

Maureen and Mike

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**Oral History Number: 227-003**  
**Interviewee: Robert Wolf**  
**Interviewers: Daniel Gallacher, Dan Hall**  
**Date of Interview: April 18, 1989**  
**Project: Robert Wolf Oral History Collection**

*Summary: Wolf recalls Aztec Land and Cattle Company as related to 1954 Forest Service dispute over land in New Mexico and disputes in Oregon over railroad land ownership. Thoughts on man's impact on the land in the Southwest are interwoven.*

Dan Hall: This is Dan Hall and we're here today in the Mansfield Library on April 18, 1989. This is going to be an oral history interview with Daniel Gallagher and Robert Wolf, who will be talking about the Aztec Land & Cattle Company (ALACC).

Robert Wolf: Anyway, you wanted to know about the 1954 Aztec Land & Cattle Company Case. As to the current water rights dispute, I can't give you any information. I haven't kept current with it. But I was involved in 1954 in a proposal for the Forest Service to purchase the land from the Aztec Company, which had been national forest since 1905, and which a year or two earlier the Forest Service had lost in a lawsuit that was filed by the ALACC in which the court held that in fact the land was the property of that company. The Forest Service appraised the land, as I recall, for \$7.5 or \$8 million and wanted to pay that. And I was working in the office of the Comptroller General of the United States and it has been a practice of committees of the Congress to ask the Comptroller General or the General Accounting Office, as it's also known, as well as the Congressional Research Service, to analyze aspects involving legislation. GAO often used to be asked on the financial aspects; there were no budget committees then, and so forth. I did the analysis for GAO. As a forester who had done timber appraising, I found in my view the Forest Service appraisal overvalued the Aztec land and timber, and that the Forest Service, in essence, was so eager to reacquire this land that they were willing to pay what Aztec was asking rather than engaging in an arm's length negotiation on the property. As I recall, the regional forester was Axel Lindh, whose brother Otto was up here in Region One later, or vice-versa, I can't remember whether Axel was down in New Mexico and Otto up here or the other way around, but anyhow they were brothers. They were both regional foresters. The counsel for the House Committee was George Abbott. The Republicans still controlled the Congress and he later served under Secretary McKay and Seaton as solicitor and assistant secretary for the Department of Interior. He was opposed to the bill on financial grounds and some of the Republican members were opposed to it. In the Senate, Senator Dworshak of Idaho was opposed to it on financial grounds, spending too much money. The principal supporter of the bill in the Senate was Senator Goldwater, a fellow Republican conservative, which also as a young man was an education to me that there's no such thing as a conservative or a liberal when it comes to spending. That happened to me in Arizona. Provincialism overcomes conservatism and liberalism.

At any rate, the bill, to the best of my recollection, was killed in the House, in the committee. Never got out of committee. I don't remember whether it got a favorable report from the administration or not. It's possible that it may not have, because, looking now at something you gave me (the Senate Report on the bill) I find nothing that says that the administration supports the enactment of the bill. In the early Eisenhower days (and I worked with the Bureau of the Budget at the beginning of the Eisenhower administration – not as a political appointee, but as a professional budget examiner), there were only two political people in the whole Bureau of the Budget then, the director and the associate director. But a holdover from the Truman era was the words on every bill contained in each report. The Bureau of the Budget would authorize an agency to send a report up that said, "The legislation is in accord with the program of the president" or, "At this time the administration takes no position on the legislation," which was a mild "Don't enact it," or "The Administration objects to the enactment." And this bill, which would suggest to me that—

Daniel Gallacher: No one cared.

RW: No, they cared that Barry Goldwater couldn't get a favorable report out of the Bureau of the Budget.

DG: This was earlier in his career too.

RW: Yes.

DG: Right?

RW: Well, but early or late, there weren't that many Republican Senators in the West in those days. And he was staunch to his state, not Republican Senators. There were more Democrats that were being elected in the West in those days. In addition to which, Carl Hayden was the chairman of the Appropriations Committee, and if Carl Hayden had wanted the bill, it didn't matter who said what. Carl Hayden would've had some influence on it. They talk about suggested amendments by departmental witnesses that make sure the land, once conveyed would be classified as public domain lands, that would be in the nature of a technical amendment, which anybody could make as a legal point. And the first amendment was that fair market value shall not exceed \$7.4 million, including mineral values, and it says, "The Committee adopts this amendment because of effective disagreement among the various federal agencies as to what constitutes the fair value of the lands. It is believed that the Commission, as authorized by law, is the most appropriate agency to make final determination of the value within the limitation of \$7.4 million." My best recollection that my involvement in it is that we said it was worth less, and they were proposing a way that said it can't be "more than." So it could have been less. Still the bill didn't pass.

Now also, if my memory is correct, an objection from the National Lumber Manufacturers Association who, as a matter of principle, were opposing any further additions to the national

forest of any land whatsoever, including land like this, which had been administered by the Forest Service for 50 years. And even though the chances are very strong that the lumber companies in Flagstaff, which utilize this timber, supported the legislation in principle because they were comfortable dealing with the Forest Service. They knew how the Forest Service priced timber, what they were likely to have to pay for it, and they certainly were going to have to deal with a hard-nosed ALACC which would have a totally different idea of timber values, perhaps, than the Forest Service. There had just been completed in 1953, before I joined the staff of the GAO, a review of timber sales on the national forest system. Included in that was severe criticism of under-pricing of timber by the Forest Service in Arizona – not only [but] including Arizona. See, there was a federal community sustained yield unit set up under the 1944 act in Flagstaff at the time, which was getting timber at the government appraised prices without competition, so that all was part of this complex calculus. The question of water rights never entered any of the discussions at the time. See also: *The Flagstaff Federal Sustained Yield Unit*, by Bedart Yluiskar Interuniversity Case Program #37, 1957, University of Alabama Press. For several others in front issues see this series and the others by Maxwell School of Citizenship, Syracuse University, NY, which took over the program.

DG: I wouldn't imagine that anybody would be able to document, and hopefully ALACC has not kept any bills of lading of when they let cattle off at certain spots, but they are claiming early patent dates, railroad patent dates for water use on their land. If they can prove it, that's fine. I don't think they can, but that's their business and not mine.

RW: I've been on that land. It was mainly ponderosa pine.

DG: Were you talking about the Mogollon Rim?

RW: Yes, the land that they got.

DG: They got other lands but around Holbrook, Winslow...

RW: But in the timber there was grazing, but the grazing was not as good as it would have been out on the rangelands just because of the effect of the trees on reducing the amount of browseable vegetation.

DG: It was a tough area, too, even for the Forest Service to maintain – I've heard stories about how that's one of the most fluctuating forests in the continental United States because of the water and the rain and the frequency and infrequency. It's a very difficult place.

RW: I've got at home a fascinating little pictorial booklet. It was published in 1939 by the Bureau of Indian Affairs, and it was a 1957 diary of a military officer Lt. Edward Beale who came out through that country in the late 1800s – one of the first. (See *Along the Beale Trail* by Education Division BIA, USDI, November 21, 1939, by H. C. Lockett, photos by Milton Snow)

DG: Jonathan Emery?

RW: At any rate, I've got this little booklet published in the late thirties, and it had descriptions from his diary of what the land was like because he was recording it in terms of feeding their horses and wood for fires, and where they camped that night, and various things during the day, and pictures taken along his route and showing how they looked today, which would be 1938. Some of it was like going from the lush prairies to the moon.

DG: And people don't understand that New Mexico today, what they see today, at one time had belly-high grass – not everywhere but in a lot of places. Its misuse of the public domain by whoever – the Navajo Indians or ...

RW: Well, you know...

DG: The Navajo Indians or the railroad grants...

RW: The Navajos weren't herders because they didn't have livestock.

DG: They did.

RW: What livestock did they have?

DG: Navajo? Sheep. Sheep and goats.

RW: When did they get them? When the Spaniards came?

DG: As of 1850 they had 500,000.

RW: But that came with the Spaniards.

DG: They did. Right.

RW: The Spaniards brought sheep, goats, cows and horses.

DG: Sure.

RW: Before that, the grazing was the native animals: the buffalo, the bison, deer, elk and so forth, and there was a much lower grazing pressure and there were more predators.

DG: Exactly.

RW: And the Indian was a minor predator compared to the natural predators. The Indian lacked the tools, really, the firepower, to cut down the other animal predators, and so the livestock populations were kept in relative fluctuating balance ...

DG: Not because of man but because of their own balance.

RW: Because of natural forces. Fire was a natural event as well as an Indian-caused event. Fire was used by the Indians as a tool for killing animals.

DG: Not only killing but also replenishing, just the way it is now ...

RW: But once they started a fire to kill some animals, they had no way of controlling the darned thing, you know. So the range condition was a different one, and what happened in the 1800s with the arrival of these large numbers of livestock and companies like Aztec, which was an English company, as I recall ...

DG: It was a subsidiary of the Santa Fe Pacific Railroad.

RW: But it started originally as an English company.

DG: I think so.

RW: But the others in Montana, Wyoming and elsewhere, as well as the Indians who had gotten livestock, there was this tremendous pressure of livestock grazing. The eradication of predators – bounty hunting was a regular part of the game – and overgrazing the range.

DG: How much influence would the officials of fairly powerful, fairly moneyed companies like Aztec, or whatever subsidiaries of Northern Pacific there was, and I'm sure there was one, if not the Northern Pacific directly ... how much power would they have in Congress to negotiate land exchanges?

RW: Oh, a lot. In those days?

DG: In the fifties, in the thirties?

RW: In the thirties or the—

DG: In the thirties. In the mid-1930s there was a bill that all the railroad lands in Arizona went to the Navajo tribe for the U.S. in trust for the Navajo tribe. Now Dennis Chavez defeated a similar bill for New Mexico. There must have been similar bills in Montana, maybe not, because the Navajo was a fairly populous tribe. There was an exchange of the Swan Valley in the fifties.

RW: I said "yes" in answer to your question. Let me go back. When Senators were selected by the state legislature sixty years earlier, they were usually wealthy, well-to-do guys loaded with conflicts of interest. They'd make Jim Wright, if he is guilty, absolutely innocent.

DG: 1889 folks.

RW: When the popular vote was used to elect senators, there was a significant change because you couldn't buy a Senate seat in the same way that you could earlier. It might inundate your opponent because you had a well-financed campaign, but now for instance, Dennis Chavez in his early days, Chavez was a populist Senator.

DG: Real early days.

RW: He uniquely came out of that Spanish group in New Mexico and managed to get elected. In his older days he was a somewhat different person but ...

DG: A crook.

RW: Yes. You said it.

DG: I'm sorry.

RW: I worked for Clint Anderson and one of the first things Clint told me was, "I want you to look at every bill that Chavez puts in and analyze it, particularly those that come to this committee."

DG: Which committee?

RW: Interior committee. Because young Denny was putting in bills that would grant homestead entries to people.

DG: This was what year?

RW: That'd be 1959.

DG: The Homestead Act was virtually—with the Taylor Grazing Act superseded.

RW: Yeah. But anyhow, the Aztec thing, you know, in terms of grazing impacts, the pressures came on the land starting about 1880 after the Civil War. They raged through several depressions and recessions. Another aspect that is often overlooked by people is that the railroads in the West were built generally by three nationality groups: the Chinese, coming in from the West, the Irish, and the Italians from the East. The Italians brought their stuff wrapped in straw. The straw they brought it in was a grass, and that's what's known as "cheat grass." The

railroads lacked fire control mechanisms on their smoke stacks, and they were mainly originally wood-fired. There were lots of railroad fires, which then caused the range to burn and the straw from the Italians' belongings that they carried with them, with this cheat grass...turns out that cheat grass adapted itself to our range just absolutely superbly. But it's a well-named grass. It has a very brief period with some nutrition. But as you know, I'm sure, a hardened cheat grass seed will drive itself into the gums of sheep and cattle and cause bleeding and it has no nutritional value. And so the Western range soon became occupied by huge amounts of cheat grass, which displaced the native grasses, and so that was another impact. Now, I'm not accusing people of Italian lineage of purposefully destroying the country, but one of my classmates in college was a guy who looked as Irish as anybody that ever came down the road, and his name was Cecil J. Francisco. And he told me that his grandparents had come here to build the railroad and they wound up in Cheyenne, Wyoming. He said, "There's still arguments in my family over the virtue of an Italian marrying an Irishwoman."

DG: A professor at the University, Dave Emmons, he is, I think, 50/50 Irish and Italian.

RW: But you go through Wyoming, you know, and along the railroad route you'll find lots of people of that split lineage.

DG: You also find heavy union support along the railroads, obviously, and north Wyoming not so much.

RW: But the Oriental workers, they came in and they were shipped back out, you know. But anyway, the range deteriorated for a number of reasons, and I would suspect that an examination of the history of Aztec would show they were no different from any other land and cattle company.

DG: No? Well, yet, they were to a certain extent, I think. I mean I think that their purpose was to legitimize the railroads' use of the lands, but I'm not sure.

RW: Yeah, but in terms of the number of stock they put on the land, the condition of the range ...

DG: That's what I'd like to find out is what was the number of stock, because they're claiming a priority date for every damned acre that was included in the railroad grant lands.

RW: Would there be shipping records of livestock?

DG: There would be, I think. But you'd have to get access to those records and they're still private company records.

RW: I was looking back here, and all the old Anaconda financial records are here in this library and it may be that some of those records ... the other thing would be to go back to this

litigation and those files would now be open and see what you can glean out of that litigation, because there may have been all sorts. The Department of Justice should have all that in archive -- there might be all kinds of arguments the company put forward in support of their claim.

DG: Or why they valued that land as high as they did.

RW: Not only why they valued it, why it was theirs.

DG: It surprises me that they give no legal description of the land itself, but they have a pretty good right to lands forty miles either side of the railroad within the territory and twenty miles either side of the state based on the patent issued to Grand Land Railroad. I don't know where the land they're talking about is. Alternate sections, right?

RW: Yeah. If you were to go to the Forest Service, to the New Mexico office, you could go to the legislative office of the Forest Service of Washington, find out where they keep this stuff in archives, there should be a complete file in archives on S-55 and the companion house bill of all the supporting documents, including the maps, as to where the Aztec Land and Cattle Company lands were. If you went to the comptroller general—there's a comptroller general's report on ALACC bill, which included maps, so there are sources. The Forest Service I think probably has a record in St. Louis but, from a historian's standpoint, it's possible to get those shipped here.

DG: The National Archives, my experience has been that the Forest Service – you're retired so you don't have to deal with this one. Obviously they have the worst or one of the worst record-keeping systems in the BIA. It's probably easy for us to work BIA records in the National Archives. The Forest Service is trying to find them and ...

Wolf: It may just be they don't have a good system. I don't know.

DG: The finding guide, the finding aid for the Forest Service records for RG 95 is maybe 1/8 of an inch or 1/4 of an inch thick; for BIA it's 2.5 inches thick.

RW: And certainly the Department of Justice should have one. There should be a file under this litigation.

DG: You think it was a court case then?

RW: Well, yes. This shows, you see (reading), "That in 1942 application for patent was filed and the provisions of Transportation Act of 1940. The patent applications were rejected by Interior. The applicants commenced action of the courts. The courts ruled in favor of the applicants. A petition for review of the applicants; a petition for review of the case by Supreme Court was not granted. Therefore, unless the Bill becomes law, Aztec agrees to release its interest to the United States and patents must issue to the Company."

DG: For \$7 million.

RW: Yeah. And so there's an application for patent that Interior would have; they would have the beginning of it. There'd be the court litigation, so you've got a court case; you've got Justice files; then after that you've got the Forest Service – evaluation files that they developed for the bill. They drafted the bill; nobody else did. So there's probably five different points, which you could tie into this. The least profitable would be the '42 application for a patent, which was probably a simple pro forma.

DG: But if you would do that, you would go to the secretary of Interior papers, National Archives, RG 48 ...

RW: And to Agriculture and to Justice ...

DG: And I don't know what the record group is for Justice, but for Agriculture, at least Forest Service, is RG 95

RW: And Justice should have it. The place to track it through at Justice would be the Lands Division of Justice.

DG: It would be the Lands Division and secretary of the Interior, too.

RW: Originally it would have been the old General Land Office, subsequently the BLM, but was the GLO then.

DG: The service and BLM coordinated, I think, in 1946.

RW: Yes, right. In '42 the General Land Office would have that, but the Justice Department, Lands Division, would be the people that handled the litigation for the Department of Justice. See, it would be an antitrust case. It could be because it was the Transportation Act. It could be another part of Justice. Are you familiar with the Transportation Act?

DG: No. I know that there are different divisions of the office.

RW: Well, the Transportation Act dates from way back, I think World War I, even before then. It required the railroads as a condition of getting these railroad land grants to transport materials for the government in time of war under a preferred rate, so when we declared war on Japan and Germany, the Transportation Act applied and the railroad company said, "Wait, this is such a hell of a big war. We can't afford to send all the troops and ammunition all over the country for free. It might be all right for the Spanish American War, some little insurrections. Jesus not this one. Too big." So they got Congress to set that aside, and this is why this litigation

apparently rolled on, because my recollection was that the railroad had patented the lands to Aztec.

DG: Sure. Well, they sold them for \$1.

RW: And there was some question as to their right to sell the lands at all. See, there were a number of railroad land grants where their conditions attached to the railroad. The O and C grant in Oregon required that the land be sold at \$2.50 an acre in blocks of not over 160 acres. They didn't comply. That one went to reinvestment and recaptured it.

DG: A big court case.

RW: Yeah, in 1916. But the Forest Service argued that the 472,000 acres in the national forest had never been granted to the railroad, and a court suit was brought at the same time that the counties were pressing them the same way. And in 1954 the Supreme Court ruled that the 472,000 acres of O and C lands to the national forest, which had never been patented to the railroad, were nonetheless railroad lands and had in effect been reinvested when the grant had been reinvested in 1916, and thus were to be administered by the BLM, not by the Forest Service. This was a battle between Agriculture and Interior over who had jurisdiction over the lands. Congress in 1954 passed a law that said the lands were O and C lands for the purposes of making payments to the counties who get 50 percent of the receipts. But they were national forest lands for the purpose of administration.

DG: So, in essence, the agents just had to fight it out.

RW: Yeah, the agencies were fighting over whose lands they were. It wasn't a question of whether they were private or not. And it made a difference because if they were O and C lands the counties got 50 percent of the revenue. If they were national forest, they got 25 percent. The counties were arguing for the BLM position. Their attorney was a fellow by the name of [A.W.] Lafferty who had been a congressman in 1910 from Oregon when the lands were invested. After he left Congress he was in and out of St. Elizabeth's Mental Institution in Washington several times. He was a lawyer. But a lot of people thought he was crazy. He may well have been, but he won the case. I was in the Senate Interior hearing room when he came over from the Supreme Court. We were holding a hearing on these lands and Lafferty burst into the hearing room—

[End of Side A]

[Side B]

RW: This was the 83rd Congress and Senator [Guy] Cordon was a Republican from Oregon and a ranking member of the Interior Committee, member of the Appropriations Committee, and he and Lafferty were vitally opposed to each other on a number of issues including this O and C issue – the way in which Lafferty was going at it. And he yelled in a booming voice, "Today I'm a Bull Moose! The Supreme Court just ruled that Lafferty's right!" – banging his gavel for order, you know, and Lafferty's paying no God-damned attention to him. Twenty years of litigation or something like that or 10 years of litigation. He'd just won his case. And so what the Congress did in effect was affirm what the Court ruled except as to the split of the receipts, you see, not as to who would manage the lands.

But the debate in Oregon stemmed really from the effort by Ickes to transfer the national forest back to Interior. When he failed in that he told his solicitor, a guy named Joel Wolfson, to find every which way he could to harass the Department of Agriculture, which is when the Department of Interior laid claim to these so-called "controverted" lands. And all it meant was years of litigation and that was it.

But my point is, these land grants did have different requirements in them, depending on when they were granted. And then this issue of transportation of government goods and services also was there. Anyway, there you are. That's all I can tell you about Aztec.

DG: They're still going. Their vice president lives in Scottsdale, Arizona.

[End of Interview]