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Ron Micheli

Wyoming Department of Agriculture, Cheyenne, Wyoming

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RANCHING WITH REGULATIONS

Ron Micheli
Director
Wyoming Department of Agriculture
Cheyenne, Wyoming

In the Beginning...God created heaven and earth.

Quickly, He was faced with a class action law suit for failure to file an environmental impact statement. He was granted a temporary permit for the project, but was stymied with a cease and desist order for the earthly part.

Appearing at the hearing, God was asked why He began His earthly project in the first place. He replied that He just liked to be creative.

Then God said, "Let there be light."

Immediately government officials and environmentalists demanded to know how the light would be made. Would there be strip mining? What about thermal pollution? God explained that the light would come from a huge ball of fire.

God was granted provisional permission to make light, assuming that no smoke would result from the ball of fire; that He would obtain a building permit; and to conserve energy, that He would have the light out half of the time.

God agreed and said that He would call the light "Day" and the darkness "Night".

Officials replied that they were not interest in semantics.

God said, "Let the earth bring forth grass, flowers and green herbs in all its varieties."

The EPA agreed as long as native seed was used.

Then God said, "Let the waters bring forth creeping things having life and fowl that may fly over the earth." Officials pointed out that this would require approval from the Fish and Wildlife Service, coordinated with the Wildlife Federation and the Audubon Society.

Everything was fine until God said that He wanted to complete the project in six days. Officials said that it would take a minimum of 90 days to review the application, and at least 12 months to complete the environmental impact statement. After that there would be time needed for public hearings after which there would be six to eight months to review the public testimony and then there would be draft rules and regulation after which.....

At this point, God created Hell!

Unfortunately, in today's world, ranchers are feeling the frustration portrayed in the above story. On a daily basis, the agriculture community is being over run by zealots from the federal government who are enforcing such things as the Clean Water Act, the Endangered Species Act, the National Environmental Protection Act, the National Pollutant Discharge Elimination System, and on, and on, and on. More and more time and expense are being required to deal with these issues, all the while, fears of being able to make management decisions on the ranch are being threatened.

This seems to be particularly true of all ranches in the West. Secretary of Interior, Bruce Babbitt, has been quoted in a speech in Montana as saying that "the greatest mistake the federal government ever made was in allowing the states the right to appropriate water." He understands, as we all do, that if you can control the water in the West, you literally control the West. Since the authority for the adjudication of water has clearly been given to the state, this administration has attacked that authority not through water quantity issues, but rather through water quality issues. We have seen in the recent past, a constant barrage of regulations trying to regulate water quality in the states with the notion that the Clean Water Act trumps the state authority over water quantity. We have seen attempts to control non-point source pollution, to regulate water temperature, or to dictate terms for animal feeding operations. Many of us have feared that it was just a matter of time until the water quality debate would run head long into the water quantity issues. That is beginning now to happen.

Proposed rules for the implementation of Total Maximum Daily Loads (TMDL's) define pollution as anything, "Man induced or man caused." This "pollution" includes, but is not limited to, "low flow". In other words, the EPA could define any stream that has low flow as being polluted and needing remedies to correct the low flow. Since most streams in the West are fully appropriated, the only solution to low flow would be the purchase or confiscation of existing water rights and leaving the water in the stream as in-stream flow. Nothing could more easily start a war in the West than talk about taking someone's water rights away. The mere establishment of a TMDL can set a precedent of future regulation.

The Endangered Species Act has taken on a whole new meaning in this administration. Some believe that the enforcement of this Act has nothing to do with the promulgation of species but rather everything to do with land use management. We have had several instances of this in our region. We are currently dealing with the petition of the black-tailed prairie dog in which the petitioner said that 90% of the historic range of the prairie dog has been lost. We calculate that we have about 360,000 acres of black tailed prairie dogs in Wyoming alone. If you extrapolate that, there are 10 holes per acre and 10 prairie dogs per hole, we would estimate that we have somewhere in the neighborhood of 36 million black-tailed prairie dogs in Wyoming. It is a little difficult to convince ranchers that the critter is truly endangered with those kind of statistics. Nevertheless, we have already seen the U.S. Forest Service slap a ban on the poisoning and hunting of the little critter on Forest Service land; this even before the animal is listed. Ranchers all over the west are concerned what the impact of the listing of the black-tailed prairie dog will have on their operations. Environmental groups have trumpeted the fact that the prairie dog will

become the "Spotted Owl" of the plains. We are expecting a petition to be filed any day to list the Sage Grouse as endangered. The petitioners will allege that the cause of the downturn in the sage chicken population is overgrazing on public lands. This, despite the fact that there has been a 40% reduction of AUM's on public land in the state of Wyoming the past 10 years.

Increased bureaucracy and regulations continue to inhibit ranchers on public land. We are currently working with the Bureau of Land Management in the renewal of grazing permits. The BLM, in its infinite wisdom, has ruled that an environmental assessment must take place before any grazing permit can be renewed. There are approximately 900 permits that expired in Wyoming this past year. The law clearly states that a permittee can not turn on to any allotment that does not have a permit. The environmental community sent out an 'ACTION ALERT' notifying all of their members that this was the "window of opportunity" to see that grazing on public land ceases. A large number of permits have still not had the environmental assessments completed. Despite the best intentions of BLM to complete the work, the sheer volume has overwhelmed the staff, and ranchers are left wondering if they will be able to turn the cattle out come spring.

These are only a few of the myriad of rules and regulations that keep coming down on the ranching community. It is important that each rancher make every attempt to be informed and up-to-date on these issues. I fully acknowledge that time spent with these issues does not add a penny to the bottom line of a ranch and that it is time that could be spent on productive decisions. Nevertheless, each one of these issues has the potential to dictate the very existence of the ranching community in the future. We need to be informed to the extent that we can have some impact on the decisions that are being made by so many who have little common sense when it comes to agricultural practices.

It is my hope that at some point in time, the environmental community and the federal government will come to the realization that the most effective way to protect the environment is insure that the Ag producer stays on the land. The bumper sticker that say, "Cow not Condos" says it all. Ranchers provide habitat for wildlife, clean water, and most of all, open spaces. In our state, when a ranch sells, generally one of two things will happen. The ranch will be purchased by some rich corporation or individual that wants a place to play. They inevitably will lock up the ranch and deny access to what was before part of the open space that everyone was able to enjoy. The second option is that the ranch will be sold and subdivided, losing forever the uniqueness of the area. The tragedy of this option is that the damage caused to the environment far exceeds any alleged damage that was being caused by the ranch while in operation.

The choice seems pretty clear to me. Either we begin the process of giving some regulatory relief to the ranching community or we will see increased numbers of operators that walk away from 3rd and 4th generation operations and tell the developer to take over. In the meantime, we must do all that we can to insure that the agriculture community as we know it remains intact. Our rural way of life is dependant on our effort. Our environment demands it.