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Uproar in Meadow Valley

State, feds to check on diversion of water

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A Moapa Valley rancher went into a Lincoln County stream with heavy equipment last week to take what he says is rightfully his -- water.

But the action has caused an outcry among environmentalists and spurred an investigation by state and federal agencies, which are now looking into the damage to Meadow Valley Wash, a central Nevada desert oasis that has been home to a rich range of plant and animal life, including two rare fish.

Federal officials said Bob Lewis, a Moapa Valley rancher, brought earth-moving equipment onto Bureau of Land Management property in the Meadow Valley to build a dirt berm that supports a pair of artificial ponds that are 600 feet long, 30 feet wide and several feet deep.

Lewis said he owns the land -- a point not supported by BLM maps of the wash -- and that he was simply restoring water diversion points ripped out by last winter's floods.

The conjoined lakes are now full with water diverted from the wash, which is no longer blocked. Lewis said he diverted the stream last week, although he couldn't say precisely when.

The ponds are hidden from view from the right-of-way along the Union Pacific Railroad tracks -- the only access to that part of Meadow Valley -- by a strip of scrub, mostly tamarisk. Some of the scrub plants appeared to have been bulldozed together, and on Friday, the woody plants were still smoking from what appeared to be an effort to burn off the vegetation.

BLM officials said Lewis did not have permission from the agency for the work, but stopped short of saying he had broken the law.

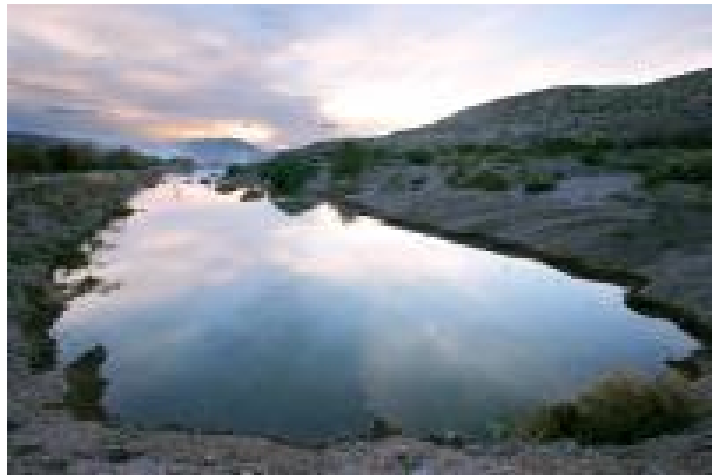
Lewis insists he has done nothing wrong.

"Don't you know there was a flood that went through there that completely took out the diversion work out there in January? The only thing that was happening there was putting back what was always there forever," he said.

Lewis said the water diversion structures were there since the early 1900s.

"There's new people coming to work for the BLM all the time," he said. "Lots of times they don't know the background and the history of what happened there. I'm certainly within my rights. I don't try to destroy anything."

Chris Hanefeld, BLM spokesman for the agency's Ely district, said his agency has referred the issue to the state engineer, whose agency has statutory authority over the use of surface water in the state.



THE late afternoon sky is reflected in a pond created by diverting the Meadow Valley Wash onto land owned by Bob Lewis south of Caliente. - [Sam Morris](#) / LAS VEGAS SUN

State Engineer Hugh Ricci said Lewis has permitted rights to take a couple of hundred gallons a day from the wash. Ricci said an investigator from his office will visit the area today.

Even if Lewis' diversion is legal in the eyes of the state, it doesn't mean the rancher is off the hook.

Ricci said the extensive bulldozing or any effect on rare species would be issues for federal agencies.

"Our involvement would be with the question: Does he have the right to divert water at this location? If yes, how much of a water right does he have?" Ricci said. "The other issues as to what he's doing, what other damage he's doing downstream, I can't enforce their (the federal agencies') laws."

Bob Williams, state director for the U.S. Fish and Wildlife Service, said his agency is investigating the effect the work may have had, but a state agency will likely take the lead in the inquiry.

"We're assisting the Nevada Department of Wildlife in terms of information and fact-finding in respect to the loss of fish," he said. "We will be part of that investigation."

The rare fish, the Meadow Valley sucker and the Meadow Valley speckled dace, are protected by state, not federal, law, Williams added.

"This is really, in my view, really positive in the sense that the state of Nevada is stepping up and saying this is wrong," he said.

State officials were not available for comment Monday afternoon.

Williams said he also believes the construction work on BLM

land should have been cleared by federal officials.

"BLM should take this seriously and take action," he said.

Hanefeld said the construction work was noticed last week by a field office employee in the course of regularly inspecting BLM land.

The dace and the sucker depend on the wash, and the BLM is concerned about habitat destruction because the desert tortoise, the Southwest willow flycatcher and yellow-billed cuckoo also live in the area, he said.

"We don't want to overreact, but we don't want to underreact either," Hanefeld said. "We can't answer the legal questions. We have to wait and see."

Hanefeld said his agency wants to see what Ricci's recommendation is and then "we will know what our appropriate action is going to be."

Environmentalists said that even if Lewis had the water rights, he still violated the law by sending in earth-moving equipment on the public land without a permit.

"That's the feds trying to push it off on the state for a response," said Daniel Patterson, a desert ecologist with the Center for Biological Diversity, a national environmental group. "The BLM has a clear, mandated duty to handle it themselves."

Patterson, who worked for the BLM for several years, said potential sanctions could include fines, a responsibility to

restore land to its original condition, or even jail time.

"It would vary according to the degree of illegality and what he (Lewis) would be willing to do to remedy the situation. It would be up to the agency and the prosecutors. But they should be going after this guy," Patterson said.

John Hiatt, chairman of the conservation committee of the Red Rock Audubon Society, said there "should have been consultation with the BLM."

"There should have been a number of things done that were not done," Hiatt said. "It seems a repeat of problems in the stretch of the Meadow Valley Wash, in which we've seen less than due care taken when water has been diverted out of the wash for agricultural purposes."

"I am very much concerned because we may have lost a good share of the fish population in the flooding in the wintertime and then in the railroad reconstruction."



LAS Vegas conservationist John Hiatt, below, looks at an earthen berm that is diverting the Meadow Valley Wash. [Sam Morris](#) / LAS VEGAS SUN

Like other conservationists, Patterson was alarmed by work conducted by Union Pacific to restore its tracks following the winter floods. Federal officials

in May ordered the railroad to stop work on the tracks, which run the entire length of Meadow Valley, because of damage to wilderness areas and archaeological sites.

The repair work has since resumed, but the BLM's Hanefeld said the federal agency has not decided how to respond to any potential

violations by Union Pacific in its repair work.

Patterson said the federal agency should take immediate action and slammed the BLM for a "pathetic lack of leadership."

"This guy is stealing from the public interest," he said. "He is illegally bulldozing land ...

Clearly this guy has illegally damaged public land and water. It sounds like this guy doesn't give a damn about the law. He probably should be facing prosecution. This kind of behavior should not stand."

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