

Arizona grazing grants draw criticism

\$2 mil in tax money paid to cut herds

By Mary Jo Pitzl
The Arizona Republic

Auto dealer Hal Earnhardt got \$90,000 from Arizona taxpayers after Tonto National Forest officials told him to cut the herd on his Cross V ranch by 600 cattle.

Ditto for the cousin of Arizona House Speaker Jake Flake, who received two state grants worth \$90,000 when he removed 324 cattle from the U.S. Forest Service land he leases.

John Whitney III used his \$76,500 reimbursement to help

him move out of ranching and into a new leisure-oriented business.

The three are among 61 ranchers who received nearly \$2 million from the state last year for following federal directives to reduce their herds.

That \$2 million comes from the Growing Smarter fund, money voters set aside in 1998 to help conserve state trust

lands.

Critics say the state government, under the label of land conservation, is misusing the money, stepping in to reimburse ranchers for something they have to do under federal government mandates.

The money did not come with any strings attached, such

See **HERDS** Page A2

HERDS State grazing grants draw criticism

From Page A1

As reporting how it is spent, nor were ranchers required to keep their private land off the sales block, a move that critics say would ensure the "conservation" goal of the grant.

'Any ... benefit?'

"What did the public get from this money?" asked Jeff Burgess, who runs a Web site critical of grazing. "Is there any identifiable benefit?"

Flake, the chief architect of the grant program, said the benefit is the preservation of open space in Arizona's rural areas.

"The main purpose of that grant is to keep that rancher in business," said Flake, a Snowflake Republican who himself is a cattle rancher.

If ranchers get reimbursed for the loss of cattle, he reasons, they are less likely to sell their private land.

"We're losing all this little by little, to rooftops," Flake said of rural open space.

Whitney said the \$76,500 grant he received is keeping real estate agents at bay.

"It's helped us transition to another type of business," he said. Whitney now runs desert parties on his picturesque ranch near the Four Peaks Wilderness area, everything from weddings to riding parties, from corporate windings to fund-raising dinners.

"It's buying us some time," he said. "Otherwise, we'd have to start selling off the private property."

Whitney owns 23 acres, surrounded by the 158,000 acres he leases from the Tonto National Forest. Three years ago, the Forest Service told him to remove all 1,200 cattle he runs on the property because of the strains of drought.

Likewise, drought and the Forest Service forced the operators of the Orme Ranch to remove 223 cattle from their central Arizona spread. The \$53,163 grant was used to lease other pastures so the Orme property could rest, said Alan Kessler, ranch manager.

"It's kept us in business a little longer," he said. "Otherwise, a land sale might be necessary."

Hobby ranchers

Some of the biggest beneficiaries of the first round of taxpayer grants are not financially beleaguered ranchers but so-called hobby ranchers who derive their wealth from other businesses. Earhardt falls into this category. So does also vera magnate Rex Moughton of Forever Living products and the Drachman family of Tucson, which made

Biggest grazing grants

These ranchers received the biggest awards from the state's Open Space Reserve Program.

Rancher	Amount awarded	Cattle headcount
John Stephen Choe, Tonto National Forest	\$90,000	779
Neil Earhardt, Gilbert	\$80,000	506
Charles Flake, Snowflake	\$90,000	324
Mark Tuck, Tucson	\$82,790	267
Jim R. Brown, Phoenix	\$78,500	305
George J. Choe/Chris Equity Trust, Tonto National Forest	\$78,500	984
Howard J. Morris, Tonto National Forest	\$76,500	456
Paul F. Gardner, Gila County	\$76,500	341
John A. Whitney III, Sunflower	\$76,500	1,290
George Fering, Santa Beata	\$67,476	233

Source: Arizona State Parks Board

its money in shopping-center developments.

"Why would we subsidize someone's hobby?" Sierra Club lobbyist Sandy Bahr asked. "We don't pay anyone to collect stamps."

Earhardt, the Gilbert auto dealer, declined to comment, stating through a spokeswoman that his ranch hand would know about the grants. The ranch hand could not be reached.

Other recipients have to work outside jobs in order to continue ranching. They include people such as Gaylan Flake, one of the House speaker's cousins.

"Boy, I'd be surprised if it was only one cousin," Jake said. "Most of my family is in ranching."

Gaylan has been busy with jobs other than his ranching duties and did not return calls over the past two weeks.

Program under scrutiny

The program has come under increasing scrutiny as lawmakers are considering changes to it. Senate Bill 1071 is being discussed by a conference committee.

Gov. Janet Napolitano wants to reorient the program to reward ranchers who practice conservation without being forced to by federal directive, said Lori Faeth, Napolitano's policy adviser. The program currently gives priority to ranchers who have been ordered to cut their herd size. That effectively excludes ranchers who voluntarily take conservation measures.

The proposed changes may mollify critics like Burgess, who sees the conference committee as trying to make good out of a bad situation. But the fixes avoid larger issues, such as the program's questionable legality and its guarantees that land conservation actually will occur, he said.

"The whole intent of it was for conservation activities, and there was no way to document that," said Suzanne Pfister, chairwoman of the state Parks Board, which distributed the grants. "I have no staff

to go out and count the number of cattle. I have documentation of that, other than the ranchers' word."

'Room for mischief'

Not that the ranchers are dishonest, she said. "But clearly there's room for mischief."

An Arizona Republic review of the grants shows that some recipients were compensated for cattle cuts that they will carry into the future.

For example, Gaylan Flake got credit for 11 years of herd reduction, through 2012. On another tract of leased forest land, he got credit for taking 197 cows and 10 bulls off the land for 10 years, through 2011.

Program officials say they may base the next round of grants on cuts that have already taken place, rather than prospective cuts.

Bas Aja, lobbyist for the Arizona Cattle Growers Association, said it is wrong to look at those reductions as "prospective" because they are written into 10-year leases.

"Those are locked into place," Aja said.

Aja and Jake Flake say criticism of the program is part of a larger agenda by environmental groups to kill off grazing in Arizona.

"They don't want ranch families and cattle out there on the land," Aja said.

But Burgess and Bahr said they're simply questioning why the state is giving what they consider a handout to ranchers. Bahr has gone as far as to call the program the "alternative-fuels policy that heavily subsidized luxury trucks and SUVs at a cost of more than \$100 million."

"There's no public-benefit test," Bahr said. "There's no needs assessment."

"To qualify, ranchers had to document that they were ordered to reduce their herds on federal lands. The grants were awarded on a point system that gave more weight to ranchers who had to remove more cattle

Anatomy of a grazing grant

The state has given out nearly \$2 million to reimburse ranchers who had to reduce the size of their cattle herds. The Growing Smarter Open Space Reserve program was created to support actions that protect land from development. Critics and supporters are debating whether the grazing grants actually do that.

How we got here:

■ **Spring 1998:** Lawmakers create a program for "conservation-based management alternatives" as part of the Growing Smarter legislation.

■ **November 1998:** Voters approve Growing Smarter, setting aside a pool of \$20 million a year for buying or leasing state trust lands for conservation. Although the ballot language and the campaign did not mention it, some lawmakers say 10 percent is earmarked for grants to ranchers.

■ **1999:** The state Conservation Acquisition Board starts work on grants to reward landowners who keep land free of development. However, their work stalls.

■ **Spring 2000:** With no movement, lawmakers further define the criteria. A bill by Rep. Jake Flake gives priority to ranchers who are required to reduce their cattle herds on public land. This means ranchers who take voluntary moves are not eligible.

■ **December 2001:** Applications go to ranchers.

■ **May 2002:** The state Parks Board awards 66 grants totaling \$2 million. Of that, 61 ranchers collect grants, for a total of \$1,883,489. Five drop out because they decide to sell their private land instead of continuing rancher operations.

■ **Fall 2002:** State Parks Board suspends the program until formal rules can be written for it.

■ **March:** Senate Bill 1071 is stripped of its original language (pertaining to slaughterhouses) and rewritten with proposed changes to the grants program. These include exempting it from the rulemaking process and moving the entire program to the Department of Agriculture.

April-May: Bill is discussed by House-Senate conference committee. Future grants and their criteria will depend on changes being considered by the Legislature as it debates SB 1071.

and for a longer period of time.

Burgess is especially irked that the grants contain no stipulations that ranchers actually conserve their land.

"If that's what you're worried about, when you take the money, why not include a conservation easement?" he asked.

Protecting land

Aja, whose organization has promoted the grants, said such an agreement is understood.

"I don't know if it was actually written into the contracts, but it was inherently understood by the grantees," he said.

Aja argues that the money provided by the first round of grants is protecting 150,000 acres of privately owned rural land from development pressures.

Burgess and Bahr acknowledge that some of the ranch lands may be attractive for development but note that many ranchers hold on to their land out of sentiment. And real estate pressures are not high in every corner of the state, they argue.

Even if lawmakers OK changes to the program this year, the question of its legality remains debatable.

The Open Space Reserve grants are an offshoot of the Growing Smarter legislation

approved by voters in 1998.

Voters approved the creation of a \$20 million annual fund for preserving state trust lands. During the campaign, supporters talked about how the money would be used to match funds from cities or other groups to preserve state trust lands from development. There was no discussion of compensating ranchers and no talk of preserving federal land.

But Jake Flake and legislative attorneys argue that voter approval of Growing Smarter triggered a law created earlier in 1998. That provision carves off 10 percent of the anticipated \$20 million as grants for ranchers who use "conservation-based management alternatives."

The Sierra Club and other critics argue that the grazing grants violate the Voter Protection Act, which prevents lawmakers from meddling with measures approved by the voters. But no one has challenged the issue in court.

Even legislative attorneys acknowledge that the arguments about the legality of the grant program are "not unreasonable." But, without a court ruling, lawmakers should be given as much leeway as possible in setting state policy, according to a memo from Senate Rules Attorney Joni Hoffman.