



# 85255

JULY/AUG 2006

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# OPEN RANGE,



Troon Village resident Rodney Chew stands near the spot where he was involved in a vehicle collision with a horse in August 2005. The horse did not survive.

# OPEN ROAD

Open-range grazing in Arizona is older than the automobile, but cars and livestock have never mixed. So why are animals still wandering northeast Valley roads?

STORY BY DEAN MEADORS  
PHOTOGRAPHY BY N. SCOTT TRIMBLE



Driving east along Rio Verde Drive is like taking a trip back in time. Open desert sits beside new residential development. Golf courses share the two-lane blacktop with “no shooting” signs, and cement mixers grind past grazing horses and cattle.

Longtime residents of this once-tranquil area came because they liked the remoteness and quiet of the open range. But as the Valley pushed outward, the complexion of the Rio Verde foothills changed and two great Arizona traditions, open-range livestock grazing and urban growth, began to clash with deadly consequence, even in neighboring Scottsdale.

Troon Village resident Rodney Chew, 48, was beginning an early-morning trip to Sky Harbor Airport in August 2005 when a horse “walked right out in front of me,” he says. The accident occurred near Troon Country Club at Happy Valley Road and 115th Street, and the impact killed the horse. Chew, a computer consultant, escaped uninjured.

It was Chew’s second incident with grazing animals in the same area of incorporated Scottsdale. Months earlier, he was forced off the road by seven horses who wandered into his path.

“The police are well aware of the problem,” Chew says. “I hope



Rancher George Williams owns 600 to 800 cattle on 2,900 acres in the Rio Verde area. He has accused the county of trying to run him out of business. Williams is shown here in a photo taken in 2002.

the city does something, and I'm curious that Troon hasn't done something, too. It's really nerve-racking to know that coming home or going out, I need to worry about horses standing in the road."

Unfortunately, not everyone has been as lucky as Chew.

#### NO LIGHTS, NO STOPS

In November 2004, Kathleen Hines, a 29-year-old Fountain Hills woman, was killed when her BMW roadster convertible struck two horses in the Rio Verde area, which lies at the center of most safety concerns. According to sheriff's deputies, her severely damaged car was found more than 300 yards from the road.

In the 10-mile stretch of Rio Verde Drive between Alma School and Forest roads, there are no turns, no lights and no stops. The pavement runs smooth and unfettered, with little to slow drivers except wandering livestock. Think NASCAR meets *Bonanza*.

"There are no stop signs, and speeds can get up to 70 or 80 miles an hour," says Don Stapley, chairman of the Maricopa County Board of Supervisors. "With the urbanization of that area, it's become a real safety issue."

As traffic continues to increase, animals pose a greater danger to themselves and others, especially at night. "It scares all of us who live here," says Nena Henry, founding president of the Rio Verde Horsemen's Association. "We've learned to be very careful."

#### DANGEROUS ASSUMPTIONS

Unfortunately, many drivers hurrying along Rio Verde Drive assume all livestock is safely fenced and controlled. That's a very dangerous assumption.

The Rio Verde Foothills is known as "open range," meaning ranchers can legally let livestock roam free without the obligation of fencing them in. Most ranchers fence their animals in, but as any rancher knows, fences get breached and cattle sometimes walk over cattle guards.

Public sentiment generally runs against open-range grazing, but the right of ranchers to "open graze" livestock dates back to Territorial Arizona. The state Constitution, ratified in 1912, gave the Legislature power to change territorial law but said if it didn't act to do so, territorial law prevailed.

That included the right of ranchers to graze herds wherever their stock could find food and water. If you were a neighbor who didn't want cattle grazing your front lawn, too bad—you were the one who had to erect a fence.

"A cow had the right-of-way," says Mike Berryhill, supervisor of the Agriculture Division for the Maricopa County Assessor's office. "If a cow knocked down a property owner's fence and destroyed property belonging to another, neither the cow nor the rancher was responsible for the damage, or even to repair the fence."

The concept of open-range grazing remains in place today. Cities and towns have authority to restrict or ban open-range grazing.

“ IT'S REALLY NERVE RACKING TO KNOW THAT COMING HOME OR GOING OUT, I NEED TO WORRY ABOUT HORSES STANDING IN THE ROAD. ”

—RODNEY CHEW, TROON VILLAGE

Most have, including Scottsdale. Residents of the Rio Verde Foothills, where open-range grazing is legal, recently mounted an attempt to change the designation. However, it proved unsuccessful.

POINTING FINGERS

In 11 months during 2004, the Maricopa County Sheriff's Department received 154 phone calls reporting loose livestock. That's one call nearly every other day.

So, where is the livestock that strays onto Rio Verde roads coming from?

There is no shortage of finger-pointing. Berryhill, Stapley and residents point squarely at George Williams, a 74-year-old cowboy who runs 600 to 800 cattle and horses on 2,900 leased acres in the Rio Verde area. The laconic Williams, a former stuntman for John Wayne, accuses the county of trying to run him out of business and blames neighbors for sabotaging his fences. He acknowledges that part of his herd is open-grazed (not fenced) but claims all the property he leases fronting Rio Verde Drive was enclosed years ago.

"You know what you have to do with fence?" asks Berryhill. "You have to do something called 'keep it up.'"

Berryhill says too many animals are being maintained on too few acres. "The largest horse breeder out there has about 50 animals," he says. "George has 800."

On one point, everyone agrees: In every known incident involving cars and livestock, the animal involved belonged to Williams.

"I have never heard of an instance where someone else's animal was involved," says Berryhill, and Williams doesn't dispute it.

Exactly how frequently livestock accidents occur along Rio Verde is difficult to determine because accident reports usually don't distinguish between livestock and such wild animals as coyotes, elk, mountain lion and javelina.

CONSIDERING OPTIONS

Republican State Sen. Franklin "Jake" Flake, a longtime Arizona cattleman, has owned thousands of head of cattle in virtually every part of the state. He suggests two solutions to the problems that accompany urbanization of open-range areas. The first is to fence every road and highway.

"No matter where it is," he says, "somebody is responsible for that highway—either state, county or city."

The second is to require developers "to buy out the grazing interests as part of the cost of subdivisions, and remove the cattle completely."

For the Rio Verde area, a different solution may be in sight. In January, new rules by the Maricopa County Assessor struck a financial blow at ranch owners who fail to keep herds safely contained. Under the new rule, ranchers in the 20-square-mile Rio Verde Foothills who fail to build and maintain proper fences will lose their grazing tax classification, and see their valuations and property taxes skyrocket.

"It's all about property taxes," says Stapley. "Fully assessed, a parcel may pay tens of thousands an acre, versus the grazing classification where the property taxes are almost nothing. It's a lot cheaper to fence your land and put a cow on it than pay property taxes."

Although many property owners keep a few horses or cattle purely to protect their tax classification, the large-scale ranching that Williams does in Rio Verde is a thing of the past. As for the wandering livestock, Berryhill is confident the new tax rules will reduce the problems residents are having.

"I can't tell you how quick," he says, "but in time, people will see improvement." \*

SOUND OFF

Early this year, a law was enacted prohibiting open the practice, which for some has signified the end of the area's Western rural customs. How do you feel growth and development has affected the area's Old West ways? Do you think it is a good thing, a bad thing, or something that cannot be avoided?



"I relocated back recently after living here from 1971 to 1991. After being gone for 15 years and seeing the growth, it has really disappointed me. We used to take Sunday drives out into the desert. Today, it's gone, and that really makes me sad."  
*Suzanne Boshack, 53, Grayhawk*



"I think it is improvement because I know the grazing is causing accidents out there. It's the 21st century. It couldn't be avoided."  
*Bruce Green, retired, Sierra Norte*



"It has changed significantly. With growth, there is very little you can do to hold it back. So everything must be up to code."  
*Richard Verri, 56, Grayhawk*

WHICH SIDE OF THE FENCE ARE YOU ON?

Do you side with local residents or longtime ranchers in this issue? E-mail your comments to 85255@pni.com or write to 85255 Magazine, The Arizona Republic, 200 E. Van Buren St., Mail Code CP-17, Phoenix, AZ 85004.