Once those questions are answered, it will be clarified what ranchers actually own on federal allotments in NM. In Nevada, state law is already clear that forage comes with the right of way the right of way comes with the water right. In NM the state is clear there are water rights and rights of way but it isn't clear what the right of way encompasses.

My personal argument would be to ask the courts to formally recognize the external fence boundaries of the allotment or the individual pastures as the clear scope of the rights of way that should attach to the vested waters in each pasture. That the USFS willingly adjudicated these boundaries in compliance with the Picket act, the Cooperative Improvement Act, The Stock Raising Homestead Act and it's amendments, and the Taylor grazing act.

It makes reasonable and common sense to use these borders and boundaries that the USFS themselves have clearly outlined and used congressional law and funding to delineate through fencing and improvements. However, I am not a lawyer, nor do I even play one on TV and I would appreciate any clarification or interpretation from anyone with a different idea.

What the NM Supreme court will do is anyone's guess. But I would think they would have to consider both NM laws and 1866 mining acts and all the other laws that require acknowledgement of local customs laws and decisions of the courts in determining the intent of NM right of way and water laws.

**Speaking of water**, if you have not done it, it is imperative that you file on your allotment located water rights by early summer at the latest. Filings are being accepted at the Deming office on The Upper Gila Watershed. If you need help please do not hesitate to contact me. If I can't help with your allotment due to logistics, I can direct you to someone who can.

### ESA Reform

At this time both congress and the Senate have endangered species reauthorization bills to work

Please do not hesitate to call or email if you need assistance in any of your allotment related issues.

Sincerely

Laura Schneberger

### Membership Dues 2006

Allotment/Ranch Name \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

County: \_\_\_\_\_

Telephone: \_\_\_\_\_

Email  
address: \_\_\_\_\_

Would you like email updates? **yes**   **no**

Full membership dues:

**Less than 200 head \$35.00 per year**

**more than 200 head \$50.00 per year**

on in the next session I am hoping to get enough response from the following survey to provide a written report to our Local Senators and Congressmen to ensure adequate attention is devoted to the ESA in 2006. Special thanks to Glenwood rancher Carolyn Nelson for helping put this survey together when I didn't have time to work on it, this kind of help is sorely needed and greatly appreciated.

Last on the list is Dues and Membership.

Membership has been falling in the past few years but with the rise in cattle prices I would hope that it would increase this year.

Many thanks for those of you who keep in touch regularly I appreciate your input and your support. While the weather is incredibly dry this winter the upside is that it is nice enough out to map those waters early.

*Full Membership, includes voting privileges for elections and meetings. According to the bylaws you have to own and run livestock to be a full member. You do NOT have to have a federally administered grazing allotment permit to be a full member but your ranch must be in the Gila Forest Vicinity.*

\*Associate member: \$15.00 per year

\*No voting privileges

Make check payable to:

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1. Do you have endangered species listed on your allotment/private land?  
If so list them and say approximately when they appeared.
2. Has your ranching business benefited this species? i.e. - salt, tanks, predator control
3. Was the species found in man-made/rancher areas? i.e. - tanks
4. To your knowledge, how many years have there been cattle on this allotment/private land including previous owners?
5. Have you had a reduction of cattle numbers as a result of the endangered species being listed?
  - a. What were the number changes?
6. If your cattle numbers have been reduced have you seen regional peer reviewed scientific studies or evidence on your allotment that cattle did or did not benefit the species?

- a. What were they?
7. How has the endangered species affected your business?
8. Has implementation of the ESA harmed your family or raised your stress level?
9. How has the endangered species affected your community economically?
10. Did the Implementing agencies, USFS, Fish and Wildlife Service work with you and incorporate your input into their planning?