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Arizona Rethinking Open Range Laws

By MARC LACEY OCT. 11, 2010

PHOENIX — They have startled the residents of Ahwatukee, a bedroom community in southern Phoenix. They have tramped on lawns and damaged vehicles in Rio Rancho, a neighborhood of tract homes outside Albuquerque. A Border Patrol agent lost his life crashing into one of them near the Mexican border in Texas.

Free-range cattle roam widely across the West, protected by centuries-old laws that give them the right of way while grazing and force landowners to fence them out. But as urban sprawl has extended into what used to be seemingly endless pasture land, cow-friendly open range laws are under fresh scrutiny, criticized as anachronistic throwbacks to the Wild West days before Interstate highways and tract homes.

“People have been killed in collisions with large cows,” said Daniel Patterson, an Arizona state representative from Tucson who is pushing to scale back the rights given cows and their owners in his state. “We need to get rid of this antiquated law from the 19th century. It’s important for ranchers and other livestock owners to keep their cattle where they belong.”

Mr. Patterson’s bill pushing for an end to Arizona’s open range law has

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yet to gain traction. But by introducing it, Mr. Patterson said he had heard from many Arizonans who have had unpleasant bovine encounters.

There was the woman from Cochise County in southeastern Arizona who came home to find a bull lying on her lawn. When she honked her horn to get it to move along, it charged the car. Later, the bull tore down a fence, jumped into a garden and grazed on everything green.

“For this kind of nuisance to take place and even unnerve my wife from being able to get out of the car and into our house is preposterous,” the woman’s husband, David Moreno, wrote to Mr. Patterson.

A man from the border city of Douglas, Victor Eastridge, has had cows come up onto his front porch, knocking down everything in their path. He said he has 40 acres of land and has put up fencing, but the aggressive animals still manage to force their way onto his property.

“I am sure there was a time when this law made sense, but today it does nothing except benefit the rancher at the expense of me and my neighbors and other citizens around the state,” Mr. Eastridge said.

Eliminating the law would put undue hardship on ranchers, industry officials say. “We live by the policy of good neighbors,” said Patrick Bray, executive director of the Arizona Cattlemen’s Association. “Ranchers try to maintain their fences as best they can. But it takes a lot of work, and cattle have a mind of their own. To put the liability on the ranchers if an animal gets out would be devastating to our industry.”

Still, the irritation that roaming cows sometimes cause is real.

Jerald Duke, who grew up on a ranch in rural New Mexico but now lives in a neat residential neighborhood northwest of Albuquerque, said he and his wife, Nancy, have awoken to mooing and seen cows munching on their tiny front yard. “They make a mess in the grass,” he said. “We’ve had to chase them away.”

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keep them out. On a recent afternoon, there were 15 cows grazing in the scrub brush a short walk from the Dukes' home and large piles of dung ringing the neighborhood playground. "I think animals of any nature should be contained," Mr. Duke said. "It's like if I let my dog roam all over the neighborhood."

Laws throughout the West are already less cow-friendly than they were generations ago. Some states, like California, have open-range policies in only some rural areas. In Arizona, cows are restricted in incorporated areas, which reduces conflicts in cities but not necessarily in outer suburbs that bump up with ranch land.

In southern Phoenix, a heifer made headlines over the summer by breaking out of a fenced-in ranch and escaping onto the South Mountain Preserve, where it roamed free for two months before some real-life cowboys hired by its owner managed to bring it in. Under state law, it was the owner's responsibility and not the city's to catch the runaway animal. Bryant Rockwood, a Phoenix police sergeant, told The Arizona Republic: "We could put a rope on it but then what would we do? We don't have any place to take it."

In a well-known incident from 2003, an Arizona man was arrested in the shooting a cow that had wandered onto his property east of Flagstaff. The recent death of the man, Kent Knudson, revived talk of his case.

On roadways in open-range states, ranchers are not liable for cow-car collisions if they show they tried to keep their cattle on their land. The industry says it is not as though the highways have become bovine obstacle courses. "The chances of hitting wildlife are probably higher than hitting livestock," said Mr. Bray of the Arizona ranchers group, whose family owns more than 250 head of cattle.

But accidents do occur.

Paul Forbes, an iron worker from outside Albuquerque, struck what he thought was a cow while driving his sister's pickup. A police officer who investigated could find no injured animal nearby but determined that it was probably a cow from the nearby Kings Ranch that caused the accident. "After examining the damage on the

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Border Patrol agents are on the lookout for cattle while patrolling for illegal immigrants along the Southwest border. In May, a Border Patrol agent was killed after his vehicle hit a bull on U.S. Route 281 in South Texas late one night. It was the second such fatality, following the death of an agent whose vehicle struck a cow on Arizona 86 west of Tucson four years ago. Last month, another Border Patrol vehicle struck a cow in southern Arizona, although there were no injuries reported.

“A big black steer in the middle of the road in rural Arizona, you’re not going to see it,” said Mr. Patterson, the Arizona legislator. “Under open range, it’s your fault. There have been cases where the survivors have to pay not only for a funeral but for the dead cow.”

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